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[1967 ex.s. c 119 § 35A.90.030.]

RCW 35A.90.040 Effective date--1967 ex.s. c 119.

The effective date of this act shall be July 1, 1969.

[1967 ex.s. c 119 § 35A.90.040.]

RCW 35A.90.050 Severability--1971 ex.s. c 251.

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

[1971 ex.s. c 251 § 17.]

**Title 36 RCW
COUNTIES**

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Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).

Combined city-county health departments: Chapter 70.08 RCW.

Community centers, counties may establish: Chapter 35.59 RCW.

Community work and training programs, county participation in: Chapter 74.04 RCW.

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County airport districts: Chapter 14.08 RCW.

County and district fairs as agricultural fair classification: RCW 15.76.120.

County government: State Constitution Art. 11.

County lands

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city or town L.I.D. assessments, as subject to: RCW 35.43.130, 35.44.140, 35.49.070.

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Dental hygienists, licensed, county may employ: RCW 18.29.050.

Department of revenue, visitation to counties: RCW 84.08.010(3).

Detention, house or room for, establishment of: RCW 13.04.135.

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Diking and drainage intercounty districts: Chapter 85.24 RCW.

Disinfection of county property as county duty: RCW 15.08.230.

Disturbances at state penal facilities--Reimbursement to cities and counties for certain expenses incurred: RCW 72.72.050, 72.72.060.

Electric franchises and rights of way, counties may grant: RCW 80.32.010.

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Emergency management, county participation: Chapter 38.52 RCW.

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Group life insurance, public employee associations: RCW 48.24.060.
Hospitals, private, for care of mentally ill, alcoholics, county may prescribe standards: RCW 71.12.550.
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Intergovernmental disposition of property, county participation: RCW 39.33.010.
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Island counties, refund of motor vehicle license and fuel tax fees to: RCW 46.68.080.
Joint aid river and harbor improvements, county participation: RCW 88.32.230 through 88.32.235.
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Juvenile detention facility as mandatory county function: RCW 13.16.030.
Leases, mineral and petroleum, on county land: Chapter 78.16 RCW.
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Lien for labor, material and taxes on public works: Chapter 60.28 RCW.
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Liquor revolving fund moneys, distribution to counties: Chapter 66.08 RCW.
Local milk inspection service units: Chapter 15.36 RCW.
Martial law, proclamation of county under: RCW 38.08.030.
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Military offenses, jurisdiction by county when: Chapter 38.32 RCW.
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Old age and survivors' insurance, acceptance of for counties: Chapter 41.47 RCW.

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Pesticide application act, county as subject to: RCW 17.21.220.

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Printing for counties to be done in state: RCW 43.78.130.

Public assistance

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Public contracts and indebtedness: Title 39 RCW.

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Regional jail camps, county prisoners may be committed to: RCW 72.64.100, 72.64.110.

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Soft tree fruits commission law, counties constituting districts under: RCW 15.28.010.

Soil and water conservation districts, county may cooperate with: RCW 89.08.341.

State patrol retirement allowances exempt from county taxation: RCW 43.43.310.

State vehicle regulations precedence over local: RCW 46.08.020.

State's title to abandoned channels granted to counties: RCW 86.13.110.

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Stock restricted areas in: Chapter 16.24 RCW.

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Superior court judges, each county entitled to: State Constitution Art. 4 § 5, chapter 2.08 RCW.

Surplus federal property, county may purchase: RCW 39.32.010 through 39.32.060.

Tax liens, foreclosure by county when city or town L.I.D. assessments on, rights of city or town: RCW 35.49.120 through 35.49.160.

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federal payments in lieu of ad valorem property taxes to counties, distribution: Chapter 84.72 RCW.

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local, legislature not to impose: State Constitution Art. 11 § 12.

motor vehicle fuel

counties as subject to: RCW 82.36.240.

state preempts field: RCW 82.36.440.

property

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county by, generally: Title 84 RCW.

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county-interstate bridge as exempt from: RCW 84.36.230.

county lands sold on contract as taxable: RCW 84.40.230.

county property as exempt from: RCW 84.36.010.

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county right of way easements as exempt from: RCW 84.36.210.

excess levies authorized, county application: RCW 84.52.050 through 84.52.056.

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Unfit dwellings, buildings and structures: Chapter 35.80 RCW.

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Water pollution control, county application: Chapter 90.48 RCW.

Water rights

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United States, county application: Chapter 90.40 RCW.

Wharves, counties may authorize and prescribe rates: RCW 88.24.020.

Workers' compensation, county coverage: RCW 51.12.050.

World fair or exposition, county participation: Chapter 35.60 RCW.

RCW 36.01.010 Corporate powers.

The several counties in this state shall have capacity as bodies corporate, to sue and be sued in the manner prescribed by law; to purchase and hold lands; to make such contracts, and to purchase and hold such personal property, as may be necessary to their corporate or administrative powers, and to do all other necessary acts in relation to all the property of the county.

[1986 c 278 § 1; 1963 c 4 § 36.01.010. Prior: Code 1881 § 2653; 1863 p 538 § 1; 1854 p 329 § 1; RRS § 3982.]

Notes:

Severability--1986 c 278: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 278 § 65.]

RCW 36.01.020 Corporate name.

The name of a county, designated by law, is its corporate name, and it must be known and designated thereby in all actions and proceedings touching its corporate rights, property, and duties.

[1963 c 4 § 36.01.020. Prior: Code 1881 § 2654; RRS § 3983.]

RCW 36.01.030 Powers--How exercised.

Its powers can only be exercised by the county commissioners, or by agents or officers acting under their authority or authority of law.

[1963 c 4 § 36.01.030. Prior: Code 1881 § 2655; RRS § 3984.]

RCW 36.01.040 Conveyances for use of county.

Every conveyance of lands, or transfer of other property, made in any manner for the use of any county, shall have the same force and effect as if made to the county in its proper and corporate name.

[1963 c 4 § 36.01.040. Prior: Code 1881 § 2656; 1863 p 538 § 2; 1854 p 329 § 2; RRS § 3985.]

RCW 36.01.050 Venue of actions by or against counties.

(1) All actions against any county may be commenced in the superior court of such county, or in the superior court of either of the two nearest judicial districts. All actions by any county shall be commenced in the superior court of the county in which the defendant resides, or in either of the two judicial districts nearest to the county bringing the action.

(2) The determination of the nearest judicial districts is measured by the travel time between county seats using major surface routes, as determined by the office of the administrator for the courts.

[2000 c 244 § 1; 1997 c 401 § 1; 1963 c 4 § 36.01.050. Prior: 1854 p 329 § 6; No RRS.]

RCW 36.01.060 County liable for certain court costs.

Each county shall be liable to pay the per diem and mileage, or other compensation in lieu thereof, to jurors of the county attending the superior court; the fees of the sheriff for maintaining prisoners charged with crimes, and the sheriff's costs in conveying them to and from the court, as well as their board while there; the per diem and mileage, or such other compensation as is allowed in lieu thereof, of the sheriff of the county, when in criminal cases the sheriff is required to attend or travel to the superior court out of the limits of the sheriff's county; the costs in criminal cases taken from the courts of limited jurisdiction to the superior court; but no such claims shall be paid by the treasurer unless the particular items are approved by the judge and certified by the clerk under the seal of the court. For the time or travel which

may be paid by the parties or United States, no payment from the county shall be allowed, and no officer, juror, or witness shall receive from the county double pay as a per diem for the same time, or as traveling expenses or mileage for the same travel, in however many different capacities or in however many different causes they may be summoned, notified, or called upon to testify or attend in.

[1987 c 202 § 200; 1963 c 4 § 36.01.060. Prior: Code 1881 § 2110; 1869 p 420 § 9; 1863 p 425 § 10; 1857 p 22 § 10; RRS § 508.]

Notes:

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

RCW 36.01.070 Probation and parole services.

Notwithstanding the provisions of chapter 72.01 RCW or any other provision of law, counties may engage in probation and parole services and employ personnel therefor under such terms and conditions as any such county shall so determine. If a county elects to assume responsibility for the supervision of superior court misdemeanant offenders placed on probation under RCW 9.92.060 or 9.95.210, the county may contract with other counties to receive or provide such probation services. A county may also enter into partnership agreements with the department of corrections under RCW 72.09.300.

[1996 c 298 § 7; 1967 c 200 § 9.]

Notes:

Severability--1967 c 200: See note following RCW 9.45.122.
Indeterminate sentences: Chapter 9.95 RCW.

RCW 36.01.080 Parking facilities--Construction, operation and rental charges.

Counties may construct, maintain, operate and collect rentals for parking facilities as a part of a courthouse or combined county-city building facility.

[1969 ex.s. c 8 § 1.]

Notes:

Revenue bonds for parking facilities: RCW 36.67.520.

RCW 36.01.085 Economic development programs.

It shall be in the public purpose for all counties to engage in economic development programs. In addition, counties may contract with nonprofit corporations in furtherance of this and other acts relating to economic development.

[1985 c 92 § 2.]

RCW 36.01.090 Tourist promotion.

See RCW 36.32.450.

RCW 36.01.095 Emergency medical services--Authorized--Fees.

Any county may establish a system of emergency medical service as defined by *RCW 18.73.030(11). The county legislative authority may adopt by resolution procedures to collect reasonable fees in order to reimburse the county in whole or in part for its costs of providing such service: PROVIDED, That any county which provides emergency medical services supported by an excess levy may waive such charges for service: PROVIDED FURTHER, That whenever the county legislative authority determines that the county or a substantial portion of the county is not adequately served by existing private ambulance service, and existing private ambulance service cannot be encouraged to expand service on a contract basis, the emergency medical service that is established by the county shall not be deemed to compete with any existing private ambulance service as provided for in RCW 36.01.100.

[1975 1st ex.s. c 147 § 1.]

Notes:

*Reviser's note: RCW 18.73.030 was amended by 2000 c 93 § 16, changing subsection (11) to subsection (9).

RCW 36.01.100 Ambulance service authorized--Restriction.

The legislative authority of any county may by appropriate legislation provide for the establishment of a system of ambulance service for the entire county or for portions thereof, and award contracts for ambulance service: PROVIDED, That such legislation may not provide for the establishment of any system which would compete with any existing private system.

[1972 ex.s. c 89 § 1.]

RCW 36.01.104 Levy for emergency medical care and services.

See RCW 84.52.069.

RCW 36.01.105 Fire protection, ambulance or other emergency services provided by municipal corporation within county--Financial and other assistance authorized.

See RCW 36.32.470.

RCW 36.01.110 Federal grants and programs--Powers and authority of counties to participate in--Public corporations, commissions or authorities.

See RCW 35.21.730 through 35.21.755.

RCW 36.01.115 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.

See chapter 80.58 RCW.

RCW 36.01.120 Foreign trade zones--Legislative finding, intent.

It is the finding of the legislature that foreign trade zones serve an important public purpose by the creation of employment opportunities within the state and that the establishment of zones designed to accomplish this purpose is to be encouraged. It is the further intent of the legislature that the department of community, trade, and economic development provide assistance to entities planning to apply to the United States for permission to establish such zones.

[1995 c 399 § 40; 1985 c 466 § 44; 1977 ex.s. c 196 § 5.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

Effective date--1977 ex.s. c 196: See note following RCW 24.46.010.

RCW 36.01.125 Foreign trade zones--Authority to apply for permission to establish, operate and maintain.

A county, as zone sponsor, may apply to the United States for permission to establish, operate, and maintain foreign trade zones: PROVIDED, That nothing herein shall be construed to prevent these zones from being operated and financed by a private corporation(s) on behalf of such county acting as zone sponsor.

[1977 ex.s. c 196 § 6.]

Notes:

Effective date--1977 ex.s. c 196: See note following RCW 24.46.010.

RCW 36.01.130 Controls on rent for residential structures--Prohibited--Exceptions.

The imposition of controls on rent is of state-wide significance and is preempted by the state. No county may enact, maintain or enforce ordinances or other provisions which regulate the amount of rent to be charged for single family or multiple unit residential rental structures or sites other than properties in public ownership, under public management, or properties providing low-income rental housing under joint public-private agreements for the financing or provision of such low-income rental housing. This section shall not be construed as prohibiting any county from entering into agreements with private persons which regulate or control the amount of rent to be charged for rental properties.

[1991 c 363 § 43; 1981 c 75 § 2.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Applicability to floating home moorage sites--Severability--1981 c 75: See notes following RCW 35.21.830.

RCW 36.01.150 Facilitating recovery from Mt. St. Helens eruption--Scope of local

government action.

All entities of local government and agencies thereof are authorized to take action as follows to facilitate recovery from the devastation of the eruption of Mt. St. Helens:

(1) Cooperate with the state, state agencies, and the United States Army Corps of Engineers and other agencies of the federal government in planning dredge site selection and dredge spoils removal;

(2) Counties and cities may re-zone areas and sites as necessary to facilitate recovery operations;

(3) Counties may manage and maintain lands involved and the deposited dredge spoils; and

(4) Local governments may assist the Army Corps of Engineers in the dredging and dredge spoils deposit operations.

[1982 c 7 § 3.]

Notes:

Severability--1982 c 7: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 7 § 11.]

Facilitating recovery from Mt. St. Helens eruption--Legislative findings--Purpose: RCW 43.01.200.

Scope of state agency action: RCW 43.01.210.

RCW 36.01.160 Penalty for act constituting a crime under state law--Limitation.

Except as limited by the maximum penalty authorized by law, no county may establish a penalty for an act that constitutes a crime under state law that is different from the penalty prescribed for that crime by state statute.

[1993 c 83 § 2.]

Notes:

Effective date--1993 c 83: See note following RCW 35.21.163.

RCW 36.01.170 Administration of trusts benefiting school districts.

Any county authorized by territorial law to administer moneys held in trust for the benefit of school districts within the county, which moneys were bequeathed for such purposes by testamentary provision, may dissolve any trust, the corpus of which does not exceed fifty thousand dollars, and distribute any moneys remaining in the trust to school districts within the county. Before dissolving the trust, the county must adopt a resolution finding that conditions have changed and it is no longer feasible for the county to administer the trust.

[1998 c 65 § 1.]

RCW 36.01.180 Zoo and aquarium advisory authority--Constitution--Terms.

(1) For any county in which a proposition authorized by RCW 82.14.400 has been

passed, there shall be created a zoo and aquarium advisory authority.

(2) The initial board of the authority shall be constituted as follows:

(a) Three members appointed by the county legislative authority to represent unincorporated areas;

(b) Two members appointed by the legislative authority of the city with the largest population within the county; and

(c) Two members jointly appointed by the legislative authorities of the remaining cities within the county representing at least sixty percent of the combined populations of those cities.

(3) Board members shall hold office for whatever terms are determined by their appointing authorities, except that no term may be less than one year nor more than three years, in duration. However, a vacancy may be filled by an appointment for a term less than twelve months in duration.

[1999 c 104 § 4.]

RCW 36.01.190 Initial meeting of zoo and aquarium advisory authority--Expenditure of funds--Powers.

(1) Upon certification by the county auditor or, in the case of a home rule county, upon certification by the chief elections officer, that a proposition authorized under the terms of RCW 82.14.400 has received a majority of votes cast on the proposition, the county legislative authority shall convene an initial meeting of the zoo and aquarium advisory authority.

(2) Consistent with any agreement between the local governments specified in RCW 82.14.400(1) in requesting an election, the zoo and aquarium advisory authority has authority to expend such funds as it may receive on those purposes set out in RCW 82.14.400(4). In addition, and consistent with any limitation placed on the powers of the authority in such an agreement, the zoo and aquarium advisory authority may exercise the following powers:

(a) Acquire by purchase, gift, or grant and lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of any zoo, aquarium, and wildlife preservation and display facilities and properties, together with all lands, rights-of-way, property, equipment, and accessories necessary for those facilities;

(b) Contract with the United States or any agency thereof, any state or agency thereof, any metropolitan municipal corporation, any other county, city, special district, or governmental agency, and any private person, firm, or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction, operation, or maintenance of zoo, aquarium, and wildlife preservation and display facilities;

(c) Contract with any governmental agency or with a private person, firm, or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands, and rights-of-way of all kinds which are owned, leased, or held by the other party, and for the purpose of planning, constructing, or operating any facility or performing any service related to zoos, aquariums, and wildlife preservation and display facilities;

- (d) Fix rates and charges for the use of those facilities;
- (e) Sue and be sued in its corporate capacity in all courts and in all proceedings.

[1999 c 104 § 3.]

RCW 36.01.200 Federal funds designated for state schools--Use limited to reduction of outstanding debt obligations of school districts.

The county legislative authority of any county that receives payment in lieu of taxes and payment equal to tax funds from the United States department of energy under section 168 of the federal atomic energy act of 1954 and nuclear waste policy act of 1982 and that has an agreed settlement or a joint stipulation dated before January 1, 1998, which agreed settlement or joint stipulation includes funds designated for state schools, may direct the county treasurer to distribute those designated funds to reduce the outstanding debt of the school districts within the county. Any such funds shall be divided among the school districts based upon the same percentages that each district's current assessed valuation is of the total assessed value for all eligible school districts if the district has outstanding debt that equals or exceeds the amount of its distribution. If the district does not have outstanding debt that equals or exceeds the amount of its distribution, any amount above the outstanding debt shall be reallocated to the remaining eligible districts. Any funds received before January 1, 1999, shall be distributed using the percentages calculated for 1998. The county treasurer shall apply the funds to any outstanding debt obligation selected by the respective school districts.

[1999 c 19 § 1.]

RCW 36.01.210 Rail fixed guideway system--Safety and security program plan.

(1) Each county functioning under chapter 36.56 RCW that owns or operates a rail fixed guideway system as defined in RCW 81.104.015 shall submit a system safety and security program plan for that guideway to the state department of transportation by September 1, 1999, or at least three months before beginning operations or instituting revisions to its plan. This plan must describe the county's procedures for (a) reporting and investigating reportable accidents, unacceptable hazardous conditions, and security breaches, (b) submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation, and (d) addressing passenger and employee security. The plan must, at a minimum, conform to the standards adopted by the state department of transportation. If required by the department, the county shall revise its plan to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plan for review.

(2) Each county functioning under chapter 36.56 RCW shall implement and comply with its system safety and security program plan. The county shall perform internal safety and security audits to evaluate its compliance with the plan, and submit its audit schedule to the department of transportation no later than December 15th each year. The county shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it

to the department no later than February 15th. This annual report must include the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plan.

(3) Each county shall notify the department of transportation within twenty-four hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach. The department may adopt rules further defining a reportable accident, unacceptable hazardous condition, or security breach. The county shall investigate all reportable accidents, unacceptable hazardous conditions, or security breaches and provide a written investigation report to the department within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach.

(4) The security section of the safety and security plan required in subsection (1)(d) of this section is exempt from public disclosure under chapter 42.17 RCW. However, the activities and plans as described in subsections (1)(a), (b), and (c), (2), and (3) of this section are not subject to this exemption.

[1999 c 202 § 3.]

Notes:

Effective date--1999 c 202: See note following RCW 35.21.228.

RCW 36.01.220 Mobile home, manufactured home, or park model moving or installing--Copies of permits--Definitions.

(1) A county shall transmit a copy of any permit issued to a tenant or the tenant's agent for a mobile home, manufactured home, or park model installation in a mobile home park to the landlord.

(2) A county shall transmit a copy of any permit issued to a person engaged in the business of moving or installing a mobile home, manufactured home, or park model in a mobile home park to the tenant and the landlord.

(3) As used in this section:

(a) "Landlord" has the same meaning as in RCW 59.20.030;

(b) "Mobile home park" has the same meaning as in RCW 59.20.030;

(c) "Mobile or manufactured home installation" has the same meaning as in RCW 43.63B.010; and

(d) "Tenant" has the same meaning as in RCW 59.20.030.

[1999 c 359 § 20.]

Notes:

Effective date--1999 c 359: See RCW 59.20.901.

**Chapter 36.04 RCW
COUNTY BOUNDARIES**

Revised Code of Washington 2001

36.04.010	Adams county.
36.04.020	Asotin county.
36.04.030	Benton county.
36.04.040	Chelan county.
36.04.050	Clallam county.
36.04.060	Clark county.
36.04.070	Columbia county.
36.04.080	Cowlitz county.
36.04.090	Douglas county.
36.04.100	Ferry county.
36.04.110	Franklin county.
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36.04.140	Grays Harbor county.
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36.04.200	Klickitat county.
36.04.210	Lewis county.
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36.04.230	Mason county.
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36.04.270	Pierce county.
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36.04.290	Skagit county.
36.04.300	Skamania county.
36.04.310	Snohomish county.
36.04.320	Spokane county.
36.04.330	Stevens county.
36.04.340	Thurston county.
36.04.350	Wahkiakum county.
36.04.360	Walla Walla county.
36.04.370	Whatcom county.
36.04.380	Whitman county.
36.04.390	Yakima county.
36.04.400	Survey of county boundaries.

Notes:

Reviser's note: For the reasons set out in the second paragraph of the explanatory note appended to chapter 4, Laws of 1963, the session laws comprising chapter 36.04 RCW were neither repealed nor reenacted in the 1963 reenactment of Title 36 RCW. Pending reenactment of this chapter, it is herein republished as revised by the 1941 code committee; for rules of construction concerning such revision, see RCW 1.04.020 and 1.04.021.

RCW 36.04.010 Adams county.

Adams county shall consist of the territory bounded as follows, to wit: Beginning at the northwest corner of township fourteen north, range twenty-eight east of the Willamette

Meridian; running thence north to the fourth standard parallel; thence east to the Columbia River Guide Meridian; thence north to the fifth standard parallel; thence east on said parallel to the line between the ranges thirty-eight and thirty-nine; thence south on said line to where it intersects the Palouse river in township sixteen; thence down said river to where the line between townships fourteen and fifteen crosses said river; thence west on said line to place of beginning.

[1883 p 93 § 1; RRS § 3924.]

RCW 36.04.020 Asotin county.

Asotin county shall consist of the territory bounded as follows, to wit: Commencing at a point in the channel of Snake river on the township line between ranges forty-four and forty-five east, Willamette Meridian; thence running south to the northwest corner of section thirty, township eleven north, range forty-five east, Willamette Meridian; thence west six miles; south one mile; west two miles; south one mile; west one mile to the northwest corner of section three in township ten north, of range forty-three east, Willamette Meridian; thence south eighteen miles; thence west three miles; thence south to the Oregon line; thence east on said line to the midchannel of Snake river; thence down the midchannel of Snake river to the place of beginning.

[1883 p 96 § 1; RRS § 3925.]

RCW 36.04.030 Benton county.

Benton county shall consist of the territory bounded as follows, to wit: Beginning at the point of intersection of the middle of the main channel of the Columbia river with the township line between township thirteen north, range twenty-three east, and township thirteen north, range twenty-four east, Willamette Meridian; thence running south along the township line, being the line between range twenty-three east and range twenty-four east to the line between Yakima county and Klickitat county; thence south along the township lines, being the lines between ranges twenty-three east and twenty-four east, to the point of intersection with the middle of the main channel of the Columbia river, or to its intersection with the line between the states of Washington and Oregon; thence northeasterly, northerly and northwesterly and westerly along the middle of the main channel of the Columbia river and up said stream to the place of beginning.

[1905 c 89 § 1; RRS § 3926.]

RCW 36.04.040 Chelan county.

Chelan county shall consist of the territory bounded as follows, to wit: Beginning at the point of intersection of the middle of the main channel of the Columbia river with the fifth standard parallel north, thence running west along said fifth standard parallel north to the point where said fifth standard parallel north intersects the summit of the main divide between the waters flowing northerly and easterly into the Wenatchee and Columbia rivers, and the waters

flowing southerly and westerly into the Yakima river, thence in a general northwesterly direction along the summit of said main divide between the waters flowing northerly and easterly into the Wenatchee and Columbia rivers and the waters flowing southerly and westerly into the Yakima river, following the course of the center of the summit of the watershed dividing the said respective waters, to the center of the summit of the Cascade mountains, at the eastern boundary line of King county; thence north along the east boundary lines of King, Snohomish and Skagit counties to the point upon the said east boundary of Skagit county, where said boundary is intersected by the watershed between the waters flowing northerly and easterly into the Methow river and the waters flowing southerly and westerly into Lake Chelan, thence in a general southeasterly direction along the summit of the main divide between the waters flowing northerly and easterly into the Methow river and the waters flowing westerly and southerly into Lake Chelan and its tributaries; following the course of the center of the summit of the watershed dividing said respective waters, to the point where the seventh standard parallel north intersects said center of the summit of said watershed; thence east along the said seventh standard parallel north to the point of intersection of the middle of the main channel of the Columbia river with said seventh standard parallel north; thence down the middle of the main channel of the Columbia river to the point of beginning.

[1899 c 95 § 1; RRS § 3928.]

RCW 36.04.050 Clallam county.

Clallam county shall consist of the territory bounded as follows, to wit: Commencing at the northwest corner of Jefferson county at a point opposite the middle of the channel between Protection Island and Diamond Point on the west of Port Discovery Bay; thence following up the middle of said channel to a point directly east of the mouth of Eagle creek; thence west to the mouth of Eagle creek; thence one mile west from the mouth of said creek; thence south to the north boundary line of township twenty-seven north, range two west; thence west to the west boundary of the state in the Pacific Ocean; thence northerly along said boundary to a point marking the north terminus of the west boundary of the state in the Pacific Ocean opposite the Strait of Juan de Fuca; thence easterly along said Strait of Juan de Fuca, where it forms the boundary between the state and British possessions, to the place of beginning.

[(i) 1869 p 292 § 1; 1867 p 45 § 1; 1854 p 472 § 1; RRS § 3929. (ii) 1925 ex.s. c 40 § 1; RRS § 3963-1.]

RCW 36.04.060 Clark county.

Clark county shall consist of the territory bounded as follows, to wit: Commencing at the Columbia river opposite the mouth of Lewis river; thence up Lewis river to the forks of said river; thence up the north fork of Lewis river to where said north fork of Lewis river intersects the range line between ranges four and five east; thence due south to the Columbia river; thence with the main channel of said river to the place of beginning.

[(i) 1873 p 561 § 1; 1871 p 153 § 1; 1869 p 295 § 1; RRS § 3930. (ii) 1925 ex.s. c 51 § 1; RRS § 3930-1.]

RCW 36.04.070 Columbia county.

Columbia county shall consist of the territory bounded as follows, to wit: Commencing at a point in the middle of the channel of Snake river, where the range line between ranges thirty-six and thirty-seven east of the Willamette Meridian intersects said point; thence south on said range line to the northwest corner of township nine north, range thirty-seven east; thence east on the north boundary line of township nine north, range thirty-seven east, to the northeast corner of said township; thence south on the line between ranges thirty-seven and thirty-eight east of the Willamette Meridian, to the northwest corner of township eight north, range thirty-eight east; thence along the north boundary line of township eight north, range thirty-eight east, to the northeast corner of said township; thence due south to the line dividing the state of Washington from the state of Oregon; thence due east on said dividing line to the range line between ranges forty-one and forty-two east; thence north on said range line to the corner of sections thirteen, eighteen, nineteen and twenty-four, township ten north, ranges forty-one and forty-two east; thence west three miles; thence north three miles; thence west one mile; thence north one mile; thence west one mile; thence north three miles; thence west one mile; thence north to the southwest corner of township twelve north, range forty-one east; thence west on township line six miles; thence north on range line between ranges thirty-nine and forty to a point in the midchannel of Snake river; thence down the midchannel of said river to the place of beginning.

[(i) 1 H.C. §6; 1875 p 133 § 1; RRS § 3931. (ii) 1879 p 226 § 1; RRS § 3960-1. (iii) 1881 p 175 § 1; RRS § 3936.]

RCW 36.04.080 Cowlitz county.

Cowlitz county shall consist of the territory bounded as follows, to wit: Commencing at the Columbia river opposite the mouth of Lewis river; thence up Lewis river to the forks of said river; thence up the north fork of Lewis river to where said north fork of Lewis river intersects the range line between ranges four and five east; thence north to the line between townships ten and eleven north; thence west to the first section line east of the range line between ranges four and five west; thence south on said line to the Columbia river, and up the Columbia river to the place of beginning.

[1873 p 561 § 1; 1871 p 153 § 1; 1869 p 295 § 1; 1867 p 48 § 1; 1855 p 39; 1854 p 471 § 1; RRS § 3932.]

RCW 36.04.090 Douglas county.

Douglas county shall consist of the territory bounded as follows, to wit: Beginning at the point where the Columbia Guide Meridian intersects the Columbia river on the northern boundary of Lincoln county; thence running south on said Columbia Guide Meridian to the township line between townships sixteen and seventeen north; thence running west on said township line to the range line between ranges twenty-seven and twenty-eight east; thence south on said range line to the section line between sections twenty-four and twenty-five in township

fourteen north, range twenty-seven east; thence west on said section line to the midchannel of the Columbia river; thence up said channel of said river to the place of beginning, excepting therefrom the territory hereinafter constituted as Grant county.

[1883 p 95 § 1; RRS § 3933. (Grant county, 1909 c 17 § 1; RRS § 3937.)]

RCW 36.04.100 Ferry county.

Ferry county shall consist of the territory bounded as follows, to wit: Commencing at the point where the east boundary line of Okanogan county intersects the Columbia river; thence up the midchannel of the Columbia river to the mouth of Kettle river; thence up the midchannel of Kettle river to the boundary line between the United States and British Columbia; thence westerly along the said boundary line to the intersection thereof with the said east boundary line of Okanogan county; thence southerly along the said boundary line to the place of beginning.

[1899 c 18 § 1; RRS § 3934.]

RCW 36.04.110 Franklin county.

Franklin county shall consist of the territory bounded as follows, to wit: Beginning at a point where the midchannel of the Snake river intersects that of the Columbia river, and running thence up the Columbia river to a point where the section line between sections twenty-one and twenty-eight, township fourteen north, range twenty-seven east, Willamette Meridian, strikes the main body of the Columbia river, on the east side of the island; thence east on said section line to range line between ranges twenty-seven and twenty-eight east; thence north on said range line to the north boundary of township fourteen; thence east on said north boundary of township fourteen to the Palouse river; thence down said river to midchannel of Snake river; thence down Snake river to place of beginning.

[1883 p 87 § 1; RRS § 3935.]

RCW 36.04.120 Garfield county.

Garfield county shall consist of the territory bounded as follows, to wit: Commencing at a point in the midchannel of Snake river on range line between ranges thirty-nine and forty east, W.M.; thence on said line south to the southwest corner of township twelve north, range forty; thence east on township line six miles; thence south to the southwest corner of section seven, township eleven north, range forty-one east; thence east one mile; thence south three miles; thence east one mile; thence south one mile; thence east one mile; thence south three miles; thence east three miles; thence south on township line to the Oregon line; thence due east on said line six miles to the southwest corner of Asotin county; thence northerly following the westerly boundary of Asotin county to a point where the same intersects the midchannel of Snake river; thence down the said midchannel of Snake river to the point of beginning.

[1883 p 96 § 1; 1881 p 175 § 1; RRS § 3936.]

RCW 36.04.130 Grant county.

Grant county shall consist of the territory bounded as follows, to wit: Beginning at the southeast corner of township seventeen north, range thirty east of the Willamette Meridian, thence running west on the township line between townships sixteen and seventeen to the range line between ranges twenty-seven and twenty-eight; thence south on said range line to the section line between sections twenty-four and twenty-five in township fourteen north, range twenty-seven east; thence west on said section line to the midchannel of the Columbia river; thence up the channel of the river to a point, thence at right angles to the course of said channel to the meander corner of section thirteen, township twenty north, range twenty-two east Willamette Meridian, and section eighteen, township twenty north, range twenty-three east Willamette Meridian; thence north along the range line between ranges twenty-two and twenty-three to the northwest corner of section eighteen, township twenty-one north, range twenty-three east Willamette Meridian; thence east one mile to the southeast corner section seven, township twenty-one, range twenty-three east; north one mile to the northwest corner section eight, township twenty-one, range twenty-three east; east one mile to the southeast corner of section five, township twenty-one, range twenty-three east; north one mile to the northeast corner section five, township twenty-one, range twenty-three east; east one mile to the northeast corner of section four, township twenty-one, range twenty-three east; north one mile to the southeast corner section twenty-eight, township twenty-two, range twenty-three east; east one mile to the southeast corner section twenty-seven, township twenty-two, range twenty-three east; north two miles to the northeast corner of section twenty-two, township twenty-two, range twenty-three east; east one mile to the southeast corner of section fourteen, township twenty-two, range twenty-three east; north one mile to the southeast corner section eleven, township twenty-two, range twenty-three east; east one mile to the southeast corner of section twelve, township twenty-two, range twenty-three east; north two miles to the northwest corner of section six, township twenty-two north, range twenty-four east; east sixteen miles to the northeast corner of section three, township twenty-two north, range twenty-six east; north six miles to the northeast corner of section three, township twenty-three north, range twenty-six east; east one mile to the northeast corner of section two, township twenty-three north, range twenty-six east; north one mile to the northeast corner of section thirty-five, township twenty-four north, range twenty-six east; east one mile to the southeast corner of section twenty-five, township twenty-four north, range twenty-six east; north one mile to the southeast corner of section twenty-four, township twenty-four north, range twenty-six east; east one mile to the southeast corner of section nineteen, township twenty-four north, range twenty-seven east; north one mile to the southeast corner of section eighteen, township twenty-four north, range twenty-seven east; east one mile to the southeast corner of section seventeen, township twenty-four north, range twenty-seven east; north one mile to the southeast corner of section eight, township twenty-four north, range twenty-seven east; east one mile to the southeast corner of section nine, township twenty-four north, range twenty-seven east; north one mile to the southeast corner of section four, township twenty-four north, range twenty-seven east; east one mile to the southeast corner

of section three, township twenty-four, range twenty-seven east; north one mile to the northeast corner of section three, township twenty-four, range twenty-seven east; east three miles to the southeast corner of section thirty-one, township twenty-five north, range twenty-eight east; north one mile to the southeast corner of section thirty, township twenty-five north, range twenty-eight east; east one mile to the southeast corner of section twenty-nine, township twenty-five north, range twenty-eight east; north three miles to the southeast corner of section eight, township twenty-five north, range twenty-eight east; east one mile to the southeast corner of section nine, township twenty-five north, range twenty-eight east; north four miles to the southeast corner of section twenty-one, township twenty-six north, range twenty-eight east; east one mile to the southeast corner of section twenty-two, township twenty-six north, range twenty-eight east; north one mile to the southeast corner of section fifteen, township twenty-six north, range twenty-eight east; east one mile to the southeast corner of section fourteen, township twenty-six north, range twenty-eight east; north two miles to the southeast corner of section two, township twenty-six north, range twenty-eight east; east one mile to the southeast corner of section one, township twenty-six north, range twenty-eight east; north two miles to the southeast corner of section twenty-five, township twenty-seven north, range twenty-eight east; east one mile to the southeast corner of section thirty, township twenty-seven north, range twenty-nine east; north six miles to the southeast corner of section thirty, township twenty-eight north, range twenty-nine east; east one mile to the southeast corner of section twenty-nine, township twenty-eight north, range twenty-nine east; north one mile to the southeast corner of section twenty, township twenty-eight north, range twenty-nine east; east two miles to the southeast corner of section twenty-two, township twenty-eight north, range twenty-nine east; north one mile to the southeast corner of section fifteen, township twenty-eight north, range twenty-nine east; east one mile to the southeast corner of section fourteen, township twenty-eight north, range twenty-nine east; north two miles to the southeast corner of section two, township twenty-eight north, range twenty-nine east; east one mile to the southeast corner of section one, township twenty-eight north, range twenty-nine east; north one mile to the northeast corner of section one, township twenty-eight north, range twenty-nine east; thence east along township line between townships twenty-eight and twenty-nine to the midchannel of the Columbia river; thence up said channel of said river to the point where the Columbia Guide Meridian intersects said channel; thence running south on said Columbia Guide Meridian to the place of beginning.

[1909 c 17 § 1; RRS § 3937.]

RCW 36.04.140 Grays Harbor county.

Grays Harbor county shall consist of the territory bounded as follows, to wit: Commencing at the northeast corner of Pacific county; thence west to the west boundary of the state in the Pacific Ocean; thence northerly along said boundary, including Gray's Harbor, to a point opposite the mouth of Queets river; thence east to the west boundary line of Mason county; thence south to the northeast corner of township eighteen north, range seven west; thence east fourteen miles to the southeast corner of section thirty-two, township nineteen north, range four west; thence south six miles to the southeast corner of section thirty-two in township eighteen

north, range four west; thence east two miles to the southeast corner of section thirty-four in the same township; thence south to a point due east of the northeast corner of Pacific county; thence west to the place of beginning.

[(i) 1 H.C. §3; 1873 p 482 § 1; 1869 p 296 § 1; RRS § 3927. (ii) 1915 c 77 § 1; RRS § 3938. (iii) 1925 ex.s. c 40 § 1; RRS § 3963-1.]

RCW 36.04.150 Island county.

Island county shall consist of all of the islands known as Whidbey, Camano, Smith's Deception and Ure's and shall extend into the adjacent channels to connect with the boundaries of adjoining counties as defined by statute.

[1891 c 119 p 217 § 1; 1877 p 425 §§ 1, 2; 1869 p 292 § 1; 1868 p 68 § 1; 1867 p 46 § 1; RRS § 3939.]

RCW 36.04.160 Jefferson county.

Jefferson county shall consist of the territory bounded as follows, to wit: Commencing at the middle of the channel of Admiralty Inlet due north of Point Wilson; thence westerly along the Strait of Juan de Fuca to the north of Protection Island, to a point opposite the middle of the channel between Protection Island and Diamond Point on the west of Port Discovery Bay; thence following up the middle of said channel to a point direct east of the mouth of Eagle creek; thence west to the mouth of Eagle creek; thence one mile west from the mouth of said creek; thence south to the summit of the Olympic range of mountains, it being the southeast corner of Clallam county, on the north boundary line of township twenty-seven north, range two west; thence west to the west boundary of the state in the Pacific Ocean; thence southerly along said west boundary to a point opposite the mouth of the Queets river; thence east to the range line dividing ranges six and seven west; thence north on said range line to the sixth standard parallel; thence east to the middle of the channel of Hood Canal; thence northerly along said channel to the middle of the channel of Admiralty Inlet; thence northerly following the channel of said inlet to a point due north of Point Wilson and place of beginning.

[(i) 1 H.C. §12; 1877 p 406 § 1; 1869 p 292 § 1; RRS § 3940. (ii) 1925 ex.s. c 40 § 1; RRS § 3963-1.]

RCW 36.04.170 King county.

King county shall consist of the territory bounded as follows, to wit: Beginning at the point of intersection of the center of East Passage (also known as Admiralty Inlet) on Puget Sound and the northerly line of the Puyallup Indian Reservation (projected northwesterly); thence southeasterly in a straight line along said northerly line of Puyallup Indian Reservation and same extended to a point on the east line of section thirty-one, township twenty-one, north, range four east, Willamette Meridian; thence south along said east line of section thirty-one, township twenty-one, range four east, Willamette Meridian, to the township line between township twenty north and township twenty-one north (being the fifth standard parallel north); thence east along said township line between township twenty north and township twenty-one

north to the middle of the main channel of White river, near the northeast corner of section three, township twenty north, range five east, Willamette Meridian; thence upstream along the middle of the main channel of White river to the forks of White river and Greenwater river; thence upstream along the middle of the main channel of the Greenwater river to the forks of the Greenwater river and Meadow creek; thence upstream along the middle of the main channel of Meadow creek to the summit of the Cascade mountains, at a point known as Naches Pass, said point lying in the southwest quarter of section thirty-five, township nineteen north, range eleven east, Willamette Meridian; thence northerly along the summit of the Cascade mountains to a point on the township line between township twenty-six north and township twenty-seven north, said point lying near the north quarter-corner of section three, township twenty-six north, range thirteen east, Willamette Meridian; thence west along said township line between township twenty-six north and twenty-seven north to the middle of the channel known as Admiralty Inlet on Puget Sound; thence southerly along said middle of channel known as Admiralty Inlet through Colvo's Passage (West Passage) on the west side of Vashon Island to a point due north of Point Defiance; thence southeasterly along middle of channel between Vashon Island and Point Defiance (Dalcos Passage) to a point due south of Quartermaster Harbor; thence northeasterly along middle of channel known as Admiralty Inlet to point of beginning.

[1 H.C. §13; 1869 p 293 § 1; 1867 p 46 § 1; 1854 p 470 § 1; RRS § 3941.]

Notes:

Reviser's note: Change in boundary by virtue of election in 1901 under chapter 36.08 RCW incorporated herein.

RCW 36.04.180 Kitsap county.

Kitsap county shall consist of the territory bounded as follows, to wit: Commencing in the middle of Colvo's Passage at a point due east of the meander post between sections nine and sixteen, on west side of Colvo's Passage, in township twenty-two north, range two east; thence west on the north boundary line of sections sixteen, seventeen and eighteen, to the head of Case's Inlet; thence north along the east boundary of Mason county through the center of townships twenty-two and twenty-three, range one west, to the north line of said township twenty-three; thence due west to the middle of the channel of Hood Canal; thence along said channel to the middle of the main channel of Admiralty Inlet; thence following the main channels of said inlet and Puget Sound up to the middle of Colvo's Passage; thence following the channel of said passage to the place of beginning.

[1877 p 406 § 1; 1869 p 293 § 1; 1867 p 46 § 1; 1858 p 51 § 1; RRS § 3942.]

RCW 36.04.190 Kittitas county.

Kittitas county shall consist of the territory bounded as follows, to wit: Commencing at a point where the main channel of the Columbia river crosses the township line between township fourteen and fifteen north, range twenty-three east of the Willamette Meridian, and running thence west on said township line to the range line between ranges eighteen and nineteen east;

thence north on said range line six miles, or to the township line between the townships fifteen and sixteen north; thence west on said township line to the range line between ranges seventeen and eighteen east; thence north to the township line between townships sixteen and seventeen north; thence west along said township line and a line prolonged due west to the Naches river; and thence northerly along the main channel of the Naches river to the summit of the Cascade mountains, or to the eastern boundary of King county; thence north along the eastern boundary of King county to the point where such boundary intersects the summit of the main divide between the waters flowing northerly and easterly into the Wenatchee and Columbia rivers and the water flowing southerly and westerly into the Yakima river; thence in a general southeasterly direction along the summit of such main divide between the waters flowing northerly and easterly into the Wenatchee and Columbia rivers and the waters flowing southerly and westerly into the Yakima river, following the course of the center of the summit of the watershed dividing such respective waters, to the fifth standard parallel north; thence east along the fifth standard parallel north to the middle of the main channel of the Columbia river; thence down the main channel of the Columbia to the place of beginning.

[1899 c 95 § 1; 1886 p 168 § 1; 1883 p 90 § 1; RRS § 3943.]

RCW 36.04.200 Klickitat county.

Klickitat county shall consist of the territory bounded as follows, to wit: Commencing at a point in the midchannel of the Columbia river opposite the mouth of the White Salmon river; thence up the channel of the White Salmon river as far north as the southern boundary of township four north, range ten east of Willamette Meridian; thence due west on the township line to range nine east of Willamette Meridian; thence north following said range line to where it intersects the south boundary of Yakima county projected; thence east along the north boundary of township six north until that line intersects the range line between range twenty-three east and range twenty-four east; thence south along such range line to the Columbia river; thence down the Columbia river, midchannel, to the place of beginning.

[1905 c 89 § 1; 1 H.C. §17; 1881 p 187 § 1; 1873 p 571 § 1; 1869 p 296 § 1; 1868 p 60 § 1; 1867 p 49 § 1; 1861 p 59 § 1; 1859 p 420 § 1; RRS § 3944.]

RCW 36.04.210 Lewis county.

Lewis county shall consist of the territory bounded as follows, to wit: Beginning at the northwest corner of section eighteen, township fifteen north, range five west; thence south along the west boundary of range five west to the southwest corner of township eleven north, range five west; thence east along the south boundary of township eleven north to the summit of the Cascade mountains; thence northerly along said summit to a point due east of the head of Nisqually river; thence west to the head of the Nisqually river; thence westerly down the channel of the river to a point two miles north of the line between townships fourteen and fifteen north; thence west to the northwest corner of section twenty-six, township fifteen north, range four west; thence north two miles to the northwest corner of section fourteen, township fifteen north,

range four west; thence west to place of beginning.

[1 H.C. §§18, 19; 1888 p 73 § 1; 1879 p 213 § 1; 1869 p 295 § 1; 1867 p 48 § 1; 1861 p 33 § 1; RRS § 3945.]

RCW 36.04.220 Lincoln county.

Lincoln county shall consist of the territory bounded as follows, to wit: Beginning at the point in township twenty-seven north, where the Colville Guide Meridian between ranges thirty-nine and forty east, Willamette Meridian, intersects the Spokane river, and running thence south along said meridian line to the township line between townships twenty and twenty-one north; thence west along said township line to its intersection with the Columbia Guide Meridian between ranges thirty and thirty-one east, Willamette Meridian; thence north along said meridian line to a point where it intersects the midchannel of the Columbia river; thence up said river in the middle of the channel thereof to the mouth of the Spokane river; thence up the Spokane river, in the middle of the channel thereof, to the place of beginning.

[1883 p 89 § 1; 1883 p 95 § 1; RRS § 3946.]

RCW 36.04.230 Mason county.

Mason county shall consist of the territory bounded as follows, to wit: Commencing in middle of the main channel of Puget Sound where it is intersected in the midchannel of Case's Inlet; thence westerly along the midchannel of Puget Sound, via Dana's Passage, into Totten's Inlet, and up said inlet to its intersection by section line between sections twenty-eight and twenty-nine, township nineteen north, range three west of the Willamette Meridian; thence south to the southwest corner of section thirty-three in township nineteen north, range three west; thence west along the township line dividing townships eighteen and nineteen, twenty miles, to the township line dividing ranges six and seven west, of the Willamette Meridian, which constitutes a part of the east boundary line of Grays Harbor county; thence north along said township line to the sixth standard parallel; thence east along said parallel line to the middle of the channel of Hood Canal; thence southerly along said midchannel to a point due west of the intersection of the shore line of said Hood Canal by the township line between townships twenty-three and twenty-four; thence east along said township line to the line dividing sections three and four in said township twenty-three north, range one west of the Willamette Meridian; thence south along said section line to the head of Case's Inlet; thence south by the midchannel of said inlet to the place of beginning.

[1877 p 406 § 1; 1869 p 293 § 1; 1867 p 45 § 1; 1864 p 71 § 1; 1863 p 7 (local laws portion) § 1; 1861 p 56 § 1; 1861 p 30 § 1; 1860 p 458 § 1; 1854 p 474 § 1; 1854 p 470 § 1; RRS § 3947.]

RCW 36.04.240 Okanogan county.

Okanogan county shall consist of the territory bounded as follows, to wit: Beginning at the intersection of the forty-ninth parallel with the range line between ranges thirty-one and thirty-two east, and from thence running in a southerly direction on said range line to the

intersection of the said range line with the Columbia river, and thence down the river to the seventh standard parallel north; thence west along the seventh standard parallel north to the watershed between the waters flowing northerly and easterly into the Methow river and the waters flowing southerly and westerly into Lake Chelan; thence in a general northwesterly direction along the summit of the main divide between the waters flowing northerly and easterly into the Methow river and the waters flowing westerly and southerly into Lake Chelan and its tributaries; following the course of the center of the summit of the watershed dividing said respective waters to the point where the same intersects the east boundary of Skagit county and the summit of the Cascade mountains; thence northerly with said summit to the forty-ninth parallel, and thence on the said parallel to the place of beginning.

[1899 c 95 § 1; 1888 p 70 § 1; RRS § 3948.]

RCW 36.04.250 Pacific county.

Pacific county shall consist of the territory bounded as follows, to wit: Commencing at the midchannel of the Columbia river at the point of intersection of the line between ranges eight and nine west; thence north along said line to the north boundary of township ten north; thence east along said boundary to the line between ranges five and six west; thence north along the west boundary of range five west to the northwest corner of section eighteen in township fifteen north, range five west; thence west to the west boundary of the state in the Pacific Ocean; thence southerly along said boundary, including Shoalwater Bay, to a point opposite Cape Disappointment; thence up midchannel of the Columbia river to the place of beginning.

[(i) 1879 p 213 § 1; 1873 p 538 § 1; 1867 p 49 § 1; 1860 p 429 § 1; 1854 p 471 § 1; RRS § 3949. (ii) 1925 ex.s. c 40 § 1; RRS § 3963-1.]

RCW 36.04.260 Pend Oreille county.

Pend Oreille county shall consist of the territory bounded and described as follows, to wit: Beginning at the southeast corner of section thirty-six in township thirty north, range forty-two east of the Willamette Meridian; thence running north, along the east line of said township thirty north, range forty-two east of the Willamette Meridian, to the northeast corner of section one, in said township thirty; thence west to the southwest corner of section thirty-four in township thirty-one north, range forty-two east of Willamette Meridian; thence north, along the west line of sections thirty-four, twenty-seven and twenty-two of said township thirty-one north, range forty-two east of Willamette Meridian; thence north on a line from the northwest corner of section twenty-two in township thirty-one to a point on the north line of township thirty-one, midway between the northeast corner and the northwest corner of said township thirty-one, which line will be the west line of sections fifteen, ten and three of said township thirty-one, when the same are surveyed; thence to the center point on the south line of township thirty-two north, range forty-two east of Willamette Meridian; thence north on the north and south center line of said township thirty-two, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten, and three of township thirty-two when the same is

surveyed, to the north line of said township thirty-two; thence to the center point on the south line of township thirty-three north, range forty-two east of Willamette Meridian; thence north, on the north and south center line of township thirty-three north of range forty-two east of Willamette Meridian, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three of said township thirty-three, when the same is surveyed, to the north line of said township thirty-three; thence to the center point on the south line of township thirty-four north, range forty-two east of Willamette Meridian; thence north on the north and south center line of said township thirty-four, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three of said township thirty-four when the same are surveyed, to the north line of said township; thence to the center point on the south line of township thirty-five north, range forty-two east of Willamette Meridian; thence north, on the north and south center line of township thirty-five north, range forty-two east of Willamette Meridian, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three of said township thirty-five when the same are surveyed to the north line of said township thirty-five; thence to the southwest corner of section thirty-four in township thirty-six north, range forty-two east of Willamette Meridian; thence north, along the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three to the northwest corner of section three of said township thirty-six; thence west along the south line of township thirty-seven north, range forty-two, and township thirty-seven north, range forty-one east of the Willamette Meridian, to the center point on the south line of said township thirty-seven north, range forty-one east of the Willamette Meridian, which point will be the southwest corner of section thirty-four in said township thirty-seven north, range forty-one east of the Willamette Meridian, when the same are surveyed; thence north along the north and south center line of said township thirty-seven north, range forty-one east of the Willamette Meridian, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three of said township when the same are surveyed, to the north line of said township thirty-seven; thence east, along the south line of township thirty-eight north, range forty-one east of Willamette Meridian to the southeast corner of said township thirty-eight north, range forty-one east of the Willamette Meridian; thence to the southwest corner of section thirty-one in township thirty-eight north, range forty-two east of Willamette Meridian; thence north, along the west line of said township thirty-eight, to the northwest corner of said township thirty-eight; thence east along the north line of township thirty-eight, to the center point on the south line of township thirty-nine north, range forty-two east of Willamette Meridian, which point will be the southwest corner of section thirty-four of said township thirty-nine when the same are surveyed; thence north along the north and south center line of said township thirty-nine, which line will be the west line of sections thirty-four, twenty-seven, twenty-two, fifteen, ten and three of said township thirty-nine, when the same are surveyed, to the north line of said township thirty-nine; thence east along the south line of township forty north, range forty-two east, of Willamette Meridian to the southeast corner of said township forty; thence north, along the east line of said township forty, to the international boundary line; thence east along the international boundary line, to the intersection of the state line between the states of Washington and Idaho with said international boundary line; thence south along said state line, to the southeast corner of section

thirty-one, township thirty north, range forty-six east of Willamette Meridian; thence due west to the southeast corner of section thirty-six, township thirty north, range forty-two east of Willamette Meridian, to the place of beginning.

[1911 c 28 § 1; RRS § 3950.]

RCW 36.04.270 Pierce county.

Pierce county shall consist of the territory bounded as follows, to wit: Commencing at the mouth, midchannel, of the Nisqually river; thence following the main channel of said river to its head; thence due east to the summit of the Cascade mountains; thence northerly along the summit to the head of the Green Water; thence westerly down said river to its confluence with White river; thence down the main channel of White river to the intersection of the fifth standard parallel; thence west along said line to the southeast corner of section thirty-one, township twenty-one north, range four east of Willamette Meridian; thence north along the east line of said section thirty-one to its intersection with the northerly line of the Puyallup Indian reservation; thence northwesterly on said line of the Puyallup Indian reservation, projected northwesterly in a straight line, to its intersection with the center line of Puget Sound; thence southwesterly and westerly following the channel of Dalco Passage to the south entrance of Colvo's Passage; thence down the channel of said passage to the northeast corner of section sixteen, in township twenty-two north, range two east; thence west to the northeast corner of section sixteen, in township twenty-two north, range one west; thence southerly along the channels of Case's Inlet and Puget Sound, to the middle of the mouth of the Nisqually river and place of beginning.

[1869 p 294 § 1; 1867 p 47 § 1; 1859 p 59 § 1; 1855 p 43 § 1; RRS § 3951.]

RCW 36.04.280 San Juan county.

San Juan county shall consist of the territory bounded as follows, to wit: Commencing in the Gulf of Georgia at the place where the boundary line between the United States and the British possessions deflects from the forty-ninth parallel of north latitude; thence following said boundary line through the Gulf of Georgia and Haro Strait to the middle of the Strait of Fuca; thence easterly through Fuca Straits along the center of the main channel between Blunt's Island and San Juan and Lopez Islands to a point easterly from the west entrance of Deception Pass, until opposite the middle of the entrance to the Rosario Straits; thence northerly through the middle of Rosario Straits and through the Gulf of Georgia to the place of beginning.

[1877 p 425 § 1; 1873 p 461 § 1; RRS § 3952.]

RCW 36.04.290 Skagit county.

Skagit county shall consist of the territory bounded as follows, to wit: Commencing at midchannel of Rosario Strait where the dividing line between townships thirty-six and thirty-seven intersects the same; thence east on said township line to the summit of the Cascade

mountains; thence south along the summit of said mountain range to the eighth standard parallel; thence west along the parallel to the center of the channel or deepest channel of the nearest arm of Puget Sound and extending along said channel to the east entrance of Deception Pass; thence through said pass to the center of the channel of Rosario Strait; thence northerly along said channel to the place of beginning.

[1883 p 97 § 1; RRS § 3953.]

RCW 36.04.300 Skamania county.

Skamania county shall consist of the territory bounded as follows, to wit: Commencing on the Columbia river at a point where range line four east strikes said river; thence north to the north boundary of township ten north; thence east to a point due north of the mouth of White Salmon; thence south to the township line dividing townships six and seven; thence west to the northwest corner of Klickitat county; thence south along the west boundary of said county to the Columbia river; thence along the midchannel of said river to the place of beginning.

[1881 p 187 § 1; 1879 p 213 § 1; 1867 p 49 § 1; 1854 p 472 § 1; RRS § 3954.]

RCW 36.04.310 Snohomish county.

Snohomish county shall consist of the territory bounded as follows, to wit: Commencing at the southwest corner of Skagit county; thence east along the eighth standard parallel to the summit of the Cascade mountains; thence southerly along the summit of the Cascade mountains to the northeast corner of King county, it being a point due east of the northeast corner of township twenty-six north, range four east; thence due west along the north boundary of King county to Puget Sound; thence northerly along the channel of Puget Sound and Possession Sound to the entrance of Port Susan, including Gedney Island; thence up the main channel of Port Susan to the mouth of the Stillaguamish river; thence northwesterly through the channel of the slough at the head of Camano Island, known as Davis Slough; thence northerly to the place of beginning.

[1877 p 426 § 3; 1869 p 291 § 1; 1867 p 44 § 1; 1862 p 107 § 1; 1861 p 19 § 1; RRS § 3955.]

RCW 36.04.320 Spokane county.

Spokane county shall consist of the territory bounded as follows, to wit: Commencing at the northeast corner of Lincoln county; thence up the midchannel of the Spokane river to the Little Spokane river; thence north to the township line between townships twenty-nine and thirty; thence east to the boundary line between Washington and Idaho; thence south on said boundary line to the fifth standard parallel; thence west on said parallel to the Colville Guide Meridian; thence north on said meridian to the place of beginning.

[1879 p 203; 1864 p 70; 1860 p 436; 1858 p 51; RRS § 3956.]

RCW 36.04.330 Stevens county.

Stevens county shall consist of the territory bounded as follows, to wit: Commencing at the southeast corner of township thirty north, range forty-two east of the Willamette Meridian; thence north to the northeast corner of said township; thence west to the southwest corner of section thirty-four, township thirty-one north, range forty-two east; thence north along the center line of townships thirty-one, thirty-two, thirty-three, thirty-four, thirty-five and thirty-six in said range forty-two east to the northwest corner of section three in township thirty-six north; thence west to the northwest corner of section three, township thirty-six north, range forty-one east; thence north along the center line of township thirty-seven to the northwest corner of section three in said township; thence east to the northeast corner of said township; thence north to the northwest corner of township thirty-eight, range forty-two east; thence east to the northwest corner of section three of said township; thence north along the center line of township thirty-nine to the northwest corner of section three in said township; thence east to the northeast corner of said township; thence north to the northern boundary line of the state; thence west to where said boundary line intersects the middle of the channel of the Kettle river; thence south along said channel to its confluence with the Columbia river; thence continuing south along the middle of the channel of the Columbia river to its confluence with the Spokane river; thence easterly along the channel of the Spokane to the Little Spokane river; thence north to the township line separating townships twenty-nine and thirty; thence east to the place of beginning.

[(i) 1 H.C. §30; 1888 p 70; 1879 p 203; 1869 p 297; 1867 p 50; 1864 p 70; 1863 p 6; RRS § 3957. (ii) 1899 c 18 § 1; RRS § 3934.]

RCW 36.04.340 Thurston county.

Thurston county shall consist of the territory bounded as follows, to wit: Commencing at the southeast corner of section thirty-two in township nineteen north, range four west; thence east on the township line to the southeast corner of section thirty-two in township nineteen north, range three west; thence north to the middle of the channel of Totten's Inlet; thence along said channel to the waters of Puget Sound, intersecting the line in the channel of Puget Sound west of the southern portion of Squaxen Reservation; thence following said channel to the mouth of the Nisqually river; thence up midchannel of said river to a point where it strikes the north boundary of Lewis county; thence due west to the northwest corner of section twenty-six, township fifteen north, range four west; thence north to the southeast corner of section thirty-four in township eighteen north, range four west; thence west on the township line to the southeast corner of section thirty-two; thence north on the section line to the place of beginning.

[1 H.C. §31; 1873 p 482; 1869 p 294; 1867 p 47; 1863 p 7; 1860 p 458; RRS § 3958.]

RCW 36.04.350 Wahkiakum county.

Wahkiakum county shall consist of the territory bounded as follows, to wit: Commencing at the southeast corner of Pacific county, on the Columbia river; thence up

midchannel of said river to the southwest corner of Cowlitz county; thence north to the northwest corner of Cowlitz county; thence west on the northern boundary of township ten north to the line between ranges eight and nine west; thence south to the place of beginning.

[1879 p 213; 1869 p 295; 1867 p 48; 1854 p 474; RRS § 3959.]

RCW 36.04.360 Walla Walla county.

Walla Walla county shall consist of the territory bounded as follows, to wit: Commencing at a point where the boundary line between Washington and Oregon intersects the Columbia river; thence up the main channel of the Columbia to the mouth of the Snake river; thence up the main channel of said river to where the range line between ranges thirty-six and thirty-seven intersects said point; thence south on said range line to the northwest corner of township nine north, range thirty-seven east; thence east on the north boundary line of township nine north, range thirty-seven east, to the northeast corner of said township; thence south on the line between ranges thirty-seven and thirty-eight east, of the Willamette Meridian, to the northwest corner of township eight north, range thirty-eight east; thence along the north boundary line of township eight north, range thirty-eight east, to the northeast corner of said township; thence due south to the line dividing the state of Washington from the state of Oregon; thence due west on said dividing line to the place of beginning.

[(i) 1 H.C. §33; 1879 p 226; 1875 p 133; 1869 p 397; 1868 p 60; 1867 p 50; 1858 p 51; 1854 p 472; RRS § 3960.
(ii) 1879 p 226; RRS § 3960-1.]

RCW 36.04.370 Whatcom county.

Whatcom county shall consist of the territory bounded as follows, to wit: Commencing on the forty-ninth parallel at the point dividing the American and British possessions in the Gulf of Georgia; thence along said boundary line to where it deflects at the north entrance to the Haro Strait; thence along the northeasterly boundary of San Juan county to the ninth standard parallel, or the northwest corner of Skagit county; thence due east along said parallel to the summit of the Cascade mountains; thence northerly along the summit of said mountains to the forty-ninth parallel of north latitude; thence west along said parallel to the place of beginning.

[1 H.C. §34; 1877 p 426; 1869 p 291; 1867 p 44; 1859 p 60; 1854 p 475; RRS § 3961.]

RCW 36.04.380 Whitman county.

Whitman county shall consist of the territory bounded as follows, to wit: Commencing at a point where the range line between ranges thirty-eight and thirty-nine east intersects the fifth standard parallel, being the northeast corner of Adams county; thence east on said parallel to the boundary line between Idaho and Washington; thence south on said boundary line to the midchannel of the Snake river; thence down the midchannel of the Snake river to its intersection with the midchannel of the Palouse river; thence north along the midchannel of the Palouse river to the point where the same intersects the range line between ranges thirty-eight and thirty-nine

east; thence north along said range line to the place of beginning.

[(i) 1 H.C. §35; 1875 p 189; 1871 p 134; RRS § 3962. (ii) 1883 p 87; RRS § 3935. (iii) 1883 p 93; RRS § 3924.]

RCW 36.04.390 Yakima county.

Yakima county shall consist of the territory bounded as follows, to wit: Commencing at the northwest corner of township six north of range twelve east; thence east along the north boundary of township six north until said line intersects the range line between range twenty-three east and range twenty-four east; thence north along said range line to the Columbia river; thence north up the midchannel of said river to the southeast corner of Kittitas county; thence along the southern boundary of Kittitas county to the summit of the Cascade mountains; thence southerly to the southeast corner of Lewis county; thence west along the line of said county to the northeast corner of Skamania county; thence along the east line of Skamania county to the line between townships six and seven north; thence east along said line to the place of beginning.

[1905 c 89 § 1; 1886 p 168; 1873 p 571; 1869 p 296; 1868 p 60; 1867 p 50; RRS § 3963.]

RCW 36.04.400 Survey of county boundaries.

All common boundaries and common corners of counties not adequately marked by natural objects or lines, or by surveys lawfully made, must be definitely established by surveys jointly made by all the counties affected thereby, and approved by the board of county commissioners of such counties. The cost of making such surveys shall be apportioned equally among the counties interested, and the board of county commissioners shall audit the same, and the amounts shall be paid out of the county current expense fund.

[Code 1881 § 2661; RRS § 3990.]

**Chapter 36.05 RCW
ACTIONS TO ESTABLISH BOUNDARIES**

Sections

36.05.010	Suit in equity authorized--Grounds.
36.05.020	Noninterested judge to sit.
36.05.030	Residents of area may intervene.
36.05.040	Questions of fact to be determined.
36.05.050	Court may establish boundary line.
36.05.060	Practice in civil actions to prevail.
36.05.070	Copies of decree to be filed and recorded.
36.05.080	"Territory" defined.

Notes:

Lines not to be changed by special act: State Constitution Art. 2 § 28(18).

RCW 36.05.010 Suit in equity authorized--Grounds.

Whenever the boundary line between two or more adjoining counties in this state are in dispute, or have been lost by time, accident or any other cause, or have become obscure or uncertain, one or more of the counties, in its corporate name, may bring and maintain suit against such other adjoining county or counties, in equity, in the superior court, to establish the location of the boundary line or lines.

[1963 c 4 § 36.05.010. Prior: 1897 c 76 § 1; RRS § 3964.]

RCW 36.05.020 Noninterested judge to sit.

A suit to establish county boundary lines shall be tried before a judge of the superior court who is not a resident of a county which is a party to such suit, or of a judicial district embracing any such county.

[1963 c 4 § 36.05.020. Prior: 1897 c 76 § 2; RRS § 3965.]

RCW 36.05.030 Residents of area may intervene.

A majority of the voters living in the territory embracing such disputed, lost, obscure, or uncertain boundary line may, by petition, duly verified by one or more of them, intervene in the suit, and thereupon the court shall have jurisdiction and power, in locating and establishing the boundary line or lines, to strike or transfer from one county to another a strip or portion of such territory not exceeding two miles in width.

[1963 c 4 § 36.05.030. Prior: 1897 c 76 § 3; RRS § 3966.]

RCW 36.05.040 Questions of fact to be determined.

The boundaries of such territory, the number of voters living therein, and the sufficiency of such petition are questions of fact to be determined by the court.

[1963 c 4 § 36.05.040. Prior: 1897 c 76 § 5; RRS § 3968.]

RCW 36.05.050 Court may establish boundary line.

The court shall have power to move or establish such boundary line on any government section line or subdivisional line thereof, of the section in or through which said disputed, lost, obscure or uncertain boundary line may be located, or if such boundary line is in unsurveyed territory, then the court shall have power to move or establish such boundary line so it will conform to extensions of government section lines already surveyed in that vicinity.

[1963 c 4 § 36.05.050. Prior: 1897 c 76 § 6; RRS § 3969.]

RCW 36.05.060 Practice in civil actions to prevail.

The practice, procedure, rules of evidence, and appeals to the supreme court or the court of appeals applicable to civil actions, are preserved under this chapter.

[1971 c 81 § 96; 1963 c 4 § 36.05.060. Prior: 1897 c 76 § 7; RRS § 3970.]

RCW 36.05.070 Copies of decree to be filed and recorded.

The clerk of the court in whose office a decree is entered under the provisions of this chapter, shall forthwith furnish certified copies thereof to the secretary of state, and to the auditors of the counties, which are parties to said suit. The secretary of state, and the county auditors, shall file and record said copies of the decree in their respective offices.

[1963 c 4 § 36.05.070. Prior: 1897 c 76 § 8; RRS § 3971.]

RCW 36.05.080 "Territory" defined.

The term "territory," as used in this chapter, means that portion of counties lying along the boundary line and within one mile on either side thereof.

[1963 c 4 § 36.05.080. Prior: 1897 c 76 § 4; RRS § 3967.]

Chapter 36.08 RCW

TRANSFER OF TERRITORY WHERE CITY'S HARBOR LIES IN TWO COUNTIES

Sections

36.08.010	Petition and notice of election.
36.08.020	Conduct of election--Proclamation of change.
36.08.030	Official proceedings not disturbed by transfer.
36.08.040	Local officers to serve out terms.
36.08.050	Transferee county liable for existing debts--Exception.
36.08.060	Adjustment of indebtedness.
36.08.070	Arbitration of differences.
36.08.080	Expense of proceedings.
36.08.090	Transcript of records by county auditor.
36.08.100	Construction--Limitations.

RCW 36.08.010 Petition and notice of election.

If a harbor, inlet, bay, or mouth of river is embraced within two adjoining counties, and an incorporated city is located upon the shore of such harbor, bay, inlet, or mouth of river and it is desired to embrace within the limits of one county, the full extent of the shore line of the harbor, port, or bay, and the waters thereof, together with a strip of the adjacent and contiguous

upland territory not exceeding three miles in width, to be measured back from highwater mark, and six miles in length, and not being at a greater distance in any part of said strip from the courthouse in the county seat of the county to which the territory is proposed to be annexed, as such county seat and courthouse are now situated, than ten miles, a majority of the qualified electors living in such territory may petition to have the territory stricken from the county of which it shall then be a part, and added to and made a part of the county contiguous thereto.

The petition shall describe with certainty the bounds and area of the territory, with the reasons for making the change and shall be presented to the board of county commissioners of the county in which the territory is located, which shall proceed to ascertain if the petition contains the requisite number of petitioners, who must be bona fide residents of the territory sought to be stricken off and transferred to the contiguous county.

If satisfied that the petition is signed by a majority of the bona fide electors of the territory, and that there will remain in the county from which it is taken more than four thousand inhabitants, the board shall make an order that a special election be held within the limits of the territory described in the petition, on a date to be named in the order.

Notices of the election shall contain a description of the territory proposed to be transferred and the names of the counties from and to which the transfer is intended to be made, and shall be posted and published as required for general elections.

[1963 c 4 § 36.08.010. Prior: 1891 c 144 § 1; RRS § 3972.]

RCW 36.08.020 Conduct of election--Proclamation of change.

The election shall be conducted in all respects as general elections are conducted under the laws governing general elections, in so far as they may be applicable, except that there shall be triplicate returns made, one to each of the respective county auditors and another to the office of the secretary of state. The ballots used at such election shall contain the words "for transferring territory," or "against transferring territory." The votes shall be canvassed, as by law required, within twenty days, and if three-fifths of the votes cast in the territory at such election are "for transferring territory," the territory described in the petition shall become a part of and be added to and made a part of the county contiguous thereto, and within thirty days after the canvass of the returns of the election, the governor shall issue his proclamation of the change of county lines.

[1963 c 4 § 36.08.020. Prior: 1891 c 144 § 2; RRS § 3973.]

RCW 36.08.030 Official proceedings not disturbed by transfer.

All assessments and collection of taxes, and all judicial or other official proceedings commenced prior to the governor's proclamation transferring territory to a contiguous county, shall be continued, prosecuted, and completed in the same manner as if no such transfer had been made.

[1963 c 4 § 36.08.030. Prior: 1891 c 144 § 3; RRS § 3974.]

RCW 36.08.040 Local officers to serve out terms.

All township, precinct, school, and road district officers within the transferred territory shall continue to hold their respective offices within the county to which they may be transferred until their respective terms of office expire, and until their successors are elected and qualified.

[1963 c 4 § 36.08.040. Prior: 1891 c 144 § 4; RRS § 3975.]

RCW 36.08.050 Transferee county liable for existing debts--Exception.

Every county which is thus enlarged by territory taken from another county shall be liable for a just proportion of the existing debts of the county from which such territory is stricken, which proportion shall be paid by the county to which such territory is transferred at such time and in such manner as may be agreed upon by the boards of county commissioners of both counties: PROVIDED, That the county to which the territory is transferred shall not be liable for any portion of the debt of the county from which the territory is taken, incurred in the purchase of any county property, or the construction of any county building then in use or under construction, which shall fall within and be retained by the county from which the territory is taken.

[1963 c 4 § 36.08.050. Prior: 1891 c 144 § 5; RRS § 3976.]

RCW 36.08.060 Adjustment of indebtedness.

The county auditors of the respective counties interested in the transfer of territory, as in this chapter provided, are constituted a board of appraisers and adjusters, to appraise the property, both real and personal, owned by the county from which the territory is taken, and to adjust the indebtedness of such county with the county to which such territory is transferred, in proportion to the amount of taxable property within the territory taken from the one county and transferred to the other.

[1963 c 4 § 36.08.060. Prior: 1891 c 144 § 6; RRS § 3977.]

RCW 36.08.070 Arbitration of differences.

If the board of appraisers and adjusters do not agree on any subject, value, or settlement, they shall choose a third man from an adjoining county to settle their differences, and the decision thus arrived at shall be final.

[1963 c 4 § 36.08.070. Prior: 1891 c 144 § 7; RRS § 3978.]

RCW 36.08.080 Expense of proceedings.

The expense of the proceedings and election provided for in this chapter shall be paid by the county to which the territory is attached.

[1963 c 4 § 36.08.080. Prior: 1891 c 144 § 8; RRS § 3979.]

RCW 36.08.090 Transcript of records by county auditor.

The county auditor of the county to which any territory may be transferred may take transcripts of all records, books, papers, etc., on file in the office of the county auditor of the county from which the territory has been transferred, which may be necessary to perfect the records of his county, and for this purpose he shall have access to the records of the county from which such territory is stricken, free of cost.

[1963 c 4 § 36.08.090. Prior: 1891 c 144 § 9; RRS § 3980.]

RCW 36.08.100 Construction--Limitations.

Nothing in this chapter shall be construed to authorize the annexing of territory of one county to a neighboring county, where the territory proposed to be annexed, or any part thereof, is at a greater distance than ten miles from the courthouse in the county seat of the county to which said territory is proposed to be annexed, as said courthouse is now located, nor to authorize the annexation of any territory at a greater distance than three miles from high water mark of tide water, but such annexation shall be strictly confined within said limits.

[1963 c 4 § 36.08.100. Prior: 1891 c 144 § 10; RRS § 3981.]

**Chapter 36.09 RCW
NEW COUNTY--LIABILITY FOR DEBTS**

(Formerly: Division of county)

Sections

- | | |
|-----------|--|
| 36.09.010 | Debts and property to be apportioned. |
| 36.09.020 | Procedure to settle amount charged new county--Basis of apportionment. |
| 36.09.035 | Procedure to settle amount charged new county--Disagreement between auditors--Determination by third person. |
| 36.09.040 | Payment of indebtedness--Transfer of property. |
| 36.09.050 | Collection of taxes levied--Apportionment. |

Notes:

Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).

New county

formation by special act allowed: State Constitution Art. 2 § 28(18).

restrictions on formation: State Constitution Art. 11 § 3.

RCW 36.09.010 Debts and property to be apportioned.

Whenever a new county shall be or shall have been organized out of the territory which was included within the limits of any other county or counties, the new county shall be liable for a reasonable proportion of the debts of the county from which it was taken, and entitled to its proportion of the property of the county.

[1963 c 4 § 36.09.010. Prior: Code 1881 § 2657; 1863 p 538 § 3; 1854 p 330 § 1; RRS § 3986.]

RCW 36.09.020 Procedure to settle amount charged new county--Basis of apportionment.

The auditor of the old county shall give the auditor of the new county reasonable notice to meet him on a certain day at the county seat of the old county, or at some other convenient place, to settle upon and fix the amount which the new county shall pay. In doing so, they shall not charge either county with any share of debts arising from the erection of public buildings, or out of the construction of roads or bridges which shall be and remain, after the division, within the limits of the other county, and of the other debts they shall apportion to each county such a share of the indebtedness as may be just and equitable, taking into consideration the population of such portion of territory so forming a part of the said counties while so united, and also the relative advantages, derived from the old county organization.

[1963 c 4 § 36.09.020. Prior: (i) Code 1881 § 2658; 1863 p 538 § 4; 1854 p 330 § 2; RRS § 3987. FORMER PART OF SECTION: 1909 c 79 § 1, part; Code 1881 § 2662, part; RRS § 3991, part. Now codified in RCW 36.09.050.]

RCW 36.09.035 Procedure to settle amount charged new county--Disagreement between auditors--Determination by third person.

In case the two auditors cannot agree, they shall call a third person, not a citizen of either county, or in any other manner interested, whose decision shall be binding. In case they cannot agree upon such third person, they shall each name one and decide by lot which it shall be.

[1963 c 4 § 36.09.035. Prior: Code 1881 § 2659; 1863 p 539 § 5; 1854 p 330 § 3; RRS § 3988.]

RCW 36.09.040 Payment of indebtedness--Transfer of property.

The auditor of the county indebted upon such decision shall give to the auditor of the other county his order upon the treasurer for the amount to be paid out of the proper fund, as in other cases, and also make out a transfer of such property as shall be assigned to either county.

[1963 c 4 § 36.09.040. Prior: Code 1881 § 2660; 1863 p 539 § 6; 1854 p 330 § 4; RRS § 3989.]

RCW 36.09.050 Collection of taxes levied--Apportionment.

When a county is divided or the boundary is altered, all taxes levied before the division was made or boundaries changed, must be collected by the officers of the county in which the

territory was situated before the division or change. And the auditor or auditors of the county or counties so divided or having boundaries changed, shall apportion the amount of the real property taxes so collected after division or change of boundary to the old county or counties and the new county or counties, in the ratio of the assessed value of such property situated in the territory of each county or counties respectively, and the old county that may have been divided or whose boundaries may have been changed, shall retain all of the personal property taxes on the said tax rolls, as compensation for cost of collection of the entire taxes: PROVIDED, That in such accounting neither county shall be charged with any debt or liability then existing incurred in the purchase of any county property, or in the purchase or construction of any county buildings then in use or under construction, which shall fall within and be retained by the county: PROVIDED FURTHER, That this shall not be construed to affect the rights of creditors: AND PROVIDED FURTHER, That any such county property or buildings shall be the property of and owned by the county wherein the same is situated. In case the auditors of the interested counties are not able to agree upon the proportion to be awarded to each county, the same shall be determined by the judge of the superior court of the district in which all of the interested counties are situated, if they be in one district, and have one common judge, and if not, by the judges sitting en banc of the superior courts of the counties involved. Said auditors shall make said apportionment within sixty days after the creation of any new county or the changing of boundaries of any old county, and if they do not, within said time, agree upon said apportionment, thereafter either or any county affected may petition the judge or judges of any court given jurisdiction by this section, and upon ten days' notice to any other county affected, the same may be brought on for hearing and summarily disposed of by said judge or judges, after allowing each side an opportunity to be heard.

[1963 c 4 § 36.09.050. Prior: 1909 c 79 § 1; Code 1881 § 2662; RRS § 3991. Formerly RCW 36.09.020, part, 36.09.030 and 36.09.050.]

Chapter 36.12 RCW REMOVAL OF COUNTY SEATS

Sections

36.12.010	Petition for removal--Financial impact statement.
36.12.020	Requisites of petition--Submission to electors.
36.12.030	Notice of election--Election, how held.
36.12.040	Manner of voting.
36.12.050	Vote required--Notice of result.
36.12.060	Time of removal.
36.12.070	Notice to county clerk and secretary of state.
36.12.080	Failure of election--Limitation on subsequent removal election.
36.12.090	Limitation on successive removal elections.

Notes:

County seats

location and removal: State Constitution Art. 11 § 2.

not to be changed by special act: State Constitution Art. 2 § 28(18).

RCW 36.12.010 Petition for removal--Financial impact statement.

Whenever the inhabitants of any county desire to remove the county seat of the county from the place where it is fixed by law or otherwise, they shall present a petition to the board of county commissioners of their county praying such removal, and that an election be held to determine to what place such removal must be made. The petition shall set forth the names of the towns or cities to which the county seat is proposed to be removed and shall be filed at least six months before the election. The county shall issue a statement analyzing the financial impact of the proposed removal at least sixty days before the election. The financial impact statement shall include, but not be limited to, an analysis of the: (1) Probable costs to the county government involved in relocating the county seat; (2) probable costs to county employees as a result of relocating the county seat; and (3) probable impact on the city or town from which the county seat is proposed to be removed, and on the city or town where the county seat is proposed to be relocated.

[1985 c 145 § 1; 1963 c 4 § 36.12.010. Prior: 1890 p 318 § 1; RRS § 3998.]

RCW 36.12.020 Requisites of petition--Submission to electors.

If the petition is signed by qualified voters of the county equal in number to at least one-third of all the votes cast in the county at the last preceding general election the board must, at the next general election of county officers, submit the question of removal to the electors of the county.

[1963 c 4 § 36.12.020. Prior: 1890 p 318 § 2; RRS § 3999.]

RCW 36.12.030 Notice of election--Election, how held.

Notice of the election, clearly stating the object, shall be given, and the election must be held and conducted, and the returns made, in all respects in the manner prescribed by law in regard to elections for county officers.

[1963 c 4 § 36.12.030. Prior: 1890 p 318 § 3; RRS § 4000.]

RCW 36.12.040 Manner of voting.

In voting on the question, each voter must vote for or against the place named in the petition.

[1963 c 4 § 36.12.040. Prior: 1890 p 318 § 4; RRS § 4001.]

RCW 36.12.050 Vote required--Notice of result.

When the returns have been received and compared, and the results ascertained by the board, if three-fifths of the legal votes cast by those voting on the proposition are in favor of any particular place the proposition has been adopted. The board of county commissioners must give notice of the result by posting notices thereof in all the election precincts in the county.

[1963 c 4 § 36.12.050. Prior: 1890 p 318 § 5; RRS § 4002.]

RCW 36.12.060 Time of removal.

In the notice provided for in RCW 36.12.050, the place selected to be the county seat of the county must be so declared upon a day not more than ninety days after the election. After the day named the place chosen is the seat of the county; and the several county officers, whose offices are required by law to be kept at the county seat, shall remove their respective offices, files, records, office fixtures, furniture, and all public property pertaining to their respective offices to the new county seat.

[1963 c 4 § 36.12.060. Prior: 1890 p 318 § 6; RRS § 4003.]

RCW 36.12.070 Notice to county clerk and secretary of state.

Whenever any election has been held for change of county seat, the notice given by the board of county commissioners showing the result thereof must be deposited in the office of the county clerk, and a certified copy thereof transmitted to the secretary of state.

[1963 c 4 § 36.12.070. Prior: 1890 p 319 § 7; RRS § 4004.]

RCW 36.12.080 Failure of election--Limitation on subsequent removal election.

When an election has been held and no one place receives three-fifths of all the votes cast, the former county seat shall remain the county seat, and no second election may be held within eight years thereafter.

[1985 c 145 § 2; 1963 c 4 § 36.12.080. Prior: 1890 p 319 § 8; RRS § 4005.]

RCW 36.12.090 Limitation on successive removal elections.

When the county seat of a county has been removed by a popular vote of the people of the county, it may be again removed, from time to time, in the manner provided by this chapter, but no two elections to effect such removal may be held within eight years.

[1985 c 145 § 3; 1963 c 4 § 36.12.090. Prior: 1890 p 319 § 9; RRS § 4006.]

**Chapter 36.13 RCW
CLASSIFICATION OF COUNTIES**

Sections

36.13.020	County census authorized.
36.13.030	County census authorized--Personnel--How conducted.
36.13.040	County census authorized--Information to be given enumerators.
36.13.050	County census authorized--Classification to be based on census.
36.13.070	County census authorized--Penalty.
36.13.100	Determination of population.

Notes:

Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).

RCW 36.13.020 County census authorized.

The legislative authority of any county may order a county census to be taken of all the inhabitants of the county. The expense of such census enumeration shall be paid from the county current expense fund.

[1991 c 363 § 44; 1977 ex.s. c 110 § 6; 1963 c 4 § 36.13.020. Prior: (i) 1923 c 177 § 1; RRS § 4200-6. (ii) 1923 c 177 § 5; RRS § 4200-10.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.13.030 County census authorized--Personnel--How conducted.

For the purpose of making a county census, the legislative authority of any county may employ one or more suitable persons. The census shall be conducted in accordance with standard census definitions and procedures as specified by the office of financial management.

[1979 c 151 § 37; 1977 ex.s. c 110 § 1; 1963 c 4 § 36.13.030. Prior: 1923 c 177 § 2; RRS § 4200-7.]

Notes:

Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 36.13.040 County census authorized--Information to be given enumerators.

All persons resident in the county, having knowledge of the facts, shall give the information required herein to any duly authorized census enumerator when requested by him.

[1963 c 4 § 36.13.040. Prior: 1923 c 177 § 4; RRS § 4200-9.]

RCW 36.13.050 County census authorized--Classification to be based on census.

The board of county commissioners shall determine the population of the county based upon such special county census. Based upon such census, it shall enter an order declaring and fixing the population of the county in accordance with such determination, and from and after the entry of the order the county shall be considered and classified for all purposes according to

the population thus determined.

[1963 c 4 § 36.13.050. Prior: 1923 c 177 § 3; RRS § 4200-8.]

RCW 36.13.070 County census authorized--Penalty.

Any person violating any of the provisions of RCW 36.13.020, 36.13.030, 36.13.040, and 36.13.050, or any officer or enumerator making, assisting, or permitting any duplication of names or making, permitting, or assisting in the enumeration of any fictitious names or persons in taking the census, shall be guilty of a gross misdemeanor.

[1963 c 4 § 36.13.070. Prior: 1923 c 177 § 6; RRS § 4200-11.]

RCW 36.13.100 Determination of population.

Whenever any provision of law refers to the population of a county for purposes of distributing funds or for any other purpose, the population of the respective counties shall be determined by the most recent census, population estimate by the office of financial management, or special county census as certified by the office of financial management.

[1991 c 363 § 45; 1963 c 4 § 36.13.100. Prior: 1949 c 92 § 1; Rem. Supp. 1949 § 4200-6a.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.
Population determinations, office of financial management: Chapter 43.62 RCW.

**Chapter 36.16 RCW
COUNTY OFFICERS--GENERAL**

Sections

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Notes:

Accounts, reports of to state auditor: RCW 43.09.230 through 43.09.240.

Agricultural

agents, assistants, as college employees for retirement benefit purposes: RCW 28B.10.400.

expert, pest extermination by: RCW 17.12.060.

Air pollution control officer: RCW 70.94.170.

Assistant superintendents of schools: RCW 28A.310.020, 28A.310.230.

Board of adjustment for airport zoning: Chapter 14.12 RCW.

Board of managers, county and city tuberculosis hospital: Chapter 70.30 RCW.

Civil service for sheriff's office, county officers to aid in carrying out: RCW 41.14.200.

Clerks, election

duties relating to

polling place regulations after closing: Chapter 29.54 RCW.

polling place regulations during voting hours: Chapter 29.51 RCW.

generally: Chapter 29.45 RCW.

violations by, penalties: Chapter 29.85 RCW.

Code of ethics for municipal officers--Contract interests: Chapter 42.23 RCW.

Compensation, constitutional provision: State Constitution Art. 11 § 5 (Amendment 57).

Continuity of government act, effect as to: RCW 42.14.040, 42.14.070.

County administrator (public assistance): RCW 74.04.070 through 74.04.080.

County superintendent of schools

community center board of supervisors, superintendent as member: RCW 28A.335.270.

penalties applicable to: Chapter 28A.635 RCW.

powers and duties prescribed: Chapter 28A.310 RCW.

Dental hygienists, licensed, county may employ: RCW 18.29.050.

Department of revenue, to advise: Chapter 84.08 RCW.

Detention home personnel: Chapter 13.04 RCW.

Director of public health, generally: Chapter 70.08 RCW.

District health officer

generally: Chapter 70.46 RCW.

vital statistics, officer as registrar: Chapter 70.58 RCW.

Electrical construction violations, county officers liable--Penalty: RCW 19.29.060.

Eligibility to hold office: RCW 42.04.020.

Employee safety award programs: RCW 36.32.460.

Examiner of titles: RCW 65.12.090.

Flood control activities, immunity of from liability: RCW 86.12.037.

Free transportation for public officers prohibited: State Constitution Art. 12 § 20.

Health officer

boarding homes, officer to aid in administration of licensing laws: Chapter 18.20 RCW.

children with disabilities, education of, officer to get cooperation: RCW 28A.155.030.

convention of: RCW 43.70.140.

duties relating to

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certified copies of birth or death certificates: RCW 70.58.107.
child welfare agencies: Chapter 74.15 RCW.
embalmers, licensing of: Chapter 18.39 RCW.
sexually transmitted disease: Chapter 70.24 RCW.
hearing tests for pupils, officer may give: RCW 28A.210.020.
vital statistics, officer as registrar: Chapter 70.58 RCW.
water recreational facilities: Chapter 70.90 RCW.
Hospitalization and medical aid insurance for: RCW 41.04.180, 41.04.190.
Interchange of personnel with federal agency, rights preserved: RCW 41.04.140 through 41.04.170.
Juvenile probation officer, psychopathic delinquents, officer's duties: Chapter 71.06 RCW.
Local authorities, county officer as for motor vehicle purposes: RCW 46.04.280.
Lost or uncertain boundary lines, commissioners appointed to ascertain: RCW 58.04.030.
Military
leaves for public employees: RCW 38.40.060.
personnel, apprehension and restraint: Chapter 38.38 RCW.
Misconduct of public officers: Chapter 42.20 RCW.
Moneys, use by, of official, a felony: State Constitution Art. 11 § 14.
Moneys to be deposited with treasurer: State Constitution Art. 11 § 15.
Oaths, who may administer: RCW 5.28.010.
Officers, elections, duties, terms, compensation: State Constitution Art. 11 § 5 (Amendment 57).
Payroll deductions for: RCW 41.04.020 through 41.04.036.
Probation counselors: Chapter 13.04 RCW.
Probation officer, family court, officer's duties: RCW 26.12.070.
Property tax advisor: RCW 84.48.140.
Public bodies, meetings: Chapter 42.30 RCW.
Public hospital district superintendent: Chapter 70.44 RCW.
Public officers, terms when vacancies filled: RCW 42.12.030.
P.U.D. taxes certified to and collected by county officials: RCW 54.16.080.
Recall of: State Constitution Art. 1 §§ 33, 34 (Amendment 8).
Registration of public officer, how effectuated: RCW 42.12.020.
Retirement systems, retention of rights: Chapter 41.04 RCW.
Review board, county officers to assist: RCW 35.13.173.
Salaried officers not to receive witness fees: RCW 42.16.020, 42.16.030.
Sanitary officers: Chapter 70.05 RCW.
Social security, federal, coverage includes county employees: Chapter 41.48 RCW.
Special commissioner (flood control by counties jointly): RCW 86.13.060.
State board of health measures, officers to enforce: RCW 43.20.050.
Supervisor of elections, duties relating to
hospital district elections: Chapter 70.44 RCW.
P.U.D. elections: RCW 54.04.060.
Support of dependent children, officials to charge no fees in connection with: RCW 74.20.300.
Surveyor to determine town boundaries: RCW 35.27.040.
Unclaimed money and property in hands of public authority, disposition: RCW 63.29.130.
Vacancies in county offices, how filled: State Constitution Art. 11 § 6 (Amendment 52).
Voter registration assistants: RCW 29.07.010.

RCW 36.16.010 Time of election.

The election of county and precinct officers shall be held on the Tuesday next following the first Monday in November, 1922; and every four years thereafter on the Tuesday next following the first Monday in November, and all such elective county and precinct officers shall after midnight, June 11, 1919, be elected at the time herein specified: PROVIDED, That if a vacancy occur during the first biennium after any such election, an election to fill such vacancy for the unexpired term shall be held at the next succeeding general election.

[1963 c 4 § 36.16.010. Prior: 1919 c 175 § 2; RRS § 4030.]

RCW 36.16.020 Term of county and precinct officers.

The term of office of all county and precinct officers shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170: PROVIDED, That this section and RCW 36.16.010 shall not apply to county commissioners.

[1979 ex.s. c 126 § 26; 1963 c 4 § 36.16.020. Prior: 1959 c 216 § 2; 1919 c 175 § 1; 1886 p 101 § 2; Code 1881 § 3153; 1877 p 330 § 2; 1871 p 35 § 3; 1867 p 7 § 4; RRS § 4029.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 36.16.030 Elective county officers enumerated.

Except as provided elsewhere in this section, in every county there shall be elected from among the qualified voters of the county a county assessor, a county auditor, a county clerk, a county coroner, three county commissioners, a county prosecuting attorney, a county sheriff and a county treasurer, except that in each county with a population of less than forty thousand no coroner shall be elected and the prosecuting attorney shall be ex officio coroner. Whenever the population of a county increases to forty thousand or more, the prosecuting attorney shall continue as ex officio coroner until a coroner is elected, at the next general election at which the office of prosecuting attorney normally would be elected, and assumes office as provided in RCW 29.04.170. In any county where the population has once attained forty thousand people and a current coroner is in office and a subsequent census indicates less than forty thousand people, the county legislative authority may maintain the office of coroner by resolution or ordinance. If the county legislative authority has not passed a resolution or enacted an ordinance to maintain the office of coroner, the elected coroner shall remain in office for the remainder of the term for which he or she was elected, but no coroner shall be elected at the next election at which that office would otherwise be filled and the prosecuting attorney shall be the ex officio coroner. In a county with a population of two hundred fifty thousand or more, the county legislative authority may replace the office of coroner with a medical examiner system and appoint a medical examiner as specified in RCW 36.24.190. A noncharter county may have five county commissioners as provided in RCW 36.32.010 and 36.32.055 through 36.32.0558.

[1996 c 108 § 1; 1991 c 363 §§ 46, 47; 1990 c 252 § 8; 1963 c 4 § 36.16.030. Prior: 1955 c 157 § 5; prior: (i) Code 1881 § 2707; 1869 p 310 §§ 1-3; 1863 p 549 §§ 1-3; 1854 p 424 §§ 1-3; RRS § 4083. (ii) Code 1881 § 2738; 1863

p 552 § 1; 1854 p 426 § 1; RRS § 4106. (iii) 1891 c 5 § 1; RRS § 4127. (iv) 1890 p 478 § 1; 1886 p 164 § 1; 1883 p 39 § 1; Code 1881 § 2752; 1869 p 402 § 1; 1854 p 428 § 1; RRS § 4140. (v) 1943 c 139 § 1; Code 1881 § 2766; 1863 p 557 § 1; 1854 p 434 § 1; Rem. Supp. 1949 § 4155. (vi) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (vii) 1933 c 136 § 2; 1925 ex.s. c 148 § 2; RRS § 4200-2a. (viii) 1937 c 197 § 1; 1933 c 136 § 3; 1925 ex.s. c 148 § 3; RRS § 4200-3a. (ix) 1937 c 197 § 2; 1933 c 136 § 4; 1925 ex.s. c 148 § 4; RRS § 4200-4a. (x) 1927 c 37 § 1; 1890 p 304 § 2; RRS § 4205-1.]

Notes:

Effective dates--1991 c 363 §§ 28, 29, 33, 47, 131: See note following RCW 28A.343.660.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.16.032 Offices of auditor and clerk may be combined in counties with populations of less than five thousand--Salary.

The office of county auditor may be combined with the office of county clerk in each county with a population of less than five thousand by unanimous resolution of the county legislative authority passed thirty days or more prior to the first day of filing for the primary election for county offices. The salary of such office of county clerk combined with the office of county auditor, and the salary of the office of county auditor that is not combined with the office of county clerk, shall be not less than ten thousand three hundred dollars. The county legislative authority of such county is authorized to increase or decrease the salary of such office: PROVIDED, That the legislative authority of the county shall not reduce the salary of any official below the amount which such official was receiving on January 1, 1973.

[1991 c 363 § 48; 1973 1st ex.s. c 88 § 1; 1972 ex.s. c 97 § 1; 1967 ex.s. c 77 § 1; 1963 c 164 § 2; 1963 c 4 § 36.16.032. Prior: 1957 c 219 § 4.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.16.040 Oath of office.

Every person elected to county office shall before he enters upon the duties of his office take and subscribe an oath or affirmation that he will faithfully and impartially discharge the duties of his office to the best of his ability. This oath, or affirmation, shall be administered and certified by an officer authorized to administer oaths, without charge therefor.

[1963 c 4 § 36.16.040. Prior: 1955 c 157 § 6; prior: (i) Code 1881 § 2666; 1869 p 303 § 4; 1863 p 541 § 4; 1854 p 420 § 4; RRS § 4045. (ii) Code 1881 § 2708, part; 1869 p 310 § 4, part; 1863 p 549 § 4, part; 1854 p 424 § 4, part; RRS § 4084, part. (iii) 1943 c 249 § 1; Code 1881 § 2739; 1863 p 553 § 2, part; 1854 p 426 § 2; Rem. Supp. 1943 § 4107. (iv) 1886 p 61 § 4, part; 1883 p 73 § 9, part; Code 1881 § 2163, part; 1877 p 246 § 5, part; 1863 p 408 § 3, part; 1860 p 334 § 3, part; 1858 p 12 § 3, part; 1854 p 417 § 3, part; RRS § 4129, part. (v) 1897 c 71 § 44; 1893 c 124 § 46; Code 1881 § 2753; 1854 p 428 § 2; RRS § 4141. (vi) Code 1881 § 2774; 1863 p 558 § 9; 1854 p 435 § 9; RRS § 4156. (vii) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (viii) Code 1881 § 2096; 1869 p 374 § 18; RRS § 4231. (ix) 1909 c 97 p 280 § 1, part; 1903 c 104 § 13, part; 1899 c 142 § 5, part; 1897 c 118 § 30, part; 1890 p 355 § 10, part; Code 1881 § 3170, part; RRS § 4767, part. (x) 1925 ex.s. c 130 § 55; 1891 c 140 § 46; 1890 p 548 § 50; RRS § 11138.]

Notes:

Election officials, oaths of office: RCW 29.45.080 through 29.45.110.

Examiner of titles, oath of: RCW 65.12.090.

RCW 36.16.050 Official bonds.

Every county official before he or she enters upon the duties of his or her office shall furnish a bond conditioned that he or she will faithfully perform the duties of his or her office and account for and pay over all money which may come into his or her hands by virtue of his or her office, and that he or she, or his or her executors or administrators, will deliver to his or her successor safe and undefaced all books, records, papers, seals, equipment, and furniture belonging to his or her office. Bonds of elective county officers shall be as follows:

(1) Assessor: Amount to be fixed and sureties to be approved by proper county legislative authority;

(2) Auditor: Amount to be fixed at not less than ten thousand dollars and sureties to be approved by the proper county legislative authority;

(3) Clerk: Amount to be fixed in a penal sum not less than double the amount of money liable to come into his or her hands and sureties to be approved by the judge or a majority of the judges presiding over the court of which he or she is clerk: PROVIDED, That the maximum bond fixed for the clerk shall not exceed in amount that required for the treasurer in a county of that class;

(4) Coroner: Amount to be fixed at not less than five thousand dollars with sureties to be approved by the proper county legislative authority;

(5) Members of the proper county legislative authority: Sureties to be approved by the county clerk and the amounts to be:

(a) In each county with a population of one hundred twenty-five thousand or more, twenty-five thousand dollars;

(b) In each county with a population of from seventy thousand to less than one hundred twenty-five thousand, twenty-two thousand five hundred dollars;

(c) In each county with a population of from forty [thousand] to less than seventy thousand, twenty thousand dollars;

(d) In each county with a population of from eighteen thousand to less than forty thousand, fifteen thousand dollars;

(e) In each county with a population of from twelve thousand to less than eighteen thousand, ten thousand dollars;

(f) In each county with a population of from eight thousand to less than twelve thousand, seven thousand five hundred dollars;

(g) In all other counties, five thousand dollars;

(6) Prosecuting attorney: In the amount of five thousand dollars with sureties to be approved by the proper county legislative authority;

(7) Sheriff: Amount to be fixed and bond approved by the proper county legislative authority at not less than five thousand nor more than fifty thousand dollars; surety to be a surety

company authorized to do business in this state;

(8) Treasurer: Sureties to be approved by the proper county legislative authority and the amounts to be fixed by the proper county legislative authority at double the amount liable to come into the treasurer's hands during his or her term, the maximum amount of the bond, however, not to exceed:

(a) In each county with a population of two hundred ten thousand or more, two hundred fifty thousand dollars;

(b) In each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand, two hundred thousand dollars;

(c) In each county with a population of from eighteen thousand to less than one hundred twenty-five thousand, one hundred fifty thousand dollars;

(d) In all other counties, one hundred thousand dollars.

The treasurer's bond shall be conditioned that all moneys received by him or her for the use of the county shall be paid as the proper county legislative authority shall from time to time direct, except where special provision is made by law for the payment of such moneys, by order of any court, or otherwise, and for the faithful discharge of his or her duties.

Bonds for other than elective officials, if deemed necessary by the proper county legislative authority, shall be in such amount and form as such legislative authority shall determine.

In the approval of official bonds, the chair may act for the county legislative authority if it is not in session.

[1991 c 363 § 49; 1971 c 71 § 1; 1969 ex.s. c 176 § 91; 1963 c 4 § 36.16.050. Prior: 1955 c 157 § 7; prior: (i) 1895 c 53 § 1; RRS § 70. (ii) 1895 c 53 § 2, part; RRS § 71, part. (iii) 1921 c 132 § 1, part; 1893 c 75 § 7, part; RRS § 4046, part. (iv) Code 1881 § 2708, part; 1869 p 310 § 4, part; 1863 p 549 § 4, part; 1854 p 424 § 4, part; RRS § 4084, part. (v) 1943 c 249 § 1, part; Code 1881 § 2739, part; 1863 p 553 § 2, part; 1854 p 426 § 2, part; Rem. Supp. 1943 § 4107, part. (vi) 1886 p 61 § 4, part; 1883 p 73 § 9, part; Code 1881 § 2163, part; 1877 p 246 § 5, part; 1863 p 408 § 3, part; 1860 p 334 § 3, part; 1858 p 12 § 3, part; 1854 p 417 § 3, part; RRS 4129, part. (vii) 1897 c 71 § 44, part; 1893 p 124 § 46, part; Code 1881 § 2753, part; 1854 p 428 § 2, part; RRS § 4141, part. (viii) 1943 c 139 § 1, part; Code 1881 § 2766, part; 1863 p 557 § 1, part; 1854 p 434 § 1, part; Rem. Supp. 1943 § 4155, part. (ix) Code 1881 § 2775, part; 1863 p 559 § 1, part; 1854 p 436 § 1, part; RRS § 4176, part. (x) 1909 c 97 p 280 § 1, part; 1903 c 104 § 13, part; 1899 c 142 § 5, part; 1897 c 118 § 30, part; 1890 p 355 § 10, part; Code 1881 § 3170, part; RRS § 4767, part. (xi) 1890 p 35 § 5, part; RRS § 9934, part. (xii) 1925 ex.s. c 130 § 55, part; 1891 c 140 § 46, part; 1890 p 548 § 50, part; RRS § 11138, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Auditor as registrar of titles, bond for: RCW 65.12.055.

Examiner of titles, bond: RCW 65.12.090.

Public officers, official bonds

Code of 1881, county application: RCW 42.08.010 through 42.08.050.

1890 act, county application: RCW 42.08.060 through 42.08.170.

RCW 36.16.060 Place of filing oaths and bonds.

Every county officer, before entering upon the duties of his office, shall file his oath of

office in the office of the county auditor and his official bond in the office of the county clerk: PROVIDED, That the official bond of the county clerk, after first being recorded by the county auditor, shall be filed in the office of the county treasurer.

Oaths and bonds of deputies shall be filed in the offices in which the oaths and bonds of their principals are required to be filed.

[1963 c 4 § 36.16.060. Prior: 1955 c 157 § 8; prior: (i) 1895 c 53 § 2, part; RRS § 71, part. (ii) 1890 p 35 § 5, part; RRS § 9934, part.]

RCW 36.16.070 Deputies and employees.

In all cases where the duties of any county office are greater than can be performed by the person elected to fill it, the officer may employ deputies and other necessary employees with the consent of the board of county commissioners. The board shall fix their compensation and shall require what deputies shall give bond and the amount of bond required from each. The sureties on deputies' bonds must be approved by the board and the premium therefor is a county expense.

A deputy may perform any act which his principal is authorized to perform. The officer appointing a deputy or other employee shall be responsible for the acts of his appointees upon his official bond and may revoke each appointment at pleasure.

[1969 ex.s. c 176 § 92; 1963 c 4 § 36.16.070. Prior: 1959 c 216 § 3; 1957 c 219 § 2; prior: (i) Code 1881 § 2716; 1869 p 312 § 10; 1863 p 550 § 7; 1854 p 425 § 7; RRS § 4093. (ii) Code 1881 § 2741; 1863 p 553 § 4; 1854 p 427 § 4; RRS § 4108. (iii) Code 1881 § 2767, part; 1871 p 110 § 1, part; 1863 p 557 § 2, part; 1854 p 434 § 2, part; RRS § 4160, part. (iv) 1905 c 60 § 1; RRS § 4177. (v) 1905 c 60 § 2; RRS § 4178. (vi) 1905 c 60 § 3; RRS § 4179. (vii) 1949 c 200 § 1, part; 1945 c 87 § 1, part; 1937 c 197 § 3, part; 1925 ex.s. c 148 § 6, part; Rem. Supp. 1949 § 4200-5a, part. (viii) 1943 c 260 § 1; Rem. Supp. 1943 § 4200-5b.]

Notes:

County clerk, deputies of: Chapter 2.32 RCW.

RCW 36.16.087 Deputies and employees--County treasurer--Prior deeds validated.

In all cases in which the county treasurer of any county in the state of Washington shall have executed a tax deed or deeds prior to February 21, 1903, either to his county or to any private person or persons or corporation whomsoever, said deed or deeds shall not be deemed invalid by reason of the county treasurer who executed the same not having affixed a seal of office to the same, or having affixed a seal not an official seal; nor shall said deed or deeds be deemed invalid by reason of the fact that at the date of the execution of said deed or deeds there was in the state of Washington no statute providing for an official seal for the office of county treasurer.

[1963 c 4 § 36.16.087. Prior: 1903 c 15 § 2; RRS § 4126. Formerly RCW 36.16.080.]

RCW 36.16.090 Office space.

The boards of county commissioners of the several counties of the state shall provide a suitable furnished office for each of the county officers in their respective courthouses.

[1963 c 4 § 36.16.090. Prior: 1893 c 82 § 1; Code 1881 § 2677; 1869 p 306 § 15; 1854 p 422 § 15; RRS § 4032. SLC-RO-14.]

RCW 36.16.100 Offices to be open certain days and hours.

All county and precinct offices shall be kept open for the transaction of business during such days and hours as the board of county commissioners shall by resolution prescribe.

[1963 c 4 § 36.16.100. Prior: 1955 ex.s. c 9 § 2; prior: 1951 c 100 § 1; 1941 c 113 § 1, part; Rem. Supp. 1941 § 9963-1, part.]

RCW 36.16.110 Vacancies in office.

The board of county commissioners in each county shall, at its next regular or special meeting after being appraised of any vacancy in any county, township, precinct, or road district office of the county, fill the vacancy by the appointment of some person qualified to hold such office, and the officers thus appointed shall hold office until the next general election, and until their successors are elected and qualified.

[1963 c 4 § 36.16.110. Prior: 1927 c 163 § 1; RRS § 4059; prior: Code 1881 § 2689; 1867 p 57 § 28.]

RCW 36.16.115 Vacancy in partisan elective office--Appointment of acting official.

Where a vacancy occurs in any partisan county elective office, other than a member of the county legislative authority, the county legislative authority may appoint an employee that was serving as a deputy or assistant in such office at the time the vacancy occurred as an acting official to perform all necessary duties to continue normal office operations. The acting official will serve until a successor is either elected or appointed as required by law. This section does not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section.

[1981 c 180 § 3.]

Notes:

Reviser's note: 1981 c 180 § 3 directed that this section be added to chapter 29.18 RCW. Since this placement appears inappropriate, this section has been codified as part of chapter 36.16 RCW.

Severability--1981 c 180: See note following RCW 42.12.040.

Election of successor: RCW 42.12.040.

Filing period, special: RCW 29.15.230.

RCW 36.16.120 Officers must complete business.

All county officers shall complete the business of their offices, to the time of the expiration of their respective terms, and in case any officer, at the close of his term, leaves to his

successor official labor to be performed, which it was his duty to perform, he shall be liable to his successor for the full value of such services.

[1963 c 4 § 36.16.120. Prior: 1890 p 315 § 43; RRS § 4031.]

RCW 36.16.125 Elected officials--Abandonment of responsibilities--Declaratory judgment--Compensation denied during abandonment.

The county legislative authority of a county may cause an action to be filed in the superior court of that county for a declaratory judgment finding that a county elected official has abandoned his or her responsibilities by being absent from the county and failing to perform his or her official duties for a period of at least thirty consecutive days, but not including: (1) Absences approved by the county legislative authority; or (2) absences arising from leave taken for legitimate medical or disability purposes. If such a declaratory judgment is issued, the county official is no longer eligible to receive compensation from the date the declaratory judgment is issued until the court issues a subsequent declaratory judgment finding that the county official has commenced performing his or her responsibilities.

[1999 c 71 § 1.]

RCW 36.16.130 Group false arrest insurance for law enforcement personnel.

Any county may contract with an insurance company authorized to do business in this state to provide group false arrest insurance for its law enforcement personnel and pursuant thereto may use such portion of its revenues to pay the premiums therefor as the county may determine.

[1963 c 127 § 2.]

RCW 36.16.136 Liability insurance for officers and employees.

The board of county commissioners of each county may purchase liability insurance with such limits as they may deem reasonable for the purpose of protecting their officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties.

[1969 ex.s. c 59 § 1.]

RCW 36.16.138 Liability insurance for officers and employees of municipal corporations and political subdivisions authorized.

Any board of commissioners, council, or board of directors or other governing board of any county, city, town, school district, port district, public utility district, water-sewer district, irrigation district, or other municipal corporation or political subdivision is authorized to purchase insurance to protect and hold personally harmless any of its commissioners, council

members, directors, or other governing board members, and any of its other officers, employees, and agents from any action, claim, or proceeding instituted against the foregoing individuals arising out of the performance, purported performance, or failure of performance, in good faith of duties for, or employment with, such institutions and to hold these individuals harmless from any expenses connected with the defense, settlement, or monetary judgments from such actions, claims, or proceedings. The purchase of such insurance for any of the foregoing individuals and the policy limits shall be discretionary with the municipal corporation or political subdivision, and such insurance shall not be considered to be compensation for these individuals.

The provisions of this section are cumulative and in addition to any other provision of law authorizing any municipal corporation or political subdivision to purchase liability insurance.

[1999 c 153 § 43; 1975 c 16 § 1.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Liability insurance for officers and employees authorized: RCW 28A.400.360, 28B.10.660, 35.21.205, 52.12.071, 53.08.205, 54.16.095, 57.08.105, and 87.03.162.

RCW 36.16.139 Liability insurance and workers' compensation for offenders performing court-ordered community service.

The legislative authority of a county may purchase liability insurance in an amount it deems reasonable to protect the county, its officers, and employees against liability for the wrongful acts of offenders or injury or damage incurred by offenders in the course of community service imposed by court order or pursuant to RCW 13.40.080. The legislative authority of a county may elect to treat offenders as employees and/or workers under Title 51 RCW.

[1984 c 24 § 3.]

Notes:

Workers' compensation coverage of offenders performing community service: RCW 51.12.045.

RCW 36.16.140 Public auction sales, where held.

Public auction sales of property conducted by or for the county shall be held at such places as the county legislative authority may direct.

[1991 c 363 § 50; 1991 c 245 § 3; 1965 ex.s. c 23 § 6.]

Notes:

Reviser's note: This section was amended by 1991 c 245 § 3 and by 1991 c 363 § 50, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Building permit--County must require payroll estimate under industrial insurance act: RCW 51.12.070.

Public lands--Place of sale--Hours: RCW 79.01.196.

Sales of county property, where held: RCW 36.34.080.

Tax sales, where held: RCW 84.64.080, 36.35.120.

Chapter 36.17 RCW SALARIES OF COUNTY OFFICERS

Sections

36.17.010	Salary full compensation--Compensation denied, when.
36.17.020	Schedule of salaries.
36.17.024	County commissioner and councilmember salary commissions.
36.17.031	Reimbursement for travel allowances and allowances in lieu of actual expenses.
36.17.040	Payment of salaries of officers and employees.
36.17.042	Biweekly pay periods.
36.17.045	Deductions for contributions, payments and dues, authorized.
36.17.050	Salary warrant may be withheld.
36.17.055	Salary adjustment for county legislative authority office--Ratification and validation of preelection action.

NOTES:

Cemetery and morgue employees, salary of: RCW 68.52.020.

Compensation of county officials: State Constitution Art. 11 § 5 (Amendment 57).

County commissioners, compensation and/or expenses

determining towns boundaries: RCW 35.27.060.

flood control by counties jointly, duties: RCW 86.13.060.

metropolitan council member: RCW 35.58.160.

pest exterminator: RCW 17.12.060.

State committee on agency officials' salaries to study salaries of elective county officials: RCW 43.03.028.

RCW 36.17.010 Salary full compensation--Compensation denied, when.

The county officers of the counties of this state shall receive a salary for the services required of them by law, or by virtue of their office, which salary shall be full compensation for all services of every kind and description rendered by them. However, if the superior court issues a declaratory judgment under RCW 36.16.125 finding that a county officer has abandoned his or her duties, the county officer may not be paid compensation.

[1999 c 71 § 2; 1991 c 363 § 51; 1963 c 4 § 36.17.010. Prior: 1890 p 312 § 32; RRS § 4210.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.17.020 Schedule of salaries.

The county legislative authority of each county or a county commissioner or councilmember salary commission which conforms with RCW 36.17.024 is authorized to establish the salaries of the elected officials of the county. One-half of the salary of each prosecuting attorney shall be paid by the state. The annual salary of a county elected official shall not be less than the following:

(1) In each county with a population of one million or more: Auditor, clerk, treasurer, sheriff, members of the county legislative authority, and coroner, eighteen thousand dollars; assessor, nineteen thousand dollars; and prosecuting attorney, thirty thousand three hundred dollars;

(2) In each county with a population of from two hundred ten thousand to less than one million: Auditor, seventeen thousand six hundred dollars; clerk, seventeen thousand six hundred dollars; treasurer, seventeen thousand six hundred dollars; sheriff, nineteen thousand five hundred dollars; assessor, seventeen thousand six hundred dollars; prosecuting attorney, twenty-four thousand eight hundred dollars; members of the county legislative authority, nineteen thousand five hundred dollars; and coroner, seventeen thousand six hundred dollars;

(3) In each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand: Auditor, sixteen thousand dollars; clerk, sixteen thousand dollars; treasurer, sixteen thousand dollars; sheriff, seventeen thousand six hundred dollars; assessor, sixteen thousand dollars; prosecuting attorney, twenty-four thousand eight hundred dollars; members of the county legislative authority, seventeen thousand six hundred dollars; and coroner, sixteen thousand dollars;

(4) In each county with a population of from seventy thousand to less than one hundred twenty-five thousand: Auditor, fourteen thousand nine hundred dollars; clerk, fourteen thousand nine hundred dollars; treasurer, fourteen thousand nine hundred dollars; assessor, fourteen thousand nine hundred dollars; sheriff, fourteen thousand nine hundred dollars; prosecuting attorney, twenty-three thousand seven hundred dollars; members of the county legislative authority, fourteen thousand nine hundred dollars; and coroner, fourteen thousand nine hundred dollars;

(5) In each county with a population of from forty thousand to less than seventy thousand: Auditor, thirteen thousand eight hundred dollars; clerk, thirteen thousand eight hundred dollars; treasurer, thirteen thousand eight hundred dollars; assessor, thirteen thousand eight hundred dollars; sheriff, thirteen thousand eight hundred dollars; prosecuting attorney, twenty-three thousand seven hundred dollars; members of the county legislative authority, thirteen thousand eight hundred dollars; and coroner, thirteen thousand eight hundred dollars;

(6) In each county with a population of from eighteen thousand to less than forty thousand: Auditor, twelve thousand one hundred dollars; clerk, twelve thousand one hundred dollars; treasurer, twelve thousand one hundred dollars; sheriff, twelve thousand one hundred dollars; assessor, twelve thousand one hundred dollars; prosecuting attorney in such a county in which there is no state university or college, fourteen thousand three hundred dollars; in such a county in which there is a state university or college, sixteen thousand five hundred dollars; and members of the county legislative authority, eleven thousand dollars;

(7) In each county with a population of from twelve thousand to less than eighteen thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; prosecuting attorney, thirteen thousand two hundred dollars; and members of the county legislative authority, nine thousand four hundred dollars;

(8) In each county with a population of from eight thousand to less than twelve thousand:

Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; and members of the county legislative authority, seven thousand dollars;

(9) In each county with a population of from five thousand to less than eight thousand: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; assessor, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; and members of the county legislative authority, six thousand five hundred dollars;

(10) In each other county: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; assessor, nine thousand one hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; and members of the county legislative authority, six thousand five hundred dollars.

[2001 c 73 § 3; 1994 sp.s. c 4 § 1; 1991 c 363 § 52; 1973 1st ex.s. c 88 § 2; 1971 ex.s. c 237 § 1; 1969 ex.s. c 226 § 1; 1967 ex.s. c 77 § 2; 1967 c 218 § 3; 1963 c 164 § 1; 1963 c 4 § 36.17.020. Prior: 1957 c 219 § 3; prior: (i) 1953 c 264 § 1; 1949 c 200 § 1, part; 1945 c 87 § 1, part; 1937 c 197 § 3, part; 1933 c 136 § 6, part; 1925 ex.s. c 148 § 6, part; 1919 c 168 § 2, part; Rem. Supp. 1949 § 4200-5a, part. (ii) 1921 c 184 § 2; RRS § 4203.]

NOTES:

Findings--Intent--Severability--2001 c 73: See notes following RCW 35.21.015.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1971 ex.s. c 237: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 237 § 4.]

Effective date--1971 ex.s. c 237: "This act shall take effect on January 1, 1972." [1971 ex.s. c 237 § 5.]
Counties with populations of less than five thousand, combined office of auditor and clerk, salary: RCW 36.16.032.

RCW 36.17.024 County commissioner and councilmember salary commissions.

(1) Salaries for county commissioners and councilmembers may be set by county commissioner and councilmember salary commissions established by ordinance or resolution of the county legislative authority and in conformity with this section.

(2) Commissions established under subsection (1) of this section shall be known as the (Insert name of county) county citizens' commission on salaries for elected officials. Each commission shall consist of ten members appointed by the county commissioner or executive with the approval of the county legislative authority, or by a majority vote of the county legislative authority if there is no single county commissioner or executive, as provided in this section.

(a) Six of the ten commission members shall be selected by lot by the county auditor from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission under (c) of this subsection. In noncharter counties, the county auditor shall select two commission members living in each commissioner's district. The county auditor shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying

persons selected and for providing a new selection from a commissioner's district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(b) The remaining four of the ten commission members must be residents of the county and shall be appointed by the county commissioner or executive with approval of the county legislative authority, or by a majority vote of the county legislative authority if there is no single county commissioner or executive. The persons selected under this subsection shall have had experience in the field of personnel management. Of these four members, one shall be selected from each of the following four sectors in the county: Business, professional personnel management, legal profession, and organized labor.

(c) If there is a single county commissioner or executive, the county auditor shall forward the names of persons selected under (a) of this subsection to the county commissioner or executive who shall appoint these persons to the commission.

(d) No person may be appointed to more than two terms. No member of the commission may be removed by the county commissioner or executive, or county legislative authority if there is no single county commissioner or executive, during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office, or for a disqualifying change of residence.

(e) The members of the commission may not include any officer, official, or employee of the county or any of their immediate family members. "Immediate family member" as used in this subsection means the parents, spouse, siblings, children, or dependent relatives of the officer, official, or employee, whether or not living in the household of the officer, official, or employee.

(f) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as for the original appointment.

(3) Any change in salary shall be filed by the commission with the county auditor and shall become effective and incorporated into the county budget without further action of the county legislative authority or salary commission.

(4) Salary increases established by the commission shall be effective as to county commissioners and all members of the county legislative authority, regardless of their terms of office.

(5) Salary decreases established by the commission shall become effective as to incumbent county commissioners and councilmembers at the commencement of their next subsequent terms of office.

(6) Salary increases and decreases shall be subject to referendum petition by the people of the county in the same manner as a county ordinance upon filing of such petition with the county auditor within thirty days after filing of the salary schedule. In the event of the filing of a valid referendum petition, the salary increase or decrease shall not go into effect until approved by vote of the people.

(7) Referendum measures under this section shall be submitted to the voters of the county at the next following general or municipal election occurring thirty days or more after the petition is filed, and shall be otherwise governed by the provisions of the state Constitution and laws generally applicable to referendum measures.

(8) The action fixing the salary of a county commissioner or councilmember by a commission established in conformity with this section shall supersede any other provision of state statute or county ordinance related to municipal budgets or to the fixing of salaries of county commissioners and councilmembers.

(9) Salaries for county commissioners and councilmembers established under an ordinance or resolution of the county legislative authority in existence on July 22, 2001, that substantially complies with this section shall remain in effect unless and until changed in accordance with such charter provision or ordinance.

[2001 c 73 § 5.]

NOTES:

Findings--Intent--Severability--2001 c 73: See notes following RCW 35.21.015.

RCW 36.17.031 Reimbursement for travel allowances and allowances in lieu of actual expenses.

See RCW 42.24.090.

RCW 36.17.040 Payment of salaries of officers and employees.

The salaries of county officers and employees of counties other than counties with a population of less than five thousand may be paid twice monthly out of the county treasury, and the county auditor, for services rendered from the first to the fifteenth day, inclusive, may, not later than the last day of the month, draw a warrant upon the county treasurer in favor of each of such officers and employees for the amount of salary due him or her, and such auditor, for services rendered from the sixteenth to the last day, inclusive, may similarly draw a warrant, not later than the fifteenth day of the following month, and the county legislative authority, with the concurrence of the county auditor, may enter an order on the record journal empowering him or her so to do: PROVIDED, That if the county legislative authority does not adopt the semimonthly pay plan, it, by resolution, shall designate the first pay period as a draw day. Not more than forty percent of said earned monthly salary of each such county officer or employee shall be paid to him or her on the draw day and the payroll deductions of such officer or employee shall not be deducted from the salary to be paid on the draw day. If officers and employees are paid once a month, the draw day shall not be later than the last day of each month. The balance of the earned monthly salary of each such officer or employee shall be paid not later than the fifteenth day of the following month.

In counties with a population of less than five thousand salaries shall be paid monthly unless the county legislative authority by resolution adopts the foregoing draw day procedure.

[1991 c 363 § 53; 1988 c 281 § 9; 1963 c 4 § 36.17.040. Prior: 1959 c 300 § 1; 1953 c 37 § 1; 1890 p 314 § 37;

RRS § 4220.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1988 c 281: See RCW 39.59.900.

RCW 36.17.042 Biweekly pay periods.

In addition to the pay periods permitted under RCW 36.17.040, the legislative authority of any county may establish a biweekly pay period where county officers and employees receive their compensation not later than seven days following the end of each two week pay period for services rendered during that pay period.

However, in a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW, the county legislative authority may establish a biweekly pay period where the county officers and employees receive their compensation not later than thirteen days following the end of each two-week pay period for services rendered during that pay period.

[1995 c 38 § 3; 1994 c 301 § 5; 1977 c 42 § 1.]

Notes:

Acts of municipal officers ratified and confirmed--1995 c 38: See note following RCW 3.02.045.

RCW 36.17.045 Deductions for contributions, payments and dues, authorized.

Employees of the counties shall have the right to voluntarily authorize the monthly deduction of their pledges to the United Good Neighbor or its successor, monthly payment to a credit unit, and monthly dues to a labor union, from their salaries or wages. When such written authorization is received by the county auditor, he shall make such monthly deduction.

[1963 c 164 § 3.]

RCW 36.17.050 Salary warrant may be withheld.

The auditor shall not draw his warrant for the salary of any officer until the latter shall have first filed his duplicate receipt with the auditor, properly signed by the treasurer, showing he has made the last required monthly statement and settlement. If the superior court issues a declaratory judgment under RCW 36.16.125 finding that a county officer has abandoned his or her duties, the county officer may not be paid a salary.

[1999 c 71 § 3; 1963 c 4 § 36.17.050. Prior: 1890 p 314 § 38; RRS § 4221.]

RCW 36.17.055 Salary adjustment for county legislative authority office--Ratification and validation of preelection action.

See RCW 36.40.205.

Chapter 36.18 RCW
FEES OF COUNTY OFFICERS

Sections	
36.18.005	Definitions.
36.18.010	Auditor's fees.
36.18.012	Fees--Division for deposit in public safety and education account--Court transcript or abstract--Tax warrant--Other papers--Unlawful detainer--Striking discriminatory provisions in real estate--Will with no probate--Nonjudicial probate dispute--Common law liens--Certification of delinquent taxes.
36.18.014	Fees--Division with county law library--Petition for emancipation for minors.
36.18.016	Various fees--Not subject to division.
36.18.018	Fees to state court, of office of state administrator for the courts--Appellate review--Copies and reports by administrator for the courts.
36.18.020	Clerk's fees.
36.18.022	Filing fees may be waived--When.
36.18.025	Portion of filing fees to be remitted to state treasurer.
36.18.030	Coroner's fees.
36.18.040	Sheriff's fees.
36.18.045	Treasurer's fees.
36.18.050	Fees in special cases.
36.18.060	Fees payable in advance--Exception.
36.18.070	Single mileage chargeable when.
36.18.080	Fee schedule to be kept posted.
36.18.090	Itemized receipt to be given.
36.18.110	Monthly statement to county auditor.
36.18.120	Statements to be checked.
36.18.130	Errors or irregularities.
36.18.160	Penalty for taking illegal fees.
36.18.170	Penalty for failure to pay over fees.
36.18.180	Office to be declared vacant on conviction.
36.18.190	Collection of unpaid financial obligations--Collection contracts--Interest to collection agencies authorized.

RCW 36.18.005 Definitions.

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Recording officer" means the county auditor, or in charter counties the county official charged with the responsibility for recording instruments in the county records.

(2) "File," "filed," or "filing" means the act of delivering an instrument to the auditor or recording officer for recording into the official public records.

(3) "Record," "recorded," or "recording" means the process, such as electronic, mechanical, optical, magnetic, or microfilm storage used by the auditor or recording officer after filing to incorporate the instrument into the public records.

(4) "Multiple transactions" means a document that contains two or more titles and/or two or more transactions requiring multiple indexing.

[1999 c 233 § 2; 1991 c 26 § 1.]

Notes:

Effective date--1999 c 233: See note following RCW 4.28.320.

RCW 36.18.010 Auditor's fees.

County auditors or recording officers shall collect the following fees for their official services:

For recording instruments, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

For preparing and certifying copies, for the first page eight and one-half by fourteen inches or less, three dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

For preparing noncertified copies, for each page eight and one-half by fourteen inches or less, one dollar;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

For searching records per hour, eight dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

For recording of miscellaneous records not listed above, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170.

For recording an emergency nonstandard document as provided in RCW 65.04.047, fifty

dollars, in addition to all other applicable recording fees.

[1999 c 233 § 3; 1996 c 143 § 1; 1995 c 246 § 37; 1991 c 26 § 2. Prior: 1989 c 304 § 1; 1989 c 204 § 6; 1987 c 230 § 1; 1985 c 44 § 2; 1984 c 261 § 4; 1982 1st ex.s. c 15 § 7; 1982 c 4 § 12; 1977 ex.s. c 56 § 1; 1967 c 26 § 8; 1963 c 4 § 36.18.010; prior: 1959 c 263 § 6; 1953 c 214 § 2; 1951 c 51 § 4; 1907 c 56 § 1, part, p 92; 1903 c 151 § 1, part, p 295; 1893 c 130 § 1, part, p 423; Code 1881 § 2086, part, p 358; 1869 p 369 § 3; 1865 p 94 § 1; part; 1863 p 391 § 1, part, p 394; 1861 p 34 § 1, part, p 37; 1854 p 368 § 1, part, p 371; RRS §§ 497, part, 4105.]

Notes:

Effective date--1999 c 233: See note following RCW 4.28.320.

Effective date--1996 c 143: "This act shall take effect January 1, 1997." [1996 c 143 § 5.]

Effective date--1995 c 246 § 37: "Section 37 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 246 § 39.]

Severability--1995 c 246: See note following RCW 26.50.010.

Findings--1989 c 204: See note following RCW 36.22.160.

Effective date--1987 c 230: "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 230 § 4.]

Severability--1984 c 261: See note following RCW 43.121.020.

Severability--1982 c 4: See RCW 43.121.910.

Effective date--1967 c 26: See note following RCW 43.70.150.

Family court funding, marriage license fee increase authorized: RCW 26.12.220.

RCW 36.18.012 Fees--Division for deposit in public safety and education account--Court transcript or abstract--Tax warrant--Other papers--Unlawful detainer--Striking discriminatory provisions in real estate--Will with no probate--Nonjudicial probate dispute--Common law liens--Certification of delinquent taxes.

(1) Revenue collected under this section is subject to division with the state for deposit in the public safety and education account under RCW 36.18.025.

(2) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a district court in the county of issuance, shall pay at the time of filing a fee of fifteen dollars.

(3) The clerk shall collect a fee of twenty dollars for: Filing a paper not related to or a part of a proceeding, civil or criminal, or a probate matter, required or permitted to be filed in the clerk's office for which no other charge is provided by law.

(4) If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay before proceeding with the unlawful detainer action eighty dollars.

(5) For a restrictive covenant for filing a petition to strike discriminatory provisions in real estate under RCW 49.60.227 a fee of twenty dollars must be charged.

(6) A fee of twenty dollars must be charged for filing a will only, when no probate of the will is contemplated.

(7) A fee of two dollars must be charged for filing a petition, written agreement, or

written memorandum in a nonjudicial probate dispute under RCW 11.96A.220.

(8) A fee of thirty-five dollars must be charged for filing a petition regarding a common law lien under RCW 60.70.060.

(9) For certification of delinquent taxes by a county treasurer under RCW 84.64.190, a fee of five dollars must be charged.

(10) For the filing of a tax warrant for unpaid taxes or overpayment of benefits by any agency of the state of Washington, a fee of five dollars on or after July 22, 2001, and for the filing of such a tax warrant or overpayment of benefits on or after July 1, 2003, a fee of twenty dollars, of which forty-six percent of the first five dollars is directed to the public safety and education account established under RCW 43.08.250.

[2001 c 146 § 1; 1999 c 42 § 634; 1996 c 211 § 1; 1995 c 292 § 12.]

NOTES:

Part headings and captions not law--Effective date--1999 c 42: See RCW 11.96A.901 and 11.96A.902.

RCW 36.18.014 Fees--Division with county law library--Petition for emancipation for minors.

(1) Revenue collected under this section is subject to division with the county law library under RCW 27.24.070.

(2) For filing a petition for emancipation for minors as required under RCW 13.64.020 a fee up to fifty dollars must be collected.

[1995 c 292 § 13.]

RCW 36.18.016 Various fees--Not subject to division.

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, a fee of twenty dollars must be paid.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of fifty dollars for a jury of six, or one hundred dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing, transcribing, or certifying an instrument on file or of record in the clerk's office, with or without seal, for the first page or portion of the first page, a fee of two dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of one dollar for each additional seal affixed must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be

charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(8) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of two dollars.

(9) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(10) For clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

(11) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape.

(12) For the filing of oaths and affirmations under chapter 5.28 RCW, a fee of twenty dollars must be charged.

(13) For filing a disclaimer of interest under RCW 11.86.031(4), a fee of two dollars must be charged.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of five dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of one hundred ten dollars must be charged.

(16) A facilitator surcharge of ten dollars must be charged as authorized under RCW 26.12.240.

(17) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) A service fee of three dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(19) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(20) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(21) Investment service charge and earnings under RCW 36.48.090 must be charged.

(22) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(23) For filing a request for mandatory arbitration, a fee may be assessed against the party filing a statement of arbitrability not to exceed one hundred twenty dollars as established by authority of local ordinance and approved by a vote of the people if it is determined by a court of competent jurisdiction that such a vote is required by *chapter 1, Laws of 2000 (Initiative Measure No. 695). This charge shall be used solely to offset the cost of the mandatory arbitration program.

(24) For filing a request for trial de novo of an arbitration award, a fee not to exceed two hundred fifty dollars as established by authority of local ordinance must be charged.

[2001 c 146 § 2; 2000 c 170 § 1; 1999 c 397 § 8; 1996 c 56 § 5; 1995 c 292 § 14.]

NOTES:

***Reviser's note:** Chapter 1, Laws of 2000 (Initiative Measure No. 695) was declared unconstitutional in its entirety by *Amalgamated Transit Union Local 587 et al v. The State of Washington*, 142 Wash.2d 183 (2000).

RCW 36.18.018 Fees to state court, office of state administrator for the courts--Appellate review--Copies and reports by administrator for the courts.

(1) State revenue collected by county clerks under subsection (2) of this section must be transmitted to the appropriate state court. The office of the state administrator for the courts shall retain fees collected under subsection (3) of this section.

(2) For appellate review under RAP 5.1(b), two hundred fifty dollars must be charged.

(3) For all copies and reports produced by the administrator for the courts as permitted under RCW 2.68.020 and supreme court policy, a variable fee must be charged.

[1995 c 292 § 15.]

RCW 36.18.020 Clerk's fees.

(1) Revenue collected under this section is subject to division with the state public safety and education account under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) The party filing the first or initial paper in any civil action, including, but not limited to an action for restitution, adoption, or change of name, shall pay, at the time the paper is filed, a fee of one hundred ten dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of thirty dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The thirty dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the paper is filed, a fee of one hundred ten dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of one hundred ten dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of forty-one dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of one hundred ten dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of

filing the first paper therein, a fee of one hundred ten dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of one hundred ten dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of one hundred ten dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

[2000 c 9 § 1; 1999 c 42 § 635; 1996 c 211 § 2. Prior: 1995 c 312 § 70; 1995 c 292 § 10; 1993 c 435 § 1; 1992 c 54 § 1; 1989 c 342 § 1; prior: 1987 c 382 § 3; 1987 c 202 § 201; 1987 c 56 § 3; prior: 1985 c 24 § 1; 1985 c 7 § 104; 1984 c 263 § 29; 1981 c 330 § 5; 1980 c 70 § 1; 1977 ex.s. c 107 § 1; 1975 c 30 § 1; 1973 c 16 § 1; 1973 c 38 § 1; prior: 1972 ex.s. c 57 § 5; 1972 ex.s. c 20 § 1; 1970 ex.s. c 32 § 1; 1967 c 26 § 9; 1963 c 4 § 36.18.020; prior: 1961 c 304 § 1; 1961 c 41 § 1; 1951 c 51 § 5; 1907 c 56 § 1, part, p 89; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, part, p 421; Code 1881 § 2086, part, p 355; 1869 p 364 § 1, part; 1863 p 391 § 1, part; 1861 p 34 § 1, part; 1854 p 368 § 1, part; RRS § 497, part.]

Notes:

Rules of court: *Cf. RAP 14.3, 18.22.*

Part headings and captions not law--Effective date--1999 c 42: See RCW 11.96A.901 and 11.96A.902.

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

Effective date--1992 c 54: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1992." [1992 c 54 § 7.]

Severability--Effective date--1989 c 342: See RCW 59.18.910 and 59.18.911.

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

Effective date--Severability--1984 c 263: See RCW 26.50.901 and 26.50.902.

Severability--1981 c 330: See note following RCW 3.62.060.

Effective date--1972 ex.s. c 20: "This act shall take effect July 1, 1972." [1972 ex.s. c 20 § 3.]

Effective date--1967 c 26: See note following RCW 43.70.150.

RCW 36.18.022 Filing fees may be waived--When.

The court may waive the filing fees provided for under *RCW 36.18.020(2) (a) and (b) upon affidavit by a party that the party is unable to pay the fee due to financial hardship.

[1995 c 292 § 16; 1992 c 54 § 5.]

Notes:

***Reviser's note:** RCW 36.18.020 was amended twice during the 1995 legislative session. The reference to RCW 36.18.020(2) (a) and (b) appears to apply to the changes in 1995 c 292 § 10.

Effective date--1992 c 54: See note following RCW 36.18.020.

RCW 36.18.025 Portion of filing fees to be remitted to state treasurer.

Forty-six percent of the money received from filing fees paid pursuant to RCW 36.18.020, except those collected for the filing of warrants for unpaid taxes or overpayments by state agencies as outlined in RCW 36.18.012(10), shall be transmitted by the county treasurer each month to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250.

[2001 c 146 § 3; 1992 c 54 § 2; 1985 c 389 § 9; 1984 c 258 § 322; 1972 ex.s. c 20 § 2.]

NOTES:

Effective date--1992 c 54: See note following RCW 36.18.020.

Effective date--1985 c 389: See note following RCW 27.24.070.

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

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

Effective date--1972 ex.s. c 20: See note following RCW 36.18.020.

RCW 36.18.030 Coroner's fees.

Coroners shall collect for their official services, the following fees:

For each inquest held, besides mileage, twenty dollars.

For issuing a venire, two dollars.

For drawing all necessary writings, two dollars for first page and one dollar for each page thereafter.

For mileage each way, per mile, ten cents.

For performing the duties of a sheriff, he shall receive the same fees as a sheriff would receive for the same service.

[1963 c 4 § 36.18.030. Prior: 1959 c 263 § 7; 1907 c 56 § 1, part, p 93; 1903 c 151 § 1, part, p 296; 1893 c 130 § 1, part, p 424; Code 1881 § 2086, part, p 360; 1869 p 372 § 7, part; 1863 p 391 § 1, part, p 396; 1861 p 34 § 1, part, p 39; 1854 p 368 § 1, part, p 373; RRS §§ 497, part, 4185.]

RCW 36.18.040 Sheriff's fees.

(1) Sheriffs shall collect the following fees for their official services:

(a) For service of each summons and complaint, notice and complaint, summons and petition, and notice of small claim on one defendant at any location, ten dollars, and on two or more defendants at the same residence, twelve dollars, besides mileage;

(b) For making a return, besides mileage actually traveled, seven dollars;

(c) For levying each writ of attachment or writ of execution upon real or personal property, besides mileage, thirty dollars per hour;

(d) For filing copy of writ of attachment or writ of execution with auditor, ten dollars plus auditor's filing fee;

(e) For serving writ of possession or restitution without aid of the county, besides mileage, twenty-five dollars;

(f) For serving writ of possession or restitution with aid of the county, besides mileage, forty dollars plus thirty dollars for each hour after one hour;

(g) For serving an arrest warrant in any action or proceeding, besides mileage, thirty dollars;

(h) For executing any other writ or process in a civil action or proceeding, besides mileage, thirty dollars per hour;

(i) For each mile actually and necessarily traveled in going to or returning from any place of service, or attempted service, thirty-five cents;

(j) For making a deed to lands sold upon execution or order of sale or other decree of court, to be paid by the purchaser, thirty dollars;

(k) For making copies of papers when sufficient copies are not furnished, one dollar for first page and fifty cents per each additional page;

(l) For the service of any other document and supporting papers for which no other fee is provided for herein, twelve dollars;

(m) For posting a notice of sale, or postponement, ten dollars besides mileage;

(n) For certificate or bill of sale of property, or certificate of redemption, thirty dollars;

(o) For conducting a sale of property, thirty dollars per hour spent at a sheriff's sale;

(p) For notarizing documents, five dollars for each document;

(q) For fingerprinting for noncriminal purposes, ten dollars for each person for up to two sets, three dollars for each additional set;

(r) For mailing required by statute, whether regular, certified, or registered, the actual cost of postage;

(s) For an internal criminal history records check, ten dollars;

(t) For the reproduction of audio, visual, or photographic material, to include magnetic microfilming, the actual cost including personnel time.

(2) Fees allowable under this section may be recovered by the prevailing party incurring the same as court costs. Nothing contained in this section permits the expenditure of public funds to defray costs of private litigation. Such costs shall be borne by the party seeking action by the sheriff, and may be recovered from the proceeds of any subsequent judicial sale, or may be added to any judgment upon proper application to the court entering the judgment.

(3) Notwithstanding subsection (1) of this section, a county legislative authority may set the amounts of fees that shall be collected by the sheriff under subsection (1) of this section to cover the costs of administration and operation.

[1992 c 164 § 1; 1981 c 194 § 1; 1975 1st ex.s. c 94 § 1; 1963 c 4 § 36.18.040. Prior: 1959 c 263 § 8; 1951 c 51 § 6; 1907 c 56 § 1, part, p 91; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, p 422; Code 1881 § 2086, part, p 356; 1869 p 364 § 1, part, p 365; 1865 p 94 § 1, part, p 97; 1863 p 391 § 1, part, p 392; 1861 p 34 § 1, part, p 35; 1854 p 368 § 1, part, p 369; RRS § 497, part.]

Notes:

Severability--1981 c 194: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 194 § 5.]

RCW 36.18.045 Treasurer's fees.

County treasurers shall collect the following fees for their official services:

For preparing and certifying copies, with or without seal for the first legal size page, two dollars, for each additional legal size page, one dollar.

[1963 c 4 § 36.18.045. Prior: 1959 c 263 § 10.]

RCW 36.18.050 Fees in special cases.

Every officer who shall be called on or required to perform service for which no fees or compensation are provided for in this chapter shall be allowed fees similar and equal to those allowed him for services of the same kind for which allowance is made herein.

[1963 c 4 § 36.18.050. Prior: Code 1881 § 2098; 1869 p 374 § 20; 1863 p 398 § 5; 1861 p 41 § 5; 1854 p 375 § 4; RRS § 4234.]

RCW 36.18.060 Fees payable in advance--Exception.

The officers mentioned in this chapter except the county sheriff shall not, in any case, except for the state or county, perform any official services unless the fees prescribed therefor are paid in advance, and on such payment the officer must perform the services required. The county sheriff may allow payment to be made after official services have been performed as the sheriff deems appropriate. For every failure or refusal to perform official duty when the fees are tendered, the officer is liable on his official bond.

[1981 c 194 § 2; 1963 c 4 § 36.18.060. Prior: 1890 p 315 § 39; RRS § 506.]

Notes:

Severability--1981 c 194: See note following RCW 36.18.040.

RCW 36.18.070 Single mileage chargeable when.

When any sheriff, constable or coroner serves more than one process in the same cause or on the same person not requiring more than one journey from his office, he shall receive mileage only for the most distant service.

[1963 c 4 § 36.18.070. Prior: Code 1881 § 2094; 1869 p 373 § 16; RRS § 501.]

RCW 36.18.080 Fee schedule to be kept posted.

Every county officer entitled to collect fees from the public shall keep posted in his office a plain and legible statement of the fees allowed by law and failure so to do shall subject the officer to a fine of one hundred dollars and costs, to be recovered in any court of competent jurisdiction.

[1963 c 4 § 36.18.080. Prior: 1890 p 315 § 41; RRS § 4223. Cf. Code 1881 § 2091; 1869 p 373 § 13.]

RCW 36.18.090 Itemized receipt to be given.

Every officer, when requested so to do, shall make out a bill of his fees in every case, and for any services, specifying each particular item thereof, and receipt the same when it is paid, which bill of fees shall always be subject to examination and correction by the courts. Any officer who fails to comply with the requirements of this section shall be liable to the person paying the fees in treble the amount so paid.

[1963 c 4 § 36.18.090. Prior: (i) 1890 p 315 § 40; RRS § 4222. (ii) Code 1881 § 2102; 1869 p 374 § 24; 1863 p 398 § 3; 1861 p 41 § 3; 1854 p 376 § 6; RRS § 4235.]

RCW 36.18.110 Monthly statement to county auditor.

Every salaried county and precinct officer authorized to receive fees shall on or before the first Monday of each month and at the end of his or her term of office submit to the county auditor a statement for the month last past.

[1985 c 44 § 3; 1984 c 128 § 3; 1963 c 4 § 36.18.110. Prior: 1907 c 65 § 1; RRS § 4214.]

RCW 36.18.120 Statements to be checked.

The county auditor shall check the statements submitted to the county auditor and the records pertaining thereto, and if they are found to be correct, shall return them after having attached thereto the official certificates.

[1985 c 44 § 4; 1984 c 128 § 4; 1963 c 4 § 36.18.120. Prior: 1907 c 65 § 2; RRS § 4215.]

RCW 36.18.130 Errors or irregularities.

If any errors or irregularities are found by the checking officer he shall immediately notify the officer interested, and if within three days after such notification the errors or irregularities are not corrected by such officer, the checking officer shall notify the board of county commissioners in writing and upon receipt of such notification the board shall proceed against such officer in the manner provided by law.

[1963 c 4 § 36.18.130. Prior: 1907 c 65 § 4; RRS § 4216.]

RCW 36.18.160 Penalty for taking illegal fees.

If any officer takes more or greater fees than are allowed by law he shall be subject to prosecution, and on conviction, shall be removed from office and fined in a sum not exceeding one thousand dollars.

[1963 c 4 § 36.18.160. Prior: Code 1881 § 2090; 1869 p 373 § 12; RRS § 4225. Cf. RCW 9.33.040.]

RCW 36.18.170 Penalty for failure to pay over fees.

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

[1992 c 7 § 33; 1963 c 4 § 36.18.170. Prior: 1893 c 81 § 2; RRS § 4226. Cf. RCW 42.20.070.]

RCW 36.18.180 Office to be declared vacant on conviction.

The board of county commissioners of any county in this state, upon receiving a certified copy of the record of conviction of any officer for receiving illegal fees, or where the officer collects fees and fails to account for the same, upon proof thereof must declare his office vacant and appoint his successor.

[1963 c 4 § 36.18.180. Prior: 1890 p 315 § 42; RRS § 4224.]

RCW 36.18.190 Collection of unpaid financial obligations--Collection contracts--Interest to collection agencies authorized.

Superior court clerks may contract with collection agencies under chapter 19.16 RCW or may use county collection services for the collection of unpaid court-ordered legal financial obligations as enumerated in RCW 9.94A.030 that are ordered pursuant to a felony or misdemeanor conviction and of unpaid financial obligations imposed under Title 13 RCW. The costs for the agencies or county services shall be paid by the debtor. The superior court may, at sentencing or at any time within ten years, assess as court costs the moneys paid for remuneration for services or charges paid to collection agencies or for collection services. By agreement, clerks may authorize collection agencies to retain all or any portion of the interest collected on these accounts. Collection may not be initiated with respect to a criminal offender who is under the supervision of the department of corrections without the prior agreement of the department. Superior court clerks are encouraged to initiate collection action with respect to a criminal offender who is under the supervision of the department of corrections, with the department's approval.

Any contract with a collection agency shall be awarded only after competitive bidding. Factors that a court clerk shall consider in awarding a collection contract include but are not limited to: (1) A collection agency's history and reputation in the community; and (2) the agency's access to a local data base that may increase the efficiency of its collections. Contracts may specify the scope of work, remuneration for services, and other charges deemed appropriate.

The servicing of an unpaid court obligation does not constitute assignment of a debt, and no contract with a collection agency may remove the court's control over unpaid obligations owed to the court.

The county clerk may collect civil judgments where the county is the creditor.

[1997 c 24 § 1. Prior: 1995 c 291 § 8; 1995 c 262 § 1; 1994 c 185 § 9.]

Chapter 36.21 RCW COUNTY ASSESSOR

Sections

- 36.21.011 Appointment of deputies and assistants--Engaging expert appraisers--Employment and classification plans for appraisers.
- 36.21.015 Qualifications for persons assessing real property--Examination--Examination waiver--Continuing education requirement.
- 36.21.070 New construction building permits--Appraisal of building.
- 36.21.080 New construction building permits--When property placed on assessment rolls.
- 36.21.090 Initial placement of mobile home on assessment roll.
- 36.21.100 Annual report to department of revenue on property tax levies and related matters.

Notes:

Assessor's plats: Chapter 58.18 RCW.

Duties relating to

cemetery district organization: Chapter 68.52 RCW.

drainage district revenue act: Chapter 85.32 RCW.

drainage districts: Chapter 85.06 RCW.

fire protection district, resolution creating: RCW 52.02.150.

flood control districts: Chapter 86.09 RCW.

forest insect and disease control: Chapter 76.06 RCW.

forest rehabilitation: Chapter 76.14 RCW.

irrigation districts

dissolution of districts with bonds: Chapter 87.53 RCW.

dissolution of insolvent districts: Chapter 87.56 RCW.

generally: Chapter 87.03 RCW.

joint control of: RCW 87.80.090.

metropolitan municipal corporation: Chapter 35.58 RCW.

mosquito control districts: Chapter 17.28 RCW.

pest districts: Chapter 17.12 RCW.

reforestation: Chapter 76.12 RCW.

school district organization: Chapter 28A.315 RCW.

school districts, appeals from boundary changes, decisions: RCW 28A.645.040.

section and corner lines, establishment of: Chapter 58.04 RCW.

taxes, property

certification of on operating property of private car companies: RCW 84.16.130.

certification of on operating property of public utilities: RCW 84.12.370.

collection of: Chapter 84.56 RCW.

equalization of assessments: Chapter 84.48 RCW.

exemptions: Chapter 84.36 RCW.

levy of: Chapter 84.52 RCW.

lien on: Chapter 84.60 RCW.

listing of: Chapter 84.40 RCW.

nonoperating property of private car companies: RCW 84.16.140.

nonoperating property of public utilities: RCW 84.12.380.

revaluation: Chapter 84.41 RCW.

taxable situs: Chapter 84.44 RCW.

weed district assessments: Chapter 17.04 RCW.

Lands lying in both a fire protection district and forest protection assessment area, assessment by: RCW 52.16.170.

Mobile home movement permits: RCW 46.44.173.

Property tax advisor: RCW 84.48.140.

Public lands, harbor areas, re-lease of, rental based on assessor's valuation: RCW 79.92.080.

Revenue, department of, to test work of, advise: RCW 84.08.020, 84.08.030, 84.08.190.

Taxes, property, penalty for nonperformance of duty: RCW 84.09.040.

Taxes for city and town purposes: State Constitution Art. 11 § 12.

Transfer of ownership of mobile home, county assessor notified: RCW 46.12.105.

Washington Clean Air Act, assessors' duties under: RCW 70.94.095.

RCW 36.21.011 Appointment of deputies and assistants--Engaging expert appraisers--Employment and classification plans for appraisers.

Any assessor who deems it necessary in order to complete the listing and the valuation of the property of the county within the time prescribed by law, (1) may appoint one or more well qualified persons to act as assistants or deputies who shall not engage in the private practice of appraising within the county in which he or she is employed without the written permission of the assessor filed with the auditor; and each such assistant or deputy so appointed shall, under the direction of the assessor, after taking the required oath, perform all the duties enjoined upon, vested in or imposed upon assessors, and (2) may contract with any persons, firms or corporations, who are expert appraisers, to assist in the valuation of property.

To assist each assessor in obtaining adequate and well qualified assistants or deputies, the state department of personnel, after consultation with the Washington state association of county assessors, the Washington state association of counties, and the department of revenue, shall establish by July 1, 1967, and shall thereafter maintain, a classification and salary plan for those employees of an assessor who act as appraisers. The plan shall recommend the salary range and employment qualifications for each position encompassed by it, and shall, to the fullest extent practicable, conform to the classification plan, salary schedules and employment qualifications for state employees performing similar appraisal functions.

An assessor who intends to put such plan into effect shall inform the department of revenue and the county legislative authority of this intent in writing. The department of revenue and the county legislative authority may thereupon each designate a representative, and such representative or representatives as may be designated by the department of revenue or the county legislative authority, or both, shall form with the assessor a committee. The committee so formed may, by unanimous vote only, determine the required number of certified appraiser positions and their salaries necessary to enable the assessor to carry out the requirements relating to revaluation of property in chapter 84.41 RCW. The determination of the committee shall be certified to the county legislative authority. The committee may be formed only once in a period

of four calendar years.

After such determination, the assessor may provide, in each of the four next succeeding annual budget estimates, for as many positions as are established in such determination. Each county legislative authority to which such a budget estimate is submitted shall allow sufficient funds for such positions. An employee may be appointed to a position covered by the plan only if the employee meets the employment qualifications established by the plan.

[1995 c 134 § 12. Prior: 1994 c 301 § 6; 1994 c 124 § 1; 1973 1st ex.s. c 11 § 1; 1971 ex.s. c 85 § 2; 1967 ex.s. c 146 § 7; 1963 c 4 § 36.21.011; prior: 1955 c 251 § 10.]

RCW 36.21.015 Qualifications for persons assessing real property--Examination--Examination waiver--Continuing education requirement.

(1) Any person having the responsibility of valuing real property for purposes of taxation including persons acting as assistants or deputies to a county assessor under RCW 36.21.011 shall have first:

(a) Had at least one year of experience in transactions involving real property, in appraisal of real property, or in assessment of real property, or at least one year of experience in a combination of the three;

(b) Become knowledgeable in repair and remodeling of buildings and improvement of land, and in the significance of locality and area to the value of real property;

(c) Become knowledgeable in the standards for appraising property set forth by the department of revenue; and

(d) Met other minimum requirements specified by department of revenue rule.

(2) The department of revenue shall prepare and administer an examination on subjects related to the valuation of real property. No person shall assess real property for purposes of taxation without having passed said examination or having received an examination waiver from the department of revenue upon showing education or experience determined by the department to be equivalent to passing the examination. A person passing said examination or receiving an examination waiver shall be accredited accordingly by the department of revenue.

(3) The department of revenue may by rule establish continuing education requirements for persons assessing real property for purposes of taxation. The department shall provide accreditation of completion of requirements imposed under this section. No person shall assess real property for purposes of taxation without complying with requirements imposed under this subsection.

(4) To the extent practical, the department of revenue shall coordinate accreditation requirements under this section with the requirements for certified real estate appraisers under chapter 18.140 RCW.

(5) The examination requirements of subsection (2) of this section shall not apply to any person who shall have either:

(a) Been certified as a real property appraiser by the department of personnel prior to July 1, 1992; or

(b) Attended and satisfactorily completed the assessor's school operated jointly by the

department of revenue and the Washington state assessors association prior to August 9, 1971.

[1991 c 218 § 3; 1977 c 75 § 30; 1971 ex.s. c 288 § 17; 1971 ex.s. c 27 § 1.]

Notes:

Effective date--1991 c 218: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately, except section 3 of this act, which shall take effect July 1, 1992." [1991 c 218 § 5.]

Savings--Severability--1971 ex.s. c 288: See notes following RCW 84.40.030.

RCW 36.21.070 New construction building permits--Appraisal of building.

Upon receipt of a copy of a building permit, the county assessor shall, within twelve months of the date of issue of such permit, proceed to make a physical appraisal of the building or buildings covered by the permit.

[1989 c 246 § 3; 1987 c 134 § 1; 1963 c 4 § 36.21.070. Prior: 1955 c 129 § 4.]

RCW 36.21.080 New construction building permits--When property placed on assessment rolls.

The county assessor is authorized to place any property that is increased in value due to construction or alteration for which a building permit was issued, or should have been issued, under chapter 19.27, 19.27A, or 19.28 RCW or other laws providing for building permits on the assessment rolls for the purposes of tax levy up to August 31st of each year. The assessed valuation of the property shall be considered as of July 31st of that year.

[1989 c 246 § 4; 1987 c 319 § 5; 1985 c 220 § 1; 1982 1st ex.s. c 46 § 4; 1981 c 274 § 3; 1975 1st ex.s. c 120 § 1; 1974 ex.s. c 196 § 7; 1963 c 4 § 36.21.080. Prior: 1955 c 129 § 5.]

Notes:

Severability--1974 ex.s. c 196: See note following RCW 84.56.020.

Destroyed property, reduction in value, abatement or refund of taxes: Chapter 84.70 RCW.

RCW 36.21.090 Initial placement of mobile home on assessment roll.

When any mobile home first becomes subject to assessment for property taxes in this state, the county assessor is authorized to place the mobile home on the assessment rolls for purposes of tax levy up to August 31st of each year. The assessed valuation of the mobile home shall be considered as of the July 31st immediately preceding the date that the mobile home is placed on the assessment roll.

[1987 c 134 § 2; 1977 ex.s. c 22 § 7.]

Notes:

Severability--1977 ex.s. c 22: See note following RCW 46.04.302.

RCW 36.21.100 Annual report to department of revenue on property tax levies and

related matters.

Every county assessor shall report to the department of revenue on the property tax levies and related matters within the county annually at a date and in a form prescribed by the department of revenue. The report shall include, but need not be limited to, the results of sales-assessment ratio studies performed by the assessor. The ratio studies shall be based on use classes of real property and shall be performed under a plan approved by the department of revenue.

[1991 c 218 § 4; 1987 c 138 § 8.]

Notes:

Effective date--1991 c 218: See note following RCW 36.21.015.

**Chapter 36.22 RCW
COUNTY AUDITOR**

Sections

36.22.010	Duties of auditor.
36.22.020	Publisher of legislative authority proceedings--Custodian of commissioners' seal.
36.22.030	May administer oaths.
36.22.040	Duty to audit claims against county.
36.22.050	Issuance of warrants--Multiple warrants.
36.22.060	Record of warrants.
36.22.070	Original claims to be retained.
36.22.080	Claims of auditor.
36.22.090	Warrants of political subdivisions.
36.22.100	Cancellation of unclaimed warrants.
36.22.110	Auditor cannot act as attorney or lobbyist--Incompatibility.
36.22.120	Temporary clerk may be appointed.
36.22.140	Auditor or chief financial officer--Ex officio deputy state auditor.
36.22.150	Duty of retiring auditor or his representative in case of death.
36.22.160	Copying, preserving, and indexing documents.
36.22.170	Surcharge for preservation of historical documents--Fifty percent to state treasurer--Creation of account.
36.22.175	Surcharge for archives and records management--Records management training--Eastern Washington regional facility.
36.22.190	Distribution of funds.
36.22.200	Action for change of name--Filing and recording.
36.22.210	Process servers--Registration--Fees.
36.22.220	Election assistants, deputies--Appointment, qualifications.
36.22.230	Election assistants, deputies--Additional qualifications.

NOTES:

Acknowledgments, auditor may take: RCW 64.08.010.

Appointment as agent for licensing of vehicles: RCW 46.01.130, 46.01.140, 46.01.270.

Canvassing board, auditor as member: RCW 39.40.030.

Cities and towns, certificates of election, auditor to issue: RCW 35.02.130.

Civil actions, judgment by confession acknowledged before: RCW 4.60.040.

County accounts, expense for examination of, auditor to issue warrant for: RCW 43.09.280.

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County canvassing board, auditor as member: RCW 29.62.020.

Custodian of records, auditor as: RCW 65.04.140.

Department of revenue to advise: RCW 84.08.020.

Diking district, auditor as agent of county commissioners in signing petition for: RCW 85.05.083.

Dissolution of inactive port districts: Chapter 53.47 RCW.

District court districting committee, auditor as member of: RCW 3.38.010.

Duties relating to

absentee voting: Chapter 29.36 RCW.

air pollution control districts: Chapter 70.94 RCW.

aircraft excise taxes: Chapter 82.48 RCW.

appeals from tax levies: Chapter 84.08 RCW.

assessor's plats: RCW 58.18.010.

basic juvenile court act: Chapter 13.04 RCW.

boundary line proceedings: RCW 58.04.040.

cemetery districts: Chapter 68.52 RCW.

cemetery plat, filing of: RCW 68.24.030.

certification of offices, notice of election: Chapter 29.27 RCW.

chattel liens: Chapter 60.08 RCW.

chattel mortgages: Chapter 60.08 RCW, Article 62A.9A RCW.

assignment and satisfaction of: Chapter 61.16 RCW.

cities and towns

advancement of classification: Chapter 35.06 RCW.

agreements for sewer connections outside of: RCW 35.67.310.

cities support of county in which generating plant located: RCW 35.21.450.

corrective plats of: RCW 58.10.030.

determining town's uncertain boundaries: RCW 35.27.040, 35.27.050.

disincorporation of: Chapter 35.07 RCW.

general indebtedness bonds, county tax levy to pay: RCW 35.37.120.

incorporation proceedings: Chapter 35.02 RCW.

ordinance reducing city limits: RCW 35.16.050.

unfit buildings, structures, or premises, abatement: RCW 35.80.030.

claim of spouse in community realty: RCW 26.16.100.

collection agency surety bonds: RCW 19.16.190.

conditional sales contracts: Article 62A.9A RCW.

corporations, nonprofit, generally: Title 24 RCW.

educational, religious, benevolent, fraternal or charitable: Chapter 24.03 RCW.

mutual benefit: Chapter 24.03 RCW.

nonstock: Chapter 24.03 RCW.

county airport districts: Chapter 14.08 RCW.

county and city tuberculosis hospital: Chapter 70.30 RCW.

credit unions: Chapter 31.12 RCW.

crop liens: Chapter 60.11 RCW.

dances, licensing of: Chapter 67.12 RCW.

diking, drainage and sewerage improvement districts

generally: Chapter 85.08 RCW.

maintenance costs and levies: Chapter 85.16 RCW.

diking, drainage district benefits to roads, how paid: RCW 85.07.040, 85.07.050.

diking districts: Chapter 85.05 RCW.

levy for continuous benefits: Chapter 85.18 RCW.

reorganization of (1917 act): Chapter 85.20 RCW.

reorganization of (1933 act): Chapter 85.22 RCW.
disinfection of horticultural premises: Chapter 15.08 RCW.
dissolution of inactive special purpose districts: Chapter 36.96 RCW.
doctors, nurses and hospital services, lien for: Chapter 60.44 RCW.
drainage district revenue act: Chapter 85.32 RCW.
drainage districts: Chapter 85.06 RCW.
reorganization of (1917 act): Chapter 85.20 RCW.
reorganization of (1933 act): Chapter 85.22 RCW.
elections
absentee voting: Chapter 29.36 RCW.
auditor as ex officio supervisor of: RCW 29.04.020.
ballots: Chapter 29.30 RCW.
canvassing returns: Chapter 29.62 RCW.
certificate of, auditor to issue: RCW 29.27.100.
change of precinct boundaries: RCW 29.10.060.
combining or dividing precincts, election boards: RCW 29.04.055.
conduct of: RCW 29.13.040.
congressional elections: Chapter 29.68 RCW.
declarations of candidacy: Chapter 29.18 RCW.
initiative and referendum: Chapter 29.79 RCW.
nonpartisan primaries, elections: Chapter 29.21 RCW.
polling places
accessibility to handicapped: Chapter 29.57 RCW.
regulations, after closing: Chapter 29.54 RCW.
precinct officers: Chapter 29.45 RCW.
presidential electors: Chapter 29.71 RCW.
public disclosure reports, handling of: RCW 29.04.025.
recall: Chapter 29.82 RCW.
registration of voters for: Chapter 29.07 RCW.
status, transfers, and cancellations: Chapter 29.10 RCW.
regulations before polls open: Chapter 29.48 RCW.
special: RCW 29.13.010.
voting systems: Chapter 29.33 RCW.
electric franchises and rights of way: RCW 80.32.010.
eminent domain
by cities: Chapter 8.12 RCW.
by counties: Chapter 8.08 RCW.
employee contributions to benefit plans lien claim: RCW 60.76.020.
employee payroll deductions: RCW 41.04.020 through 41.04.036.
execution of judgment: Chapter 6.17 RCW.
fire protection districts: Chapters 52.04, 52.16 RCW.
merger of: Chapter 52.06 RCW.
flood control by counties jointly: Chapter 86.13 RCW.
flood control districts (1937 act): Chapter 86.09 RCW.
flood control zone districts: Chapter 86.15 RCW.
food fish and shellfish
fishways for: RCW 77.55.060.
guards: RCW 77.55.040.
forest fire protection assessments: RCW 76.04.610.
forest protection, claims for damages, services: Chapter 76.04 RCW.

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franchises on state highways: Chapter 47.44 RCW.
funding indebtedness of counties: Chapter 39.52 RCW.
health districts: Chapter 70.46 RCW.
homesteads: Chapter 6.13 RCW.
horizontal property regimes (condominiums), declarations and survey maps of: RCW 64.32.100, 64.32.140.
hospital districts: Chapter 70.44 RCW.
housing authority act: Chapter 35.82 RCW.
insurance, mergers and insolvencies: Chapter 48.31 RCW.
intercounty rural library district: Chapter 27.12 RCW.
intercounty weed districts: Chapter 17.06 RCW.
irregular instruments, recording of: RCW 65.08.030.
irrigation districts
 director divisions: RCW 87.04.070.
 dissolution of districts with bonds: Chapter 87.53 RCW.
 dissolution of insolvent districts: Chapter 87.56 RCW.
 generally: Chapter 87.03 RCW.
 joint control of: Chapter 87.80 RCW.
 under contract with United States: Chapter 87.68 RCW.
juries, drawing of: Chapter 2.36 RCW.
labor, materials and taxes on public works, liens for: Chapter 60.28 RCW.
labor and services on timber and lumber, lien for: Chapter 60.24 RCW.
labor lien on restaurant, tavern, hotel, etc.: Chapter 60.34 RCW.
labor liens on franchises, earnings and property of certain companies: Chapter 60.32 RCW.
land office receipts, recording of: RCW 65.08.050.
lease of personal property with conditional right to purchase: Article 62A.9A RCW.
letters patent, recording of: RCW 65.08.090.
licenses to practice dentistry: Chapter 18.32 RCW.
lien of employees for contributions to benefit plans: Chapter 60.76 RCW.
liquor
 billiard tables, bowling alleys, licensing of, use, sale of: Chapter 67.14 RCW.
 retail license: RCW 67.14.040.
 sales, local option on: Chapter 66.40 RCW.
 wholesale license: RCW 67.14.050.
marriages: Chapter 26.04 RCW.
mechanics' and materialmen's liens: Chapter 60.04 RCW.
metropolitan municipal corporations: Chapter 35.58 RCW.
mining claims
 location of: Chapter 78.08 RCW.
 survey reports: Chapter 78.06 RCW.
mosquito control districts: Chapter 17.28 RCW.
motor vehicle licensing: RCW 46.01.130, 46.01.140, 46.01.270.
municipal court elections: Chapter 35.20 RCW.
municipal water and sewer facilities act: Chapter 35.91 RCW.
new or limited access highway routes: RCW 47.28.025.
notice of lis pendens: RCW 4.28.160, 4.28.320.
orchard labor liens: Chapter 60.16 RCW.
order discharging attachment: RCW 6.25.160.
park and recreation district commissioner elections: RCW 36.69.090.
partnership ditches, lien claim for labor done: RCW 90.03.450.
partnerships, uniform limited partnerships act: Chapters 25.10, 25.12 RCW.

pendency of action in United States court: RCW 4.28.325.

pest districts: Chapter 17.12 RCW.

planning commission: Chapter 35.63 RCW.

plats, subdivisions and dedications: Chapter 58.17 RCW.

port district L.I.D.'s: RCW 53.20.050.

port districts

annexation of land to: Chapter 53.04 RCW.

budget of: Chapter 53.35 RCW.

commissioner elections: Chapter 53.12 RCW.

consolidation of: Chapter 53.46 RCW.

formation of: Chapter 53.04 RCW.

precinct committee officer: Chapter 29.42 RCW.

precinct election officers: Chapter 29.45 RCW.

public assistance lien claim: RCW 74.04.300.

public lands

lease of: Chapter 79.01 RCW.

leasing on share crop basis: RCW 79.12.570 through 79.12.630.

materials on, sale of: Chapter 79.01 RCW.

tide and shore lands plats: RCW 79.94.040.

public records and evidence: Chapter 5.44 RCW.

public utility districts: Chapters 54.08, 54.12, 54.24, 54.40 RCW.

public waterway districts: Chapter 91.08 RCW.

eminent domain by: RCW 91.08.150.

real property conveyances, recording of: RCW 65.08.070.

reclamation and irrigation districts in United States reclamation areas: Chapter 89.12 RCW.

reclamation districts of one million acres: Chapter 89.30 RCW.

recording, generally: Chapters 65.04, 65.08 RCW.

liability of auditor for damages: RCW 65.04.110.

recording of town plats: Chapter 58.08 RCW.

registration of land titles: Chapter 65.12 RCW.

river and harbor improvement districts: Chapter 88.32 RCW.

river and harbor improvements by counties jointly: RCW 88.32.180 through 88.32.220.

sales under execution and redemption: Chapter 6.21 RCW.

school district directors, superintendents, signatures of: RCW 28A.400.020.

school district organization: Chapter 28A.315 RCW.

school districts, warrants and accounts: Chapter 28A.350 RCW.

liability: RCW 28A.350.060.

sires, services of, lien for: Chapter 60.52 RCW.

street railways: Chapter 81.64 RCW.

superior court, expenses of visiting judge: RCW 2.08.170.

superior court, judges salary: RCW 2.08.100 through 2.08.110.

taxes

excise on real estate sales: RCW 82.45.090.

internal revenue, liens for: Chapter 60.68 RCW.

motor vehicle fuel: RCW 82.36.110.

motor vehicle use tax: RCW 82.12.045.

property

collection of: Chapter 84.56 RCW.

equalization of assessments: Chapter 84.48 RCW.

recovery: Chapter 84.68 RCW.

townsites on United States lands, acquisition of lands by inhabitants: Chapter 58.28 RCW.

unemployment compensation contributions, lien for: RCW 50.24.050.

vehicle licensing: RCW 46.01.130, 46.01.140, 46.01.270.

veterans' meeting place, rent by county: RCW 73.04.080.

veterans' relief: Chapter 73.08 RCW.

water-sewer districts

annexation of property to: Chapter 57.24 RCW.

consolidation of: Chapter 57.32 RCW.

funds of: Chapter 57.20 RCW.

generally: Title 57 RCW.

merger of: Chapter 57.36 RCW.

transfer of part: RCW 57.32.160.

withdrawal of territory from: Chapter 57.28 RCW.

water rights certificates: RCW 90.03.330.

water rights, United States: Chapter 90.40 RCW.

weed districts: Chapter 17.04 RCW.

workers' compensation contributions, liens for: RCW 51.16.170.

Eminent domain by

cities of county land, auditor served: RCW 8.12.080.

state, decree of appropriation filed with auditor: RCW 8.04.120.

state of county land, notice of served on auditor: RCW 8.04.020.

Mobile home identification tags, issuance: RCW 46.01.130, 46.01.140.

Motor vehicle licensing: RCW 46.01.130, 46.01.140, 46.01.270.

Plats, validation of defective city or town plats in office of: Chapter 58.10 RCW.

Public lands, sales and lease of, duties of auditor in certain counties transferred to treasurer: RCW 79.08.170.

Public lands and materials on, sale of, auditor as auctioneer: RCW 79.01.204.

Reclamation district commission, auditor as clerk of: RCW 89.30.058.

Registrar of titles

auditor as: RCW 65.12.050.

not to practice law, when: RCW 65.12.065.

Summons for claim against county served on auditor: RCW 4.28.080.

Support of dependent children, auditor to charge no fees in connection with: RCW 74.20.300.

Taxes, property, penalty for nonperformance of duty: RCW 84.09.040.

Television reception improvement districts, auditor's duties: Chapter 36.95 RCW.

Temporary gate across highways, auditor to grant permit for, when: RCW 16.60.085.

Veterans, auditor to furnish marital status certificates to free: RCW 73.04.120.

Veterans' discharge, auditor to record without fee: RCW 73.04.030 through 73.04.042.

Veterans' pension papers, auditor to charge no fee: RCW 73.04.010.

RCW 36.22.010 Duties of auditor.

The county auditor:

(1) Shall be recorder of deeds and other instruments in writing which by law are to be filed and recorded in and for the county for which he or she is elected;

(2) Shall keep an account current with the county treasurer, charge all money received as shown by receipts issued and credit all disbursements paid out according to the record of settlement of the treasurer with the legislative authority;

(3) Shall make out and transmit to the state auditor a complete statement of the state fund account with the county for the past fiscal year certified by his or her certificate and seal,

immediately after the completion of the annual settlement of the county treasurer with the legislative authority. The statement must be available to the public;

(4) Shall make available a complete exhibit of the prior-year finances of the county including, but not limited to, a statement of financial condition and financial operation in accordance with standards developed by the state auditor. This exhibit shall be made available after the financial records are closed for the prior year;

(5) Shall make out a register of all warrants legally authorized and directed to be issued by the legislative body at any regular or special meeting. The auditor shall make the data available to the county treasurer. The auditor shall retain the original of the register of warrants for future reference;

(6) As clerk of the board of county commissioners, shall:

Record all of the proceedings of the legislative authority;

Make full entries of all of their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county;

Record the vote of each member on any question upon which there is a division or at the request of any member present;

Sign all orders made and warrants issued by order of the legislative authority for the payment of money;

Record the reports of the county treasurer of the receipts and disbursements of the county;

Preserve and file all accounts acted upon by the legislative authority;

Preserve and file all petitions and applications for franchises and record the action of the legislative authority thereon;

Record all orders levying taxes;

Perform all other duties required by any rule or order of the legislative authority.

[1995 c 194 § 1; 1984 c 128 § 2; 1963 c 4 § 36.22.010. Prior: 1955 c 157 § 9; prior: (i) Code 1881 § 2707; 1869 p 310 §§ 1, 2, 3; 1863 p 549 §§ 1, 2, 3; 1854 p 424 §§ 1, 2, 3; RRS § 4083. (ii) Code 1881 § 2709; RRS § 4085. (iii) Code 1881 § 2711; RRS § 4088. (iv) 1893 c 119 § 2; Code 1881 § 2712; 1869 p 311 § 6; 1863 p 550 § 6; 1854 p 425 § 6; RRS § 4089. (v) 1893 c 119 § 3; Code 1881 § 2571; RRS § 4090. (vi) 1893 c 119 § 4; Code 1881 § 2713; 1869 p 311 § 7; 1867 p 130 § 1; RRS § 4091. (vii) 1893 c 119 § 5; Code 1881 § 2714; 1869 p 311 § 8; 1867 p 131 § 2; RRS § 4092. (viii) 1893 c 119 § 7; Code 1881 § 2718; 1869 p 312 § 13; RRS § 4095. (ix) Code 1881 § 2719; RRS § 4098. (x) 1893 c 119 § 8; Code 1881 § 2720; RRS § 4099.]

RCW 36.22.020 Publisher of legislative authority proceedings--Custodian of commissioners' seal.

It shall be the duty of the county auditor of each county, within fifteen days after the adjournment of each regular session, to publish a summary of the proceedings of the legislative authority at such term, in any newspaper published in the county or having a general circulation therein, or the auditor may post copies of such proceedings in three of the most public places in the county. The seal of the county commissioners for each county, used by the county auditor as clerk to attest the proceedings of the legislative authority, shall be and remain in the custody of the county auditor, and the auditor is hereby authorized to use such seal in attestation of all

official acts, whether as clerk of the legislative authority, as auditor or recorder of deeds; and all certificates, exemplifications of records, or other acts performed as county auditor, certified under the seal of the county commissioners, pursuant to this section, in this state, shall be as valid and legally binding as though attested by a seal of office of the county auditor.

[1995 c 194 § 2; 1963 c 4 § 36.22.020. Prior: Code 1881 § 2724; 1869 p 313 § 17; RRS §§ 4102, 4103. Formerly RCW 36.16.080, 36.22.020, and 36.22.130.]

RCW 36.22.030 May administer oaths.

Auditors and their deputies may administer oaths necessary in the performance of their duties and in all other cases where oaths are required by law to be administered and take acknowledgments of deeds and other instruments in writing: PROVIDED, That any deputy county auditor, in administering such oath or taking such acknowledgment, shall certify to the same in his own name as deputy, and not in the name of his principal, and shall attach thereto the seal of the office: PROVIDED, That all oaths administered or acknowledgments taken by any deputy of any county auditor certifying to the same in the name of his principal by himself as such deputy, prior to the taking effect of chapter 119, Laws of 1893 be and the same are hereby legalized and made valid and binding.

[1963 c 4 § 36.22.030. Prior: 1893 c 119 § 6; Code 1881 § 2717; 1869 p 312 § 11; 1863 p 550 § 8; 1854 p 425 § 8; RRS § 4094.]

RCW 36.22.040 Duty to audit claims against county.

The county auditor shall audit all claims, demands, and accounts against the county which by law are chargeable to the county, except such cost or fee bills as are by law to be examined or approved by some other judicial tribunal or officer. Such claims as it is his duty to audit shall be presented to the board of county commissioners for their examination and allowance.

[1963 c 4 § 36.22.040. Prior: 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part.]

RCW 36.22.050 Issuance of warrants--Multiple warrants.

For claims allowed by the county commissioners, and also for cost bills and other lawful claims duly approved by the competent tribunal designated by law for their allowance, he shall draw a warrant on the county treasurer, made payable to the claimant or his order, bearing date from the time of and regularly numbered in the order of their issue. If there is not sufficient cash in the county treasury to cover such claims or cost bills, or if a claimant requests, the auditor may issue a number of smaller warrants, the total principal amounts of which shall equal the amount of said claim or cost bill.

[1975 c 31 § 1; 1969 ex.s. c 87 § 1; 1963 c 4 § 36.22.050. Prior: (i) 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part. (ii) 1893 c 48 § 2; RRS § 4087.]

RCW 36.22.060 Record of warrants.

The auditor shall maintain a record of when a warrant is issued. The record shall include the warrant number, date, name of payee, amount, nature of claims, or services provided.

[1995 c 194 § 3; 1963 c 4 § 36.22.060. Prior: 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part.]

RCW 36.22.070 Original claims to be retained.

He shall also retain all original bills and indorse thereon claimant's name, nature of claim, the action had, and if a warrant was issued, date and number the voucher or claim the same as the warrant.

[1963 c 4 § 36.22.070. Prior: 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part.]

RCW 36.22.080 Claims of auditor.

All claims of the county auditor against the county for services shall be audited and allowed by the board of county commissioners as other claims are audited and allowed. Such warrants shall in all respects be audited, approved, issued, numbered, registered, and paid the same as any other county warrant.

[1963 c 4 § 36.22.080. Prior: 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part.]

RCW 36.22.090 Warrants of political subdivisions.

All warrants for the payment of claims against diking, ditch, drainage and irrigation districts and school districts of the second class, who do not issue their own warrants, as well as political subdivisions within the county for which no other provision is made by law, shall be drawn and issued by the county auditor of the county wherein such subdivision is located upon vouchers properly approved by the governing body thereof.

[1975 c 43 § 31; 1973 c 111 § 4; 1963 c 4 § 36.22.090. Prior: 1915 c 74 § 1; RRS § 4096.]

Notes:

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

Severability--1973 c 111: See note following RCW 28A.330.230.

RCW 36.22.100 Cancellation of unclaimed warrants.

Registered or interest bearing county warrants not presented within one year of the date of their call, and all other county warrants not presented within one year of the date of their issue shall be canceled by the legislative authority of the county and the auditor and treasurer of the

county shall cancel all record of such warrants, so as to leave the funds as if such warrants had never been drawn.

[1971 ex.s. c 120 § 1; 1963 c 4 § 36.22.100. Prior: 1909 c 170 § 1; 1886 p 161 § 1; RRS § 4097.]

RCW 36.22.110 Auditor cannot act as attorney or lobbyist--Incompatibility.

The person holding the office of county auditor, or deputy, or performing its duties, shall not practice as an attorney or represent any person who is making any claim against the county, or who is seeking to procure any legislative or other action by the board of county commissioners. The county auditor, during his term of office, and any deputy appointed by him is disqualified from performing the duties of any other county officer or acting as deputy for any other county officer. Nor shall any other county officer or his deputy act as auditor or deputy, or perform any of the duties of said office.

[1963 c 4 § 36.22.110. Prior: Code 1881 § 2722; 1869 p 312 § 12; 1863 p 550 § 9; 1854 p 425 § 9; RRS § 4100.]

RCW 36.22.120 Temporary clerk may be appointed.

In case the auditor is unable to attend to the duties of his office during any session of the board of county commissioners, and has no deputy by him appointed in attendance, the board may temporarily appoint a suitable person not by law disqualified from acting as such to perform the auditor's duties.

[1963 c 4 § 36.22.120. Prior: Code 1881 § 2723; 1869 p 313 § 15; 1863 p 550 § 12; 1854 p 425 § 11; RRS § 4101.]

RCW 36.22.140 Auditor or chief financial officer--Ex officio deputy state auditor.

Each county auditor or chief financial officer shall be ex officio deputy of the state auditor for the purpose of accounting and reporting on municipal corporations and in such capacity shall be under the direction of the state auditor, but he or she shall receive no additional salary or compensation by virtue thereof and shall perform no duties as such, except in connection with county business.

[1995 c 301 § 61; 1963 c 4 § 36.22.140. Prior: 1909 c 76 § 12; RRS § 9962.]

RCW 36.22.150 Duty of retiring auditor or his representative in case of death.

Each auditor, on retiring from office, shall deliver to his successor the seal of office and all the books, records, and instruments of writing belonging to the office, and take his receipt therefor. In case of the death of the auditor, his legal representatives shall deliver over the seal, books, records and papers.

[1963 c 4 § 36.22.150. Prior: Code 1881 § 2725; 1869 p 314 § 22; RRS § 4104.]

RCW 36.22.160 Copying, preserving, and indexing documents.

Each county auditor is hereby authorized to provide for the installation and thereafter for the maintenance of an improved system for copying, preserving, and indexing documents recorded in the county. Such a system may utilize the latest technology including, but not limited to, photomicrographic and computerized electronic digital storage methodology. The initial installation of the improved system shall include the following:

(1) The acquisition, installation, operation, and maintenance of the equipment provided for in the definition above; and

(2) The establishment of procedures for the continued preservation, indexing, and filing of all instruments and records that will, after the effective installation date, constitute a part of the improved system.

[1989 c 204 § 2.]

Notes:

Reviser's note: 1989 c 204 § 7 directed that this section be added to chapter 36.18 RCW. This placement appears inappropriate and the section has been codified as a part of chapter 36.22 RCW.

Findings--1989 c 204: "The legislature, finding in this centennial year that many old documents recorded or filed with county officials are deteriorating due to age and environmental degradation and that such documents require preservation in the public interest before they are irreparably damaged, enacts the centennial document preservation act of 1989." [1989 c 204 § 1.]

RCW 36.22.170 Surcharge for preservation of historical documents--Fifty percent to state treasurer--Creation of account.

A surcharge of two dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. Fifty percent of the revenue generated through this surcharge shall be transmitted monthly to the state treasurer who shall distribute such funds to each county treasurer within the state in July of each year in accordance with the formula described in RCW 36.22.190. The county treasurer shall place the funds received in a special account titled the auditor's centennial document preservation and modernization account to be used solely for ongoing preservation of historical documents of all county offices and departments and shall not be added to the county current expense fund. Fifty percent of the revenue generated by this surcharge shall be retained by the county and deposited in the auditor's operation and maintenance fund for ongoing preservation of historical documents of all county offices and departments.

The centennial document preservation and modernization account is hereby created in the custody of the state treasurer and shall be classified as a treasury trust account. State distributions from the centennial document preservation and modernization account shall be made without appropriation.

[1993 c 37 § 1; 1989 c 204 § 3.]

Notes:

Findings--1989 c 204: See note following RCW 36.22.160.

RCW 36.22.175 Surcharge for archives and records management--Records management training--Eastern Washington regional facility.

(1) In addition to any other charge authorized by law, the county auditor shall charge a surcharge of one dollar per instrument for each document recorded. Revenue generated through this surcharge shall be transmitted monthly to the state treasurer for deposit in the archives and records management account. These funds shall be used solely for providing records scheduling, security microfilm inspection and storage, archival preservation, cataloging, and indexing for local government records and digital data and access to those records and data through the regional branch archives of the division of archives and records management.

The division of archives and records management within the office of the secretary of state shall provide records management training for local governments and shall establish a competitive grant program to solicit and prioritize project proposals from local governments for potential funding to be paid for by funds from the auditor surcharge and tax warrant surcharge revenues. Application for specific projects may be made by local government agencies only. The state archivist in consultation with the advisory committee established under RCW 40.14.027 shall adopt rules governing project eligibility, evaluation, awarding of grants, and other criteria including requirements for records management training for grant recipients.

(2) The advisory committee established under RCW 40.14.027 shall review grant proposals and establish a prioritized list of projects to be considered for funding by January 1st of each even-numbered year, beginning in 2002. The evaluation of proposals and development of the prioritized list must be developed through open public meetings. Funding for projects shall be granted according to the ranking of each application on the prioritized list and projects will be funded only to the extent that funds are available. A grant award may have an effective date other than the date the project is placed on the prioritized list.

(3) In addition to any other surcharge authorized by law, the county auditor shall charge a surcharge of one dollar per instrument for every document recorded after January 1, 2002. Revenue generated through this surcharge shall be transmitted to the state treasurer monthly for deposit in the archives and records management account to be used exclusively for the construction and improvement of a specialized regional facility located in eastern Washington designed to serve the archives, records management, and digital data management needs of local government.

To the extent the facilities are used for the storage and retrieval of state agency records and digital data, that portion of the construction of such facilities used for state government records and data shall be supported by other charges and fees paid by state agencies and shall not be supported by the surcharge authorized in this subsection.

At such time that all debt service from construction on such facility has been paid, fifty percent of the surcharge authorized by this subsection shall be reverted to the centennial document preservation and modernization account as prescribed in RCW 36.22.170 and fifty percent of the surcharge authorized by this section shall be reverted to the state treasurer for deposit in the archives and records management account to serve the archives, records management, and digital data management needs of local government.

[2001 2nd sp.s. c 13 § 1; 1996 c 245 § 1.]

NOTES:

Effective date--2001 2nd sp.s. c 13: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2001." [2001 2nd sp.s. c 13 § 3.]

Effective date--1996 c 245: See note following RCW 40.14.025.

RCW 36.22.190 Distribution of funds.

After deduction of those costs of the state treasurer that are described under *RCW 36.22.180, the balance of the funds will be distributed to the counties according to the following formula: One-half of the funds available shall be equally distributed among the thirty-nine counties; and the balance will be distributed among the counties in direct proportion to their population as it relates to the total state's population based on the most recent population statistics.

[1989 c 204 § 5.]

Notes:

Reviser's note: (1) 1989 c 204 § 7 directed that this section be added to chapter 36.18 RCW. This placement appears inappropriate and the section has been codified as a part of chapter 36.22 RCW.

* (2) RCW 36.22.180 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

Findings--1989 c 204: See note following RCW 36.22.160.

RCW 36.22.200 Action for change of name--Filing and recording.

Upon receipt of the fee and the name change order from the district court as provided in RCW 4.24.130, the county auditor shall file and record the name change order.

[1992 c 30 § 2.]

RCW 36.22.210 Process servers--Registration--Fees.

(1) Each county auditor shall develop a registration process to register process servers required to register under RCW 18.180.010.

(2) The county auditor may collect an annual registration fee from the process server not to exceed ten dollars.

(3) The county auditor shall use a form in the registration process for the purpose of identifying and locating the registrant, including the process server's name, birthdate, and social security number, and the process server's business name, business address, and business telephone number.

(4) The county auditor shall maintain a register of process servers and assign a number to each registrant. Upon renewal of the registration as required in RCW 18.180.020, the auditor shall continue to assign the same registration number. A successor entity composed of one or more registrants shall be permitted to transfer one or more registration numbers to the new entity.

[1997 c 41 § 8; 1992 c 125 § 2.]

Notes:

Construction--1992 c 125: See RCW 18.180.900.

RCW 36.22.220 Election assistants, deputies--Appointment, qualifications.

The county auditor of each county, as ex officio supervisor of all primaries and elections, general or special, within the county under Title 29 RCW, may appoint one or more well-qualified persons to act as assistants or deputies; however, not less than two persons of the auditor's office who conduct primaries and elections in the county shall be certified under chapter 29.60 RCW as elections administrators.

[1992 c 163 § 12.]

Notes:

Effective date--1992 c 163 §§ 5-13: See note following RCW 29.60.030.

RCW 36.22.230 Election assistants, deputies--Additional qualifications.

Each deputy or assistant appointed under RCW 36.22.220 shall have been graduated from an accredited high school or shall have passed a high school equivalency examination. Each shall be knowledgeable in the rules and laws of conducting elections.

[1992 c 163 § 13.]

Notes:

Effective date--1992 c 163 §§ 5-13: See note following RCW 29.60.030.

**Chapter 36.23 RCW
COUNTY CLERK**

Sections

36.23.020	New bond may be required.
36.23.030	Records to be kept.
36.23.040	Custody and delivery of records.
36.23.065	Destruction and reproduction of court records--Destruction of receipts for expenses under probate proceedings.
36.23.067	Reproduced court records have same force and effect as original.
36.23.070	Destruction of court exhibits--Preservation for historical purposes.
36.23.080	Office at county seat.
36.23.090	Search for birth parents--County clerk's duty.
36.23.100	Electronic payment of court fees and other financial obligations--Authorized.

Notes:

Civil actions, generally, clerk's duties: Title 4 RCW.

County clerk

as clerk of superior court: State Constitution Art. 4 § 26.

not to practice law: RCW 2.32.090.

powers and duties: RCW 2.32.050.
Dissolution of inactive port districts: Chapter 53.47 RCW.
Execution docket, clerk to keep: RCW 4.64.060.
Judgment journal, clerk to keep: RCW 4.64.030.
Lien foreclosure, clerk's duties: Chapter 84.64 RCW.
Oaths, clerk may administer: RCW 5.28.010.
Official bonds filed with: RCW 42.08.100.
Registration of land titles, clerk's duties: Chapter 65.12 RCW.
Support of dependent children, clerk to charge no fees in connection with: RCW 74.20.300.
Tax warrants, clerk's duties: Chapter 82.32 RCW.
Telegraphic copies as evidence, clerk to certify: RCW 5.52.050.
Veterans, clerk to furnish marital status certificates to free: RCW 73.04.120.
Witness fees and expenses, civil proceedings, clerk's duties: Chapter 2.40 RCW, RCW 5.56.010.

RCW 36.23.020 New bond may be required.

When the judge or judges of any court, or a majority of them, believe that the clerk of the court does not have a good and sufficient bond on file, or that the bond is not large enough in amount, such judge or judges shall enter an order requiring him, within such time as may be specified in the order, to execute and present to them a good and sufficient bond, in such sum as may be fixed by the order. In case of his failure to file the bond within ten days from the expiration of the date fixed the judge or judges shall declare the office vacant.

[1963 c 4 § 36.23.020. Prior: 1895 c 53 § 3; RRS § 72.]

RCW 36.23.030 Records to be kept.

The clerk of the superior court at the expense of the county shall keep the following records:

- (1) A record in which he shall enter all appearances and the time of filing all pleadings in any cause;
- (2) A docket in which before every session, he shall enter the titles of all causes pending before the court at that session in the order in which they were commenced, beginning with criminal cases, noting in separate columns the names of the attorneys, the character of the action, the pleadings on which it stands at the commencement of the session. One copy of this docket shall be furnished for the use of the court and another for the use of the members of the bar;
- (3) A record for each session in which he shall enter the names of witnesses and jurors, with time of attendance, distance of travel, and whatever else is necessary to enable him to make out a complete cost bill;
- (4) A record in which he shall record the daily proceedings of the court, and enter all verdicts, orders, judgments, and decisions thereof, which may, as provided by local court rule, be signed by the judge; but the court shall have full control of all entries in said record at any time during the session in which they were made;
- (5) An execution docket and also one for a final record in which he shall make a full and

perfect record of all criminal cases in which a final judgment is rendered, and all civil cases in which by any order or final judgment the title to real estate, or any interest therein, is in any way affected, and such other final judgments, orders, or decisions as the court may require;

(6) A journal in which shall be entered all orders, decrees, and judgments made by the court and the minutes of the court in probate proceedings;

(7) A record of wills and bonds shall be maintained. Originals shall be placed in the original file and shall be preserved or duplicated pursuant to RCW 36.23.065;

(8) A record of letters testamentary, administration and guardianship in which all letters testamentary, administration and guardianship shall be recorded;

(9) A record of claims shall be entered in the appearance docket under the title of each estate or case, stating the name of each claimant, the amount of his claim and the date of filing of such;

(10) A memorandum of the files, in which at least one page shall be given to each estate or case, wherein shall be noted each paper filed in the case, and the date of filing each paper;

(11) Such other records as are prescribed by law and required in the discharge of the duties of his office.

[1987 c 363 § 3; 1967 ex.s. c 34 § 2; 1963 c 4 § 36.23.030. Prior: (i) 1923 c 130 § 1; Code 1881 § 2179; 1863 p 417 § 6; 1854 p 366 § 6; RRS § 75. (ii) 1917 c 156 § 2; RRS § 1372. (iii) 1917 c 156 § 57; Code 1881 § 1384; 1863 p 219 § 118; 1860 p 181 § 85; RRS § 1427. (iv) 1917 c 156 § 72; Code 1881 § 1411; 1863 p 221 § 130; 1860 p 183 § 97; RRS § 1442.]

RCW 36.23.040 Custody and delivery of records.

The clerk shall be responsible for the safe custody and delivery to his successor of all books and papers belonging to his office.

[1963 c 4 § 36.23.040. Prior: Code 1881 § 2181; 1863 p 418 § 8; 1854 p 367 § 8; RRS § 76.]

RCW 36.23.065 Destruction and reproduction of court records--Destruction of receipts for expenses under probate proceedings.

Notwithstanding any other law relating to the destruction of court records, the county clerk may cause to be destroyed all documents, records, instruments, books, papers, depositions, and transcripts, in any action or proceeding in the superior court, or otherwise filed in his or her office pursuant to law, if all of the following conditions exist:

(1) The county clerk maintains for the use of the public a photographic film, microphotographic, photostatic, electronic, or similar reproduction of each document, record, instrument, book, paper, deposition, or transcript so destroyed: PROVIDED, That all receipts and canceled checks filed by a personal representative pursuant to RCW 11.76.100 may be removed from the file by order of the court and destroyed the same as an exhibit pursuant to RCW 36.23.070.

(2) At the time of the taking of the photographic film, microphotographic, photostatic, electronic, or similar reproduction, the county clerk or other person under whose direction and

control the same was taken, attached thereto, or to the sealed container in which the same was placed and has been kept, or incorporated in the photographic film, microphotographic, photostatic, electronic, or similar reproduction, a certification that the copy is a correct copy of the original, or of a specified part thereof, as the case may be, the date on which taken, and the fact it was taken under the clerk's direction and control. The certificate must be under the official seal of the certifying officer, if there be any, or if the certifying officer is the clerk of a court having a seal, under the seal of such court.

(3) The county clerk promptly seals and stores at least one original or negative of each such photographic film, microphotographic, photostatic, electronic, or similar reproduction in such manner and place as reasonably to assure its preservation indefinitely against loss, theft, defacement, or destruction. Electronic reproductions are acceptable media for this purpose if one of the following conditions exists:

(a) The electronic reproductions are continuously updated and, if necessary, transferred to another medium to ensure that they are accessible through contemporary and supported electronic or computerized systems; or

(b) The electronic reproductions are scheduled to be reproduced on photographic film, microphotographic, photostatic, or similar media for indefinite preservation.

(4) When copies of public records of the county clerk are transferred to the state archives for security storage, the state archives may only provide certified copies of those records with the written permission of the county clerk who is custodian of those records. When so transferred and authorized, the copies of the public records concerned shall be made by the state archives, which certification shall have the same force and effect as though made by the county clerk who is custodian of the record. If there is a statutory fee for the reproduction of the document, contracts can be made between the county clerk and the state archives for reproduction and certification of the copies, however no certification authority may be transferred except as provided in this subsection and for records of abolished or discontinued offices or agencies under chapter 40.14 RCW.

[1998 c 226 § 1; 1981 c 277 § 10; 1973 c 14 § 1; 1971 c 29 § 1; 1963 c 4 § 36.23.065. Prior: 1957 c 201 § 1.]

RCW 36.23.067 Reproduced court records have same force and effect as original.

Any print, whether enlarged or not, from any photographic film, including any photographic plate, microphotographic film, or photostatic negative or similar reproduction, or from any electronic record, of any original record, document, instrument, book, paper, deposition, or transcript which has been processed in accordance with the provisions of RCW 36.23.065, and has been certified by the county clerk under his or her official seal as a true copy, may be used in all instances, including introduction in evidence in any judicial or administrative proceeding, that the original record, document, instrument, book, paper, deposition, or transcript might have been used, and shall have the full force and effect of the original for all purposes.

[1998 c 226 § 2; 1963 c 4 § 36.23.067. Prior: 1957 c 201 § 2.]

RCW 36.23.070 Destruction of court exhibits--Preservation for historical purposes.

A county clerk may at any time more than six years after the entry of final judgment in any action apply to the superior court for an authorizing order and, upon such order being signed and entered, turn such exhibits of possible value over to the sheriff for disposal in accordance with the provisions of chapter 63.40 RCW, and destroy any other exhibits, unopened depositions, and reporters' notes which have theretofore been filed in such cause: PROVIDED, That reporters' notes in criminal cases must be preserved for at least fifteen years: PROVIDED FURTHER, That any exhibits which are deemed to possess historical value may be directed to be delivered by the clerk to libraries or historical societies.

[1981 c 154 § 1; 1973 c 14 § 2; 1967 ex.s. c 34 § 3; 1963 c 4 § 36.23.070. Prior: 1957 c 201 § 3; 1947 c 277 § 1; Rem. Supp. 1947 § 81-1.]

RCW 36.23.080 Office at county seat.

The office of the clerk of the superior court shall be kept at the county seat of the county of which he is clerk.

[1963 c 4 § 36.23.080. Prior: 1891 c 57 § 1; RRS § 73, part. Cf. Code 1881 § 2125.]

RCW 36.23.090 Search for birth parents--County clerk's duty.

The county clerk shall provide the name and telephone number of at least one resource to assist adopted persons who are searching for birth parents, or birth parents who are searching for children they have relinquished, if these resources have contacted the clerk's office and requested that their name be made available to persons making inquiry.

[1990 c 146 § 10.]

RCW 36.23.100 Electronic payment of court fees and other financial obligations--Authorized.

County clerks are authorized to accept credit cards, charge cards, debit cards, smart cards, stored value cards, federal wire, and automatic clearinghouse system transactions, or other electronic communication, for payment of all fees and moneys due the court under RCW 36.18.012 through 36.18.020, and for the payment of court-ordered legal financial obligations of criminal defendants which include, but are not limited to, fines, fees, assessments, restitution, and crime victims' compensation, consistent with RCW 36.48.010, 36.48.080, and 36.48.090. A payer desiring to pay by credit card, charge card, debit card, smart card, stored value card, federal wire, and automatic clearinghouse system transactions, or other electronic communication shall bear the cost of processing the transaction.

[2000 c 202 § 1.]

**Chapter 36.24 RCW
COUNTY CORONER**

Sections

36.24.010	To act as sheriff under certain conditions.
36.24.020	Inquests.
36.24.030	Penalty for nonattendance of juror.
36.24.040	Duty of coroner's jury--Oath.
36.24.050	Power to summon witnesses--Subpoenas.
36.24.060	Power to employ physician or surgeon--Compensation.
36.24.070	Verdict of jury.
36.24.080	Testimony reduced to writing in certain cases and witnesses recognized.
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36.24.160	District judge may act as coroner.
36.24.170	Coroner not to practice law.
36.24.175	Coroner not to be owner or employee of funeral home or mortuary--Counties with populations of forty thousand or more.
36.24.180	Audit of coroner's account.
36.24.190	Medical examiner--When authorized--Election--Qualifications for appointment.

Notes:

Action against, limitation on: RCW 4.16.080.

Cemetery districts: Chapter 68.52 RCW.

Dead bodies

coroner's jurisdiction over, when: RCW 68.50.010.

coroner's right to dissect, when: RCW 68.50.100.

Duties relating to

execution of judgment: Chapter 6.17 RCW.

human remains, generally: Chapter 68.50 RCW.

public cemetery and morgue, management: RCW 68.52.020.

reports of death caused in motor vehicle accidents: RCW 46.52.050.

successors, delivery of documents and property to: RCW 36.28.120.

vital statistics: Chapter 70.58 RCW.

Labor disputes, arbitration of, service of process by: RCW 49.08.030.

State hospitals for the mentally ill, report of death of patient in, given coroner: RCW 72.23.190.

Vehicle of as emergency vehicle: RCW 46.04.040.

RCW 36.24.010 To act as sheriff under certain conditions.

The coroner shall perform the duties of the sheriff in all cases where the sheriff is

interested or otherwise incapacitated from serving; and whenever the coroner acts as sheriff he shall possess the powers and perform all the duties of sheriff, and shall be liable on his official bond in like manner as the sheriff would be, and shall be entitled to the same fees as are allowed by law to the sheriff for similar services: PROVIDED, That nothing herein contained shall prevent the court from appointing a suitable person to discharge such duties, as provided by RCW 36.28.090.

[1963 c 4 § 36.24.010. Prior: 1897 c 21 § 1; Code 1881 § 2776; 1863 p 559 § 2; 1854 p 436 § 2; RRS § 4180.]

RCW 36.24.020 Inquests.

Any coroner, in his or her discretion, may hold an inquest if the coroner suspects that the death of a person was unnatural, or violent, or resulted from unlawful means, or from suspicious circumstances, or was of such a nature as to indicate the possibility of death by the hand of the deceased or through the instrumentality of some other person: PROVIDED, That, except under suspicious circumstances, no inquest shall be held following a traffic death.

The coroner in the county where an inquest is to be convened pursuant to this chapter shall notify the superior court to provide persons to serve as a jury of inquest to hear all the evidence concerning the death and to inquire into and render a true verdict on the cause of death. Jurors shall be selected and summoned in the same manner and shall have the same qualifications as specified in chapter 2.36 RCW. The prosecuting attorney having jurisdiction shall be notified in advance of any such inquest to be held, and at his discretion may be present at and assist the coroner in the conduct of the same. The coroner may adjourn the inquest from time to time as he may deem necessary.

The costs of inquests shall be borne by the county in which the inquest is held.

[1988 c 188 § 18; 1963 c 4 § 36.24.020. Prior: 1953 c 188 § 3; Code 1881 § 2777; 1863 p 560 § 3; 1854 p 436 § 3; RRS § 4181.]

Notes:

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

RCW 36.24.030 Penalty for nonattendance of juror.

Every person summoned as a juror who fails to appear without having a reasonable excuse shall forfeit a sum not exceeding twenty dollars, to be recovered by the coroner, in the name of the state, before any district judge of the county. The penalty when collected shall be paid over to the county treasurer for the use of the county.

[1987 c 202 § 202; 1963 c 4 § 36.24.030. Prior: Code 1881 § 2778; 1863 p 560 § 4; 1854 p 436 § 4; RRS § 4182.]

Notes:

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

RCW 36.24.040 Duty of coroner's jury--Oath.

When four or more of the jurors attend, they shall be sworn by the coroner to inquire who

the person was, and when, where, and by what means he came to his death, and into the circumstances attending his death, and to render a true verdict therein, according to the evidence afforded them, or arising from the inspection of the body.

[1963 c 4 § 36.24.040. Prior: Code 1881 § 2779; 1863 p 560 § 5; 1854 p 436 § 5; RRS § 4183.]

RCW 36.24.050 Power to summon witnesses--Subpoenas.

The coroner may issue subpoenas for witnesses returnable forthwith or at such time and place as the coroner may appoint, which may be served by any competent person. The coroner must summon and examine as witnesses, on oath administered by the coroner, every person, who, in his or her opinion or that of any of the jury, has any knowledge of the facts. A witness served with a subpoena may be compelled to attend and testify, or be punished by the coroner for disobedience, in like manner as upon a subpoena issued by a district judge.

[1987 c 202 § 203; 1963 c 4 § 36.24.050. Prior: (i) 1901 c 131 § 1, part; Code 1881 § 2780, part; 1863 p 560 § 6, part; 1854 p 436 § 6, part; RRS § 4184, part. (ii) Code 1881 § 2781; 1863 p 560 § 7; 1854 p 437 § 7; RRS § 4186.]

Notes:

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

RCW 36.24.060 Power to employ physician or surgeon--Compensation.

The coroner may summon a surgeon or physician to inspect the body and give under oath a professional opinion as to the cause of death. The fees for the coroner's physician or surgeon shall not be less than ten dollars.

[1963 c 4 § 36.24.060. Prior: (i) 1901 c 131 § 1, part; Code 1881 § 2780, part; 1863 p 560 § 6, part; 1854 p 436 § 6, part; RRS § 4184, part.]

RCW 36.24.070 Verdict of jury.

After hearing the testimony, the jury shall render its verdict and certify the same in writing signed by the jurors, and setting forth who the person killed is, if known, and when, where and by what means he came to his death; or if he was killed, or his death was occasioned by the act of another by criminal means, who is guilty thereof, if known.

[1963 c 4 § 36.24.070. Prior: 1953 c 188 § 4; Code 1881 § 2782; 1863 p 560 § 8; 1854 p 437 § 8; RRS § 4187.]

RCW 36.24.080 Testimony reduced to writing in certain cases and witnesses recognized.

In all cases where murder or manslaughter is supposed to have been committed, the testimony of witnesses taken before the coroner's jury shall be reduced to writing by the coroner, or under his direction, and he shall also recognize such witnesses to appear and testify in the superior court of the county, and shall forthwith file the written testimony, inquisition, and

recognizance with the clerk of such court.

[1963 c 4 § 36.24.080. Prior: Code 1881 § 2783; 1863 p 561 § 9; 1854 p 437 § 9; RRS § 4188.]

RCW 36.24.090 Procedure where accused is under arrest.

If the person charged with the commission of the offense has been arrested before the inquisition has been filed, the coroner shall deliver the recognizance and the inquisition, with the testimony taken, to the magistrate before whom such person may be brought, who shall return the same, with the depositions and statements taken before him to the clerk of the superior court of the county.

[1963 c 4 § 36.24.090. Prior: Code 1881 § 2784; 1863 p 561 § 10; 1854 p 437 § 10; RRS § 4189.]

RCW 36.24.100 Procedure where accused is at large--Warrant of arrest.

If the jury finds that the person was killed and the party committing the homicide is ascertained by the inquisition, but is not in custody, the coroner shall issue a warrant for the arrest of the person charged, returnable forthwith to the nearest magistrate.

[1963 c 4 § 36.24.100. Prior: Code 1881 § 2785; 1863 p 561 § 11; 1854 p 437 § 11; RRS § 4190.]

RCW 36.24.110 Form of warrant.

The coroner's warrant shall be in substantially the following form:

State of Washington,	}	
	}	ss.
County of. . . . .	|	
	}	

To any sheriff or constable of the county.

An inquisition having been this day found by the coroner's jury, before me, stating that A B has come to his death by the act of C D, by criminal means (or as the case may be, as found by the inquisition), you are therefore commanded, in the name of the state of Washington, forthwith to arrest the above named C D, and take him before the nearest or most accessible magistrate in this county.

Given under my hand this day of, A.D. 19.

..

E F, coroner of the county of.

[1963 c 4 § 36.24.110. Prior: Code 1881 § 2786; 1863 p 561 § 12; 1854 p 437 § 12; RRS § 4191.]

RCW 36.24.120 Service of warrant.

The coroner's warrant may be served in any county, and the officers serving it shall proceed thereon, in all respects, as upon a warrant of arrest.

[1963 c 4 § 36.24.120. Prior: Code 1881 § 2787; 1863 p 561 § 13; 1854 p 438 § 13; RRS § 4192.]

RCW 36.24.130 Property of deceased.

The coroner must, within thirty days after the inquest upon a dead body, deliver to the county treasurer any money or other property which may be found upon the body, unless claimed in the meantime by the legal representatives of the deceased. If he fails to do so, the treasurer may proceed against the coroner to recover the same by a civil action in the name of the county.

[1963 c 4 § 36.24.130. Prior: Code 1881 § 2789; 1863 p 562 § 15; 1854 p 438 § 15; RRS § 4194.]

RCW 36.24.140 Duty of treasurer.

Upon the delivery of money to the treasurer, he shall place it to the credit of the county. If it is property other than money, he shall, within thirty days, sell it at public auction, upon reasonable public notice, and place the proceeds to the credit of the county.

[1963 c 4 § 36.24.140. Prior: Code 1881 § 2790; 1863 p 562 § 16; 1854 p 438 § 16; RRS § 4195.]

RCW 36.24.150 Delivery to representatives.

If the money in the treasury is demanded within six years by the legal representatives of the deceased, the treasurer shall pay it to them after deducting the fees and expenses of the coroner and of the county in relation to the matter, or the same may be so paid at any time thereafter, upon the order of the board of county commissioners of the county.

[1963 c 4 § 36.24.150. Prior: Code 1881 § 2791; 1863 p 562 § 17; 1854 p 438 § 17; RRS § 4196.]

RCW 36.24.155 Undisposed of remains--Entrusting to funeral homes or mortuaries.

Whenever anyone shall die within a county without making prior plans for the disposition of his body and there is no other person willing to provide for the disposition of the body, the county coroner shall cause such body to be entrusted to a funeral home in the county where the body is found. Disposition shall be on a rotation basis, which shall treat equally all funeral homes or mortuaries desiring to participate, such rotation to be established by the coroner after consultation with representatives of the funeral homes or mortuaries in the county or counties involved.

[1969 ex.s. c 259 § 2.]

Notes:

Undisposed of remains, disposition of: RCW 68.50.230.

RCW 36.24.160 District judge may act as coroner.

If the office of coroner is vacant, or the coroner is absent or unable to attend, the duties of the coroner's office may be performed by any district judge in the county with the like authority and subject to the same obligations and penalties as the coroner. For such service a district judge shall be entitled to the same fees, payable in the same manner.

[1987 c 202 § 204; 1963 c 4 § 36.24.160. Prior: (i) Code 1881 § 2793; 1863 p 562 § 19; 1854 p 438 § 19; RRS § 4198. (ii) Code 1881 § 2795; 1863 p 562 § 21; 1854 p 438 § 21; RRS § 4199.]

Notes:

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

RCW 36.24.170 Coroner not to practice law.

The coroner shall not appear or practice as attorney in any court, except in defense of himself or his deputies.

[1963 c 4 § 36.24.170. Prior: 1891 c 45 § 4, part; Code 1881 § 2770, part; 1863 p 558 § 5, part; 1854 p 434 § 5, part; RRS § 4171, part.]

RCW 36.24.175 Coroner not to be owner or employee of funeral home or mortuary--Counties with populations of forty thousand or more.

In each county with a population of forty thousand or more, no person shall be qualified for the office of county coroner as provided for in RCW 36.16.030 who is an owner or employee of any funeral home or mortuary.

[1991 c 363 § 54; 1969 ex.s. c 259 § 3.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.24.180 Audit of coroner's account.

Before auditing and allowing the account of the coroner the board of county commissioners shall require from him a verified statement in writing, accounting for all money or other property found upon persons on whom inquests have been held by him, and that the money or property mentioned in it has been delivered to the legal representatives of the deceased, or to the county treasurer.

[1963 c 4 § 36.24.180. Prior: Code 1881 § 2792; 1863 p 562 § 18; 1854 p 438 § 18; RRS § 4197.]

RCW 36.24.190 Medical examiner--When authorized--Election--Qualifications for appointment.

In a county with a population of two hundred fifty thousand or more, the county legislative authority may, upon majority vote at an election called by the county legislative authority, adopt a system under which a medical examiner may be appointed to replace the office of the coroner. The county legislative authority must adopt a resolution or ordinance that creates the office of medical examiner at least thirty days prior to the first day of filing for the primary election for county offices. If a county adopts such a resolution or ordinance, the resolution or ordinance shall be referred to the voters for confirmation or rejection at the next date for a special election that is more than forty-five days from the date the resolution or ordinance was adopted. If the resolution or ordinance is approved by majority vote, no election shall be held for the position of coroner and the coroner's position is abolished following the expiration of the coroner's term of office or upon vacating of the office of the coroner for any reason. The county legislative authority shall appoint a medical examiner to assume the statutory duties performed by the county coroner and the appointment shall become effective following the expiration of the coroner's term of office or upon the vacating of the office of the coroner. To be appointed as a medical examiner pursuant to this section, a person must either be: (1) Certified as a forensic pathologist by the American board of pathology; or (2) a qualified physician eligible to take the American board of pathology exam in forensic pathology within one year of being appointed. A physician specializing in pathology who is appointed to the position of medical examiner and who is not certified as a forensic pathologist must pass the pathology exam within three years of the appointment.

[1996 c 108 § 2.]

Chapter 36.26 RCW PUBLIC DEFENDER

Sections

36.26.010	Definitions.
36.26.020	Public defender district--Creation--Office of public defender.
36.26.030	Selection committee.
36.26.040	Public defender--Qualifications--Term.
36.26.050	Reports--Records--Costs and expenses.
36.26.060	Compensation--Office--Assistants, clerks, investigators, etc.
36.26.070	Duty to represent indigent defendants.
36.26.080	Duty to counsel, defend and prosecute appeals.
36.26.090	Appointment of attorney other than public defender.
36.26.900	Chapter cumulative and nonexclusive.

RCW 36.26.010 Definitions.

As used in this chapter:

(1) "County commissioners" or "board of county commissioners" means and includes:

(a) Any single board of county commissioners, county council, or other governing body of any county which has neither a board of county commissioners nor a county council denominated as such; and

(b) The governing bodies, including any combination or mixture of more than one board of county commissioners, county council, or otherwise denominated governing body of a county, of any two or more contiguous counties electing to participate jointly in the support of any intercounty public defender.

(2) "District" or "public defender district" means any one or more entire counties electing to employ a public defender; and no county shall be divided in the creation of any public defender district.

[1969 c 94 § 1.]

RCW 36.26.020 Public defender district--Creation--Office of public defender.

The board of county commissioners of any single county or of any two or more territorially contiguous counties or acting in cooperation with the governing authority of any city located within the county or counties may, by resolution or by ordinance, or by concurrent resolutions or concurrent ordinances, constitute such county or counties or counties and cities as a public defender district, and may establish an office of public defender for such district.

[1969 c 94 § 2.]

RCW 36.26.030 Selection committee.

The board of county commissioners of every county electing to become or to join in a public defender district shall appoint a selection committee for the purpose of selecting a full or part time public defender for the public defender district. Such selection committee shall consist of one member of each board of county commissioners, one member of the superior court from each county, and one practicing attorney from each county within the district.

[1969 c 94 § 3.]

RCW 36.26.040 Public defender--Qualifications--Term.

Every public defender and every assistant public defender must be a qualified attorney licensed to practice law in this state; and the term of the public defender shall coincide with the elected term of the prosecuting attorney.

[1969 c 94 § 4.]

RCW 36.26.050 Reports--Records--Costs and expenses.

The public defender shall make an annual report to each board of county commissioners within his district. If any public defender district embraces more than one county or a

cooperating city, the public defender shall maintain records of expenses allocable to each county or city within the district, and shall charge such expenses only against the county or city for which the services were rendered or the costs incurred. The boards of county commissioners of counties and the governing authority of any city participating jointly in a public defender district are authorized to provide for the sharing of the costs of the district by mutual agreement, for any costs which cannot be specifically apportioned to any particular county or city within the district.

Expenditures by the public defender shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties or cities.

[1969 c 94 § 5.]

RCW 36.26.060 Compensation--Office--Assistants, clerks, investigators, etc.

(1) The board of county commissioners shall:

(a) Fix the compensation of the public defender and of any staff appointed to assist him in the discharge of his duties: PROVIDED, That the compensation of the public defender shall not exceed that of the county prosecutor in those districts which comprise only one county;

(b) Provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of his office in the discharge of his duties, or provide an allowance in lieu of facilities and supplies.

(2) The public defender may appoint as many assistant attorney public defenders, clerks, investigators, stenographers and other employees as the board of county commissioners considers necessary in the discharge of his duties as a public defender.

[1969 c 94 § 6.]

RCW 36.26.070 Duty to represent indigent defendants.

The public defender must represent, without charge to any accused, every indigent person who is or has been arrested or charged with a crime for which court appointed counsel for indigent defendants is required either under the Constitution of the United States or under the Constitution and laws of the state of Washington:

(1) If such arrested person or accused, having been apprised of his constitutional and statutory rights to counsel, requests the appointment of counsel to represent him; and

(2) If a court, on its own motion or otherwise, does not appoint counsel to represent the accused; and

(3) Unless the arrested person or accused, having been apprised of his right to counsel in open court, affirmatively rejects or intelligently repudiates his constitutional and statutory rights to be represented by counsel.

[1984 c 76 § 18; 1969 c 94 § 7.]

RCW 36.26.080 Duty to counsel, defend and prosecute appeals.

Whenever the public defender represents any indigent person held in custody without commitment or charged with any criminal offense, he must (1) counsel and defend such person, and (2) prosecute any appeals and other remedies, whether before or after conviction, which he considers to be in the interests of justice.

[1969 c 94 § 8.]

RCW 36.26.090 Appointment of attorney other than public defender.

For good cause shown, or in any case involving a crime of widespread notoriety, the court may, upon its own motion or upon application of either the public defender or of the indigent accused, appoint an attorney other than the public defender to represent the accused at any stage of the proceedings or on appeal: PROVIDED, That the public defender may represent an accused, not an indigent, in any case of public notoriety where the court may find that adequate retained counsel is not available. The court shall award, and the county in which the offense is alleged to have been committed shall pay, such attorney reasonable compensation and reimbursement for any expenses reasonably and necessarily incurred in the presentation of the accused's defense or appeal, in accordance with RCW 4.88.330.

[1984 c 76 § 19; 1983 c 3 § 76; 1969 c 94 § 9.]

RCW 36.26.900 Chapter cumulative and nonexclusive.

The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy, particularly in counties electing not to create the office of public defender: PROVIDED, That nothing herein shall be construed to prevent the appointment of a full time or part time assigned-counsel administrator for the purpose of maintaining a centrally administered system for the assignment of counsel to represent indigent persons.

[1969 c 94 § 10.]

**Chapter 36.27 RCW
PROSECUTING ATTORNEY**

Sections

36.27.005	Defined.
36.27.010	Eligibility to office.
36.27.020	Duties.
36.27.030	Disability of prosecuting attorney.
36.27.040	Appointment of deputies--Special and temporary deputies.
36.27.045	Employment of legal interns.
36.27.050	Special emoluments prohibited.
36.27.060	Private practice prohibited in certain counties--Deputy prosecutors.
36.27.070	Office at county seat.
36.27.100	State-wide drug prosecution assistance program--Created.

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- 36.27.110 State-wide drug prosecution assistance program--Advisory committee--Selection of project director.
- 36.27.120 State-wide drug prosecution assistance program--Personnel--Review of assignments--Supervision of special deputies.

Notes:

Attorney general to act if prosecuting attorney defaults: RCW 43.10.090.
Attorney general to assist: RCW 43.10.030(4).
Autopsy reports, prosecuting attorney may know contents of: RCW 68.50.105.
Charitable solicitors, prosecuting attorney's powers and duties relating to: Chapter 19.09 RCW.
County canvassing board, prosecuting attorney as member: RCW 29.62.020, 39.40.030.
Defined for diking, drainage or sewerage improvement district purposes: RCW 85.08.010.
Dissolution of inactive port districts: Chapter 53.47 RCW.
District court districting committee, as member of: RCW 3.38.010.
Duties relating to
air pollution control regulations: Chapter 70.94 RCW.
apple advertising commission law: RCW 15.24.180.
baseball contracts with minors: RCW 67.04.110, 67.04.120.
basic juvenile court act: Chapter 13.04 RCW.
camping resorts: RCW 19.105.470, 19.105.490.
cigarette excise tax forfeiture proceeding: RCW 82.24.135.
cities and towns, proceedings attacking validity of consolidation or annexation: RCW 35.23.545.
civil service for sheriff's office: RCW 41.14.170.
crime victims and witnesses, comprehensive programs: RCW 7.68.035.
dairy products commission law: RCW 15.44.160.
degree-granting institutions: Chapter 28B.85 RCW.
dental hygienists, licensing of: RCW 18.29.100.
department of natural resources: RCW 78.52.035.
diking, drainage and sewerage improvement districts: Chapter 85.08 RCW.
diseased apiaries as nuisance: Chapter 15.60 RCW.
elections, initiative and referendum: Chapter 29.79 RCW.
elevators, escalators, like conveyances: RCW 70.87.140.
eminent domain by counties: Chapter 8.08 RCW.
food, drug and cosmetic act: RCW 69.04.160.
grain and terminal warehouses, commodity inspection violations: Chapter 22.09 RCW.
homestead property, application to alienate upon grounds of insanity of one spouse: Chapter 6.13 RCW.
hotels, safety inspection violations: Chapter 70.62 RCW.
housing authority act: RCW 35.82.040.
inspection and certification service fees: RCW 15.17.150.
liquor violations: RCW 66.44.010.
abatement proceedings: Chapter 66.36 RCW.
mental illness: Chapter 71.05 RCW.
mentally ill, alcoholics, detention of in private hospitals: Chapter 71.12 RCW.
pharmacists, regulations of: Chapter 18.64 RCW.
physical therapy, practice of: RCW 18.74.090, 18.74.095.
pilotage act, violations: Chapter 88.16 RCW.
plats, subdivisions and dedications, failure to file: Chapter 58.17 RCW.
private vocational schools: Chapter 28C.10 RCW.
public lands, tide and shore lands, appraisal of: RCW 79.94.060.
railroad grade crossings as nuisance, abatement of: RCW 81.53.190.

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real estate brokers and salespersons licensing provisions: RCW 18.85.350.
retail installment transaction act: RCW 63.14.190.
river and harbor improvement districts: Chapter 88.32 RCW.
school districts, violations applicable to: Chapter 28A.635 RCW.
securities act: RCW 21.20.410.
seeds: Chapter 15.49 RCW.
sexual psychopaths and psychopathic delinquents: Chapter 71.06 RCW.
soft tree fruits commission law: RCW 15.28.290.
standards, grades and packs violations: RCW 15.17.260.
support of dependent children: Chapter 74.20 RCW.
taxes, property
 lien foreclosure: Chapter 84.64 RCW.
 recovery: Chapter 84.68 RCW.
term papers, theses, dissertations, sale of prohibited: RCW 28B.10.584.
uniform reciprocal enforcement of support act: Chapter 26.21 RCW.
veterans, employment, reemployment rights: RCW 73.16.061.
vital statistics: Chapter 70.58 RCW.
wages, payment and collection of: RCW 49.48.050.
Washington commercial feed law: Chapter 15.53 RCW.
Washington fertilizer act: RCW 15.54.470.
Washington pesticide act: Chapter 15.58 RCW.
Washington state agricultural enabling act of 1961: RCW 15.65.550.
water code: RCW 90.03.100, 90.03.350.
weed districts: Chapter 17.04 RCW.
wharves, eminent domain of county to provide: RCW 88.24.070.
Gambling activities, as affecting: Chapter 9.46 RCW.
Governor may request action by: RCW 43.06.010(6).
Juvenile justice act, duties of prosecuting attorney: Chapter 13.40 RCW.
Pawnbroker's and second-hand dealers' records open to inspection: RCW 19.60.020.
Support of dependent children, records available for use in proceedings relating to: RCW 74.20.280.
Uniform interstate family support act, prosecuting attorney may enter into agreement where attorney general will carry out duties under: RCW 74.20.210.
Vehicle of is emergency vehicle: RCW 46.04.040.
Washington habitual traffic offenders act, prosecuting attorney's duties: Chapter 46.65 RCW.

RCW 36.27.005 Defined.

Prosecuting attorneys are attorneys authorized by law to appear for and represent the state and the counties thereof in actions and proceedings before the courts and judicial officers.

[1963 c 4 § 36.27.005. Prior: 1891 c 55 § 3; RRS § 113.]

RCW 36.27.010 Eligibility to office.

No person shall be eligible to the office of prosecuting attorney in any county of this state, unless he is a qualified elector therein, and has been admitted as an attorney and counselor of the courts of this state.

[1963 c 4 § 36.27.010. Prior: 1891 c 55 § 4; RRS § 4128. Cf. 1883 p 72 § 7.]

RCW 36.27.020 Duties.

The prosecuting attorney shall:

(1) Be legal adviser of the legislative authority, giving them [it] his or her written opinion when required by the legislative authority or the chairperson thereof touching any subject which the legislative authority may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or the county or any school district in the county may be a party;

(4) Prosecute all criminal and civil actions in which the state or the county may be a party, defend all suits brought against the state or the county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or the county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when the prosecuting attorney has information that any such offense has been committed and the prosecuting attorney shall for that purpose attend when required by them if the prosecuting attorney is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before district judges at the trial of which the prosecuting attorney was not present, before they are lodged with the legislative authority for payment, whereupon the prosecuting attorney may retax the same and the prosecuting attorney must do so if the legislative authority deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to the prosecuting attorney's knowledge to the special consideration of the proper jury;

(10) Examine once in each year the official bonds of all county and precinct officers and report to the legislative authority any defect in the bonds of any such officer;

(11) Make an annual report to the governor as of the 31st of December of each year setting forth the amount and nature of business transacted by the prosecuting attorney in that year with such other statements and suggestions as the prosecuting attorney may deem useful;

(12) Send to the state liquor control board at the end of each year a written report of all prosecutions brought under the state liquor laws in the county during the preceding year,

showing in each case, the date of trial, name of accused, nature of charges, disposition of case, and the name of the judge presiding;

(13) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law.

[1995 c 194 § 4; 1987 c 202 § 205; 1975 1st ex.s. c 19 § 1; 1963 c 4 § 36.27.020. Prior: (i) 1911 c 75 § 1; 1891 c 55 § 7; RRS § 116. (ii) 1886 p 65 § 5; 1883 p 73 § 10; Code 1881 § 2171; 1879 p 93 § 6; 1877 p 246 § 6; 1863 p 408 § 4; 1860 p 335 § 3; 1858 p 12 § 4; 1854 p 416 § 4; RRS § 4130. (iii) 1886 p 61 § 7; 1883 p 73 § 12; Code 1881 § 2168; 1879 p 94 § 8; 1877 p 247 § 8; RRS § 4131. (iv) 1886 p 61 § 8; 1883 p 74 § 13; Code 1881 § 2169; 1879 p 94 § 8; 1877 p 247 § 9; RRS § 4132. (v) 1886 p 61 § 9; 1883 p 74 § 14; Code 1881 § 2170; 1879 p 94 § 9; 1877 p 247 § 10; RRS § 4133. (vi) 1886 p 62 § 13; 1883 p 74 § 18; Code 1881 § 2165; 1879 p 95 § 13; 1877 p 248 § 14; 1863 p 409 § 5; 1860 p 334 § 4; 1858 p 12 § 5; 1854 p 417 § 5; RRS § 4134. (vii) Referendum No. 24; 1941 c 191 § 1; 1886 p 63 § 18; 1883 p 76 § 24; Code 1881 § 2146; 1879 p 96 § 18; RRS § 4136. (viii) Code 1881 § 3150; 1866 p 52 § 10; RRS § 4137. (ix) 1933 ex.s. c 62 § 81, part; RRS § 7306-81, part.]

Notes:

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

Annual report to include number of child abuse reports and cases: RCW 26.44.075.

RCW 36.27.030 Disability of prosecuting attorney.

When from illness or other cause the prosecuting attorney is temporarily unable to perform his duties, the court or judge may appoint some qualified person to discharge the duties of such officer in court until the disability is removed.

When any prosecuting attorney fails, from sickness or other cause, to attend a session of the superior court of his county, or is unable to perform his duties at such session, the court or judge may appoint some qualified person to discharge the duties of such session, and the appointee shall receive a compensation to be fixed by the court, to be deducted from the stated salary of the prosecuting attorney, not exceeding, however, one-fourth of the quarterly salary of the prosecuting attorney: PROVIDED, That in counties wherein there is no person qualified for the position of prosecuting attorney, or wherein no qualified person will consent to perform the duties of that office, the judge of the superior court shall appoint some suitable person, a duly admitted and practicing attorney at law and resident of the state to perform the duties of prosecuting attorney for such county, and he shall receive such reasonable compensation for his services as shall be fixed and ordered by the court, to be paid by the county for which the services are performed.

[1963 c 4 § 36.27.030. Prior: (i) 1891 c 55 § 5; RRS § 114. (ii) 1893 c 52 § 1; 1886 p 62 § 14; 1883 p 74 § 19; Code 1881 § 2166; 1879 p 95 § 14; 1877 p 248 § 15; 1863 p 409 § 6; 1860 p 335 § 5; 1858 p 13 § 6; 1854 p 417 § 6; RRS § 4135.]

RCW 36.27.040 Appointment of deputies--Special and temporary deputies.

The prosecuting attorney may appoint one or more deputies who shall have the same power in all respects as their principal. Each appointment shall be in writing, signed by the prosecuting attorney, and filed in the county auditor's office. Each deputy thus appointed shall

have the same qualifications required of the prosecuting attorney, except that such deputy need not be a resident of the county in which he serves. The prosecuting attorney may appoint one or more special deputy prosecuting attorneys upon a contract or fee basis whose authority shall be limited to the purposes stated in the writing signed by the prosecuting attorney and filed in the county auditor's office. Such special deputy prosecuting attorney shall be admitted to practice as an attorney before the courts of this state but need not be a resident of the county in which he serves and shall not be under the legal disabilities attendant upon prosecuting attorneys or their deputies except to avoid any conflict of interest with the purpose for which he has been engaged by the prosecuting attorney. The prosecuting attorney shall be responsible for the acts of his deputies and may revoke appointments at will.

Two or more prosecuting attorneys may agree that one or more deputies for any one of them may serve temporarily as deputy for any other of them on terms respecting compensation which are acceptable to said prosecuting attorneys. Any such deputy thus serving shall have the same power in all respects as if he were serving permanently.

The provisions of chapter 39.34 RCW shall not apply to such agreements.

The provisions of RCW 41.56.030(2) shall not be interpreted to permit a prosecuting attorney to alter the at-will relationship established between the prosecuting attorney and his or her appointed deputies by this section for a period of time exceeding his or her term of office. Neither shall the provisions of RCW 41.56.030(2) require a prosecuting attorney to alter the at-will relationship established by this section.

[2000 c 23 § 2; 1975 1st ex.s. c 19 § 2; 1963 c 4 § 36.27.040. Prior: 1959 c 30 § 1; 1943 c 35 § 1; 1903 c 7 § 1; 1891 c 55 § 6; 1886 p 63 § 17; 1883 p 76 § 23; Code 1881 § 2142; 1879 p 95 § 16; Rem. Supp. 1943 § 115.]

RCW 36.27.045 Employment of legal interns.

Notwithstanding any other provision of this chapter, nothing in this chapter shall be deemed to prevent a prosecuting attorney from employing legal interns as otherwise authorized by statute or court rule.

[1974 ex.s. c 6 § 1.]

RCW 36.27.050 Special emoluments prohibited.

No prosecuting attorney shall receive any fee or reward from any person, on behalf of any prosecution, or for any of his official services, except as provided in this title, nor shall he be engaged as attorney or counsel for any party in any action depending upon the same facts involved in any criminal proceeding.

[1963 c 4 § 36.27.050. Prior: 1888 p 189 § 1; 1886 p 62 § 12; 1883 p 74 § 17; Code 1881 § 2164; 1879 p 94 § 12; 1877 p 248 § 13; 1863 p 409 § 8; 1860 p 335 § 7; 1858 p 13 § 8; 1854 p 417 § 7; RRS § 4138.]

RCW 36.27.060 Private practice prohibited in certain counties--Deputy prosecutors.

(1) The prosecuting attorney, and deputy prosecuting attorneys, of each county with a

population of eighteen thousand or more shall serve full time and except as otherwise provided for in this section shall not engage in the private practice of law.

(2) Deputy prosecuting attorneys in a county with a population of from eighteen thousand to less than one hundred twenty-five thousand may serve part time and engage in the private practice of law if the county legislative authority so provides.

(3) Except as provided in subsection (4) of this section, nothing in this section prohibits a prosecuting attorney or deputy prosecuting attorney in any county from:

- (a) Performing legal services for himself or herself or his or her immediate family; or
- (b) Performing legal services of a charitable nature.

(4) The legal services identified in subsection (3) of this section may not be performed if they would interfere with the duties of a prosecuting attorney, or deputy prosecuting attorney and no services that are performed shall be deemed within the scope of employment of a prosecutor or deputy prosecutor.

[1991 c 363 § 55; 1989 c 39 § 1; 1973 1st ex.s. c 86 § 1; 1971 ex.s. c 237 § 2; 1969 ex.s. c 226 § 2; 1963 c 4 § 36.27.060. Prior: 1941 c 46 § 2; Rem. Supp. 1941 § 4139-1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Effective date--1973 1st ex.s. c 86: "This 1973 amendatory act shall take effect on the second Monday in the month of January, 1975." [1973 1st ex.s. c 86 § 2.]

Severability--Effective date--1971 ex.s. c 237: See notes following RCW 36.17.020.

RCW 36.27.070 Office at county seat.

The prosecuting attorney of each county in the state of Washington must keep an office at the county seat of the county of which he is prosecuting attorney.

[1963 c 4 § 36.27.070. Prior: 1909 c 122 § 1; RRS § 4139.]

RCW 36.27.100 State-wide drug prosecution assistance program--Created.

The legislature recognizes that, due to the magnitude or volume of offenses in a given area of the state, there is a recurring need for supplemental assistance in the prosecuting of drug and drug-related offenses that can be directed to the area of the state with the greatest need for short-term assistance. A state-wide drug prosecution assistance program is created within the department of community, trade, and economic development to assist county prosecuting attorneys in the prosecution of drug and drug-related offenses.

[1995 c 399 § 41; 1989 c 271 § 236.]

NOTES:

Severability--1989 c 271: See note following RCW 9.94A.510.

RCW 36.27.110 State-wide drug prosecution assistance program--Advisory committee--Selection of project director.

There is established a state-wide advisory committee comprised of the attorney general, the chief of the Washington state patrol, both United States attorneys whose offices are located in Washington state, and three county prosecuting attorneys appointed by the Washington association of prosecuting attorneys, who will also act as supervising attorneys. The state-wide advisory committee shall select one of the supervising attorneys to act as project director of the drug prosecution assistance program.

[1989 c 271 § 237.]

NOTES:

Severability--1989 c 271: See note following RCW 9.94A.510.

RCW 36.27.120 State-wide drug prosecution assistance program--Personnel--Review of assignments--Supervision of special deputies.

The project director of the drug prosecution assistance program shall employ up to five attorneys to act as special deputy prosecuting attorneys. A county or counties may request the assistance of one or more of the special deputy prosecuting attorneys. The project director after consultation with the advisory committee shall determine the assignment of the special deputy prosecutors. Within funds appropriated for this purpose, the project director may also employ necessary support staff and purchase necessary supplies and equipment.

The advisory committee shall regularly review the assignment of the special deputy prosecuting attorneys to ensure that the program's impact on the drug abuse problem is maximized.

During the time a special deputy prosecuting attorney is assigned to a county, the special deputy is under the direct supervision of the county prosecuting attorney for that county. The advisory committee may reassign a special deputy at any time: PROVIDED, That adequate notice must be given to the county prosecuting attorney if the special deputy is involved in a case scheduled for trial.

[1989 c 271 § 238.]

NOTES:

Severability--1989 c 271: See note following RCW 9.94A.510.

**Chapter 36.28 RCW
COUNTY SHERIFF**

Sections

36.28.010	General duties.
36.28.011	Duty to make complaint.
36.28.020	Powers of deputies, regular and special.
36.28.025	Qualifications.
36.28.030	New or additional bond of sheriff.
36.28.040	May demand fees in advance.
36.28.050	May demand indemnifying bond.
36.28.060	Duplicate receipts.

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36.28.070	Duplicate to payer.
36.28.080	Original to be filed.
36.28.090	Service of process when sheriff disqualified.
36.28.100	Employment of prisoners.
36.28.110	Sheriff not to practice law.
36.28.120	Duty of retiring sheriffs, constables and coroners--Successors' duties.
36.28.130	Actions by successors and by officials after expiration of term of office validated.
36.28.140	Penalty for violation of RCW 36.28.060 through 36.28.080.
36.28.150	Liability for fault or misconduct.
36.28.160	Office at county seat.
36.28.170	Standard uniform for sheriffs and deputies.
36.28.180	Allowance for clothing and other incidentals.
36.28.190	City contracts to obtain sheriff's office law enforcement services.

Notes:

Action against, limitation on: RCW 4.16.080, 4.16.110.

Appointment of as assignee for the benefit of creditors unlawful: RCW 7.08.180.

Attachment of witnesses directed to: RCW 5.56.080.

Civil service for sheriff's office: Chapter 41.14 RCW.

Counties may engage in probation and parole services: RCW 36.01.070.

Court rooms, court may order sheriff to provide: RCW 2.28.140.

Defined for attachment proceedings purposes: RCW 6.25.010.

Dissolution of inactive port districts, sheriff's sale: RCW 53.47.040.

Disturbances at state penal facilities: Chapter 72.72 RCW.

Dog handler using dog in line of duty--Immunity: RCW 4.24.410.

Duties relating to

abandoned animals: Chapter 16.54 RCW.

adverse claims to property levied upon: Chapter 6.19 RCW.

agister and trainer liens: Chapter 60.56 RCW.

apple advertising regulations: RCW 15.24.180.

attachment, sheriff's duties: Chapter 6.25 RCW.

chattel mortgages, foreclosure of: Chapter 61.12 RCW.

cities and towns

involuntary dissolution: RCW 35.07.260.

protection from water pollution: Chapter 35.88 RCW.

civil actions

impanelling jury: RCW 4.44.120.

sheriff to obtain money or property ordered deposited into court upon default: RCW 4.44.490.

sheriff to provide jurors food and lodging: RCW 4.44.310.

crop liens: Chapter 60.11 RCW.

dairy products commission law: RCW 15.44.160.

dead bodies, sheriff to surrender for dissection purposes: RCW 68.50.070.

default in rent of forty dollars or less: RCW 59.08.060, 59.08.090, 59.08.100.

department of revenue summons: RCW 84.08.050.

diking, drainage district, dissolution of: Chapter 85.07 RCW.

dogs: Chapter 16.08 RCW.

elections, polling place regulations during voting hours: Chapter 29.51 RCW.

eminent domain by state: Chapter 8.04 RCW.

execution of judgment: Chapter 6.17 RCW.

fires, sheriff to report: RCW 48.48.060.

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forcible entry or forcible or unlawful detainer actions: Chapter 59.12 RCW.
game official, duties as: Chapter 77.12 RCW, RCW 77.32.250.
highway advertising control act, violations: Chapter 47.42 RCW.
horses, mules, asses at large, sheriff to impound: Chapter 16.24 RCW.
irrigation and rehabilitation district rules and regulations: RCW 87.84.100.
juries, drawing of: Chapter 2.36 RCW.
labor disputes, arbitration of: RCW 49.08.030.
lien for labor and services on timber and lumber, actions on: Chapter 60.24 RCW.
limited access facility within city or town: RCW 47.52.200.
liquor violations, sheriff as enforcement officer: RCW 66.44.010.
lost and found property: Chapter 63.21 RCW.
mental illness: Chapter 71.05 RCW.
mentally ill, state hospitals for, escape by patient from: Chapter 72.23 RCW.
mines, abandoned mining shafts and excavations: Chapter 78.12 RCW.
missing children: RCW 13.60.020.
motor vehicle
 accidents: Chapter 46.52 RCW.
 fuel haulers: RCW 82.36.210.
 offenses generally: Title 46 RCW.
obstructions on public highways: Chapter 47.32 RCW.
port districts
 dissolution of: Chapter 53.48 RCW.
 motor vehicle regulation enforcement: RCW 53.08.230.
prevention of cruelty to animals: Chapter 16.52 RCW.
proceedings supplemental to execution: Chapter 6.32 RCW.
public lands act, hearings under: RCW 79.01.704.
real estate mortgages, foreclosure of: Chapter 61.12 RCW.
regional jail camps: RCW 72.64.100.
sales under execution and redemption: Chapter 6.21 RCW.
search and seizure, cigarette excise tax: RCW 82.24.190.
soft tree fruits commission law: RCW 15.28.290.
state board of health measures: RCW 43.20.050.
support of dependent children: Chapter 74.20 RCW.
suretyship: Chapter 19.72 RCW.
tax warrants
 generally: Chapter 82.32 RCW.
 motor vehicle fuel tax: RCW 82.36.130.
taxes, property
 private car companies on, process serving: RCW 84.16.032.
 public utilities on, process serving: RCW 84.12.240.
traffic control devices, forbidden devices, abatement of: RCW 47.36.180.
traffic schools: Chapter 46.83 RCW.
unclaimed property in hands of sheriff: Chapter 63.40 RCW.
unemployment compensation: RCW 50.12.170, 50.24.110.
uniform code of military justice: RCW 38.38.080 through 38.38.092, 38.38.492.
Gambling activities, as affecting: Chapter 9.46 RCW.
Law enforcement chaplains authorized: Chapter 41.22 RCW.
Money in hands of sheriff under attachment may be garnished: RCW 6.27.050.
Motor vehicle accidents, reports made to sheriff: Chapter 46.52 RCW.
Names of amateur radio station vehicle licensees to be furnished to: RCW 46.16.340.

Reports of motor vehicle repairs made to: RCW 46.52.090.

Sheriff's deed: RCW 6.21.120.

Support of dependent children, sheriff to charge no fees in connection with: RCW 74.20.300.

Surety, sheriff ineligible as: RCW 19.72.020.

Vehicle of as emergency vehicle: RCW 46.04.040.

Vehicle wreckers (licensed) records, sheriff may inspect: RCW 46.80.080.

RCW 36.28.010 General duties.

The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of his office, he and his deputies:

(1) Shall arrest and commit to prison all persons who break the peace, or attempt to break it, and all persons guilty of public offenses;

(2) Shall defend the county against those who, by riot or otherwise, endanger the public peace or safety;

(3) Shall execute the process and orders of the courts of justice or judicial officers, when delivered for that purpose, according to law;

(4) Shall execute all warrants delivered for that purpose by other public officers, according to the provisions of particular statutes;

(5) Shall attend the sessions of the courts of record held within the county, and obey their lawful orders or directions;

(6) Shall keep and preserve the peace in their respective counties, and quiet and suppress all affrays, riots, unlawful assemblies and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they may call to their aid such persons, or power of their county as they may deem necessary.

[1965 c 92 § 1; 1963 c 4 § 36.28.010. Prior: (i) 1891 c 45 § 1; RRS § 4157. (ii) Code 1881 § 2769; 1863 p 557 § 4; 1854 p 434 § 4; RRS § 4168.]

RCW 36.28.011 Duty to make complaint.

In addition to the duties contained in RCW 36.28.010, it shall be the duty of all sheriffs to make complaint of all violations of the criminal law, which shall come to their knowledge, within their respective jurisdictions.

[1963 c 4 § 36.28.011. Prior: 1955 c 10 § 1. Cf. Code 1881 § 2801, part; 1869 p 264 § 311, part; RRS § 4173, part.]

RCW 36.28.020 Powers of deputies, regular and special.

Every deputy sheriff shall possess all the power, and may perform any of the duties, prescribed by law to be performed by the sheriff, and shall serve or execute, according to law, all process, writs, precepts, and orders, issued by lawful authority.

Persons may also be deputed by the sheriff in writing to do particular acts; including the service of process in civil or criminal cases, and the sheriff shall be responsible on his official bond for their default or misconduct.

[1963 c 4 § 36.28.020. Prior: 1961 c 35 § 2; prior: (i) Code 1881 § 2767, part; 1871 p 110 § 1, part; 1863 p 557 § 2, part; 1854 p 434 § 2, part; RRS § 4160, part. (ii) 1886 p 174 § 1; Code 1881 § 2768; 1863 p 557 § 3; 1854 p 434 § 3; RRS § 4167.]

RCW 36.28.025 Qualifications.

A person who files a declaration of candidacy for the office of sheriff after September 1, 1979, shall have, within twelve months of assuming office, a certificate of completion of a basic law enforcement training program which complies with standards adopted by the criminal justice training commission pursuant to RCW 43.101.080 and *43.101.160.

This requirement does not apply to persons holding the office of sheriff in any county on September 1, 1979.

[1979 ex.s. c 153 § 6.]

Notes:

***Reviser's note:** RCW 43.101.160 was repealed by 1983 c 197 § 55, effective June 30, 1987.

RCW 36.28.030 New or additional bond of sheriff.

Whenever the company acting as surety on the official bond of a sheriff is disqualified, insolvent, or the penalty of the bond becomes insufficient on account of recovery had thereon, or otherwise, the sheriff shall submit a new or additional bond for approval to the board of county commissioners, if in session, or, if not in session, for the approval of the chairman of such board, and file the same, when approved, in the office of the county clerk of his county, and such new or additional bond shall be in a penal sum sufficient in amount to equal the sum specified in the original bond when added to the penalty of any existing bond, so that under one or more bonds there shall always be an enforceable obligation of the surety on the official bond or bonds of the sheriff in a penal sum of not less than the amount of the bond as originally approved.

[1963 c 4 § 36.28.030. Prior: 1943 c 139 § 2; Rem. Supp. 1943 § 4155-1.]

RCW 36.28.040 May demand fees in advance.

No sheriff, deputy sheriff, or coroner shall be liable for any damages for neglecting or refusing to serve any civil process unless his legal fees are first tendered him.

[1963 c 4 § 36.28.040. Prior: 1941 c 237 § 1, part; 1935 c 33 § 1, part; Code 1881 § 2772, part; 1863 p 558 § 7, part; 1854 p 434 § 7, part; Rem. Supp. 1941 § 4172, part.]

RCW 36.28.050 May demand indemnifying bond.

If any property levied upon by virtue of any writ of attachment or execution or other order issued to the sheriff out of any court in this state is claimed by any person other than the

defendant, and such person or his agent or attorney makes affidavit of his title thereto or his right to possession thereof, stating the value thereof and the basis of such right or title, the sheriff may release such levy, unless the plaintiff on demand indemnifies the sheriff against such claim by an undertaking executed by a sufficient surety.

No claim to such property by any person other than the defendant shall be valid against the sheriff, unless the supporting affidavit is made. Notwithstanding receipt of a proper claim the sheriff shall retain such property under levy a reasonable time to demand such indemnity.

Any sheriff, or other levying officer, may require an indemnifying bond of the plaintiff in all cases where he has to take possession of personal property.

[1963 c 4 § 36.28.050. Prior: 1941 c 237 § 1, part; 1935 c 33 § 1, part; Code 1881 § 2772, part; 1863 p 558 § 7, part; 1854 p 434 § 7, part; Rem. Supp. 1941 § 4172, part.]

RCW 36.28.060 Duplicate receipts.

The sheriff shall make duplicate receipts for all payments for his services specifying the particular items thereof, at the time of payment, whether paid by virtue of the laws of this state or of the United States. Such duplicate receipts shall be numbered consecutively for each month commencing with number one. One of such receipts shall have written or printed upon it the word "original"; and the other shall have written or printed upon it the word "duplicate."

[1963 c 4 § 36.28.060. Prior: (i) 1909 c 105 § 1; RRS § 4161. (ii) 1909 c 105 § 2; RRS § 4162.]

RCW 36.28.070 Duplicate to payer.

At the time of payment of any fees, the sheriff shall deliver to the person making payment, either personally or by mail, the copy of the receipt designated "duplicate."

[1963 c 4 § 36.28.070. Prior: 1909 c 105 § 3; RRS § 4163.]

RCW 36.28.080 Original to be filed.

The receipts designated "original" for each month shall be attached to the verified statement of fees for the corresponding month and the sheriff shall file with the county treasurer of his county all original receipts for each month with such verified statement. A sheriff shall not receive his salary for the preceding month until the provisions of this section and RCW 36.28.060 and 36.28.070 have been complied with.

[1963 c 4 § 36.28.080. Prior: (i) 1909 c 105 § 4; RRS § 4164. (ii) 1909 c 105 § 5; RRS § 4165.]

RCW 36.28.090 Service of process when sheriff disqualified.

When there is no sheriff of a county, or he is disqualified from any cause from discharging any particular duty, it shall be lawful for the officer or person commanding or desiring the discharge of that duty to appoint some suitable person, a citizen of the county, to execute the same: PROVIDED, That final process shall in no case be executed by any person

other than the legally authorized officer; or in case he is disqualified, some suitable person appointed by the court, or judge thereof, out of which the process issues, who shall make such appointment in writing; and before such appointment shall take effect, the person appointed shall give security to the party interested for the faithful performance of his duties, which bond of suretyship shall be in writing, approved by the court or judge appointing him, and be placed on file with the papers in the case.

[1963 c 4 § 36.28.090. Prior: Code 1881 § 745; 1869 p 172 § 687; RRS § 4170.]

RCW 36.28.100 Employment of prisoners.

The sheriff or director of public safety shall employ all able bodied persons sentenced to imprisonment in the county jail in such manner and at such places within the county as may be directed by the legislative authority of the county.

[1973 1st ex.s. c 154 § 54; 1963 c 4 § 36.28.100. Prior: 1909 c 249 § 27; RRS § 2279.]

Notes:

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

RCW 36.28.110 Sheriff not to practice law.

No sheriff shall appear or practice as attorney in any court, except in their own defense.

[1992 c 225 § 2; 1963 c 4 § 36.28.110. Prior: 1891 c 45 § 4, part; Code 1881 § 2770, part; 1863 p 558 § 5, part; 1854 p 434 § 5, part; RRS § 4171, part.]

RCW 36.28.120 Duty of retiring sheriffs, constables and coroners--Successors' duties.

All sheriffs, constables and coroners, upon the completion of their term of office and the qualification of their successors, shall deliver and turn over to their successors all writs and other processes in their possession not wholly executed, and all personal property in their possession or under their control held under such writs or processes, and take receipts therefor in duplicate, one of which shall be filed in the office from which such writ or process issued as a paper in the action, which receipt shall be good and sufficient discharge to such officer of and from further charge of the execution of such writs and processes; and they shall also deliver to their successors all official papers and property in their possession or under their control. The successors shall execute or complete the execution of all such writs and processes, and finish and complete all business turned over to them.

[1963 c 4 § 36.28.120. Prior: 1895 c 17 § 1; RRS § 4174.]

RCW 36.28.130 Actions by successors and by officials after expiration of term of office validated.

In all cases where any sheriff, constable or coroner has executed any writ or other process

delivered to him by his predecessor, or has completed any business commenced by his predecessor under any writ or process, and has completed any other business commenced by his predecessor, and in all cases where any sheriff, constable or coroner has executed any writ or other process, or completed any business connected with his office after the expiration of his term of office, which writ or process he had commenced to execute, or which business he had commenced to perform, prior to the expiration of his term of office, such action shall be valid and effectual for all purposes.

[1963 c 4 § 36.28.130. Prior: 1895 c 17 § 2; RRS § 4175.]

RCW 36.28.140 Penalty for violation of RCW 36.28.060 through 36.28.080.

Any sheriff violating any of the provisions of RCW 36.28.060, 36.28.070 or 36.28.080, or failing to perform any of the duties required thereby, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten dollars nor more than fifty dollars for each offense.

[1963 c 4 § 36.28.140. Prior: 1909 c 105 § 6; RRS § 4166.]

RCW 36.28.150 Liability for fault or misconduct.

Whenever any sheriff neglects to make due return of any writ or other process delivered to him to be executed, or is guilty of any default or misconduct in relation thereto, he shall be liable to fine or attachment, or both, at the discretion of the court, subject to appeal, such fine, however, not to exceed two hundred dollars; and also to an action for damages to the party aggrieved.

[1963 c 4 § 36.28.150. Prior: Code 1881 § 2771; 1863 p 558 § 6; 1854 p 434 § 6; RRS § 4169.]

RCW 36.28.160 Office at county seat.

The sheriff must keep his office at the county seat of the county of which he is sheriff.

[1963 c 4 § 36.28.160. Prior: 1891 c 45 § 2; RRS § 4158. SLC-RO-14.]

RCW 36.28.170 Standard uniform for sheriffs and deputies.

The executive secretary of the Washington state association of elected county officials, upon written approval of a majority of the sheriffs in the state, shall file with the secretary of state a description of a standard uniform which may be withdrawn or modified by re-filing in the same manner as originally filed. A uniform of the description so filed shall thereafter be reserved exclusively for the use of sheriffs and their deputies: PROVIDED, That the filing of a standard uniform description shall not make mandatory the adoption of said uniform by any county sheriff or his deputies.

[1963 c 50 § 1.]

RCW 36.28.180 Allowance for clothing and other incidentals.

A county may from available funds provide for an allowance for clothing and other incidentals necessary to the performance of official duties for the sheriff and his deputies.

[1979 c 132 § 1; 1963 c 50 § 2.]

RCW 36.28.190 City contracts to obtain sheriff's office law enforcement services.

See RCW 41.14.250 through 41.14.280.

**Chapter 36.28A RCW
ASSOCIATION OF SHERIFFS AND POLICE CHIEFS**

Sections

- 36.28A.010 Declarations.
- 36.28A.020 Local law and justice plan assistance.
- 36.28A.030 Malicious harassment--Information reporting and dissemination.
- 36.28A.040 Statewide city and county jail booking and reporting system--Standards committee.
- 36.28A.050 Statewide city and county jail booking and reporting system--Grant fund.

RCW 36.28A.010 Declarations.

The Washington association of sheriffs and police chiefs is hereby declared to be a combination of units of local government: PROVIDED, That such association shall not be considered an "employer" within the meaning of RCW 41.26.030(2) or 41.40.010(4): PROVIDED FURTHER, That no compensation received as an employee of the association shall be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state: PROVIDED FURTHER, That such association shall not qualify for inclusion under the unallocated two mills of the property tax of any political subdivision: PROVIDED FURTHER, That the association shall not have the authority to assess any excess levy or bond measure.

[1975 1st ex.s. c 172 § 1.]

RCW 36.28A.020 Local law and justice plan assistance.

The Washington association of sheriffs and police chiefs may, upon request of a county's legislative authority, assist the county in developing and implementing its local law and justice plan. In doing so, the association shall consult with the office of financial management and the department of corrections.

[1991 c 363 § 56.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.28A.030 Malicious harassment--Information reporting and dissemination.

(1) The Washington association of sheriffs and police chiefs shall establish and maintain a central repository for the collection and classification of information regarding violations of RCW 9A.36.080. Upon establishing such a repository, the association shall develop a procedure to monitor, record, and classify information relating to violations of RCW 9A.36.080 and any other crimes of bigotry or bias apparently directed against other persons because the people committing the crimes perceived that their victims were of a particular race, color, religion, ancestry, national origin, gender, sexual orientation, or had a mental, physical, or sensory handicap.

(2) All local law enforcement agencies shall report monthly to the association concerning all violations of RCW 9A.36.080 and any other crimes of bigotry or bias in such form and in such manner as prescribed by rules adopted by the association. Agency participation in the association's reporting programs, with regard to the specific data requirements associated with violations of RCW 9A.36.080 and any other crimes of bigotry or bias, shall be deemed to meet agency reporting requirements. The association must summarize the information received and file an annual report with the governor and the senate law and justice committee and the house of representatives judiciary committee.

(3) The association shall disseminate the information according to the provisions of chapters 10.97 and 10.98 RCW, and all other confidentiality requirements imposed by federal or Washington law.

[1993 c 127 § 4.]

Notes:

Severability--1993 c 127: See note following RCW 9A.36.078.

RCW 36.28A.040 Statewide city and county jail booking and reporting system--Standards committee.

(1) No later than July 1, 2002, the Washington association of sheriffs and police chiefs shall implement and operate an electronic statewide city and county jail booking and reporting system. The system shall serve as a central repository and instant information source for offender information and jail statistical data. The system shall be placed on the Washington state justice information network and be capable of communicating electronically with every Washington state city and county jail and with all other Washington state criminal justice agencies as defined in RCW 10.97.030.

(2) After the Washington association of sheriffs and police chiefs has implemented an electronic jail booking system as described in subsection (1) of this section, if a city or county jail or law enforcement agency receives state or federal funding to cover the entire cost of implementing or reconfiguring an electronic jail booking system, the city or county jail or law enforcement agency shall implement or reconfigure an electronic jail booking system that is in compliance with the jail booking system standards developed pursuant to subsection (4) of this

section.

(3) After the Washington association of sheriffs and police chiefs has implemented an electronic jail booking system as described in subsection (1) of this section, city or county jails, or law enforcement agencies that operate electronic jail booking systems, but choose not to accept state or federal money to implement or reconfigure electronic jail booking systems, shall electronically forward jail booking information to the Washington association of sheriffs and police chiefs. At a minimum the information forwarded shall include the name of the offender, vital statistics, the date the offender was arrested, the offenses arrested for, the date and time an offender is released or transferred from a city or county jail, and if available, the mug shot. The electronic format in which the information is sent shall be at the discretion of the city or county jail, or law enforcement agency forwarding the information. City and county jails or law enforcement agencies that forward jail booking information under this subsection are not required to comply with the standards developed under subsection (4)(b) of this section.

(4) The Washington association of sheriffs and police chiefs shall appoint, convene, and manage a statewide jail booking and reporting system standards committee. The committee shall include representatives from the Washington association of sheriffs and police chiefs correction committee, the information service board's justice information committee, the judicial information system, at least two individuals who serve as jailers in a city or county jail, and other individuals that the Washington association of sheriffs and police chiefs places on the committee. The committee shall have the authority to:

(a) Develop and amend as needed standards for the statewide jail booking and reporting system and for the information that must be contained within the system. At a minimum, the system shall contain:

(i) The offenses the individual has been charged with;

(ii) Descriptive and personal information about each offender booked into a city or county jail. At a minimum, this information shall contain the offender's name, vital statistics, address, and mugshot;

(iii) Information about the offender while in jail, which could be used to protect criminal justice officials that have future contact with the offender, such as medical conditions, acts of violence, and other behavior problems;

(iv) Statistical data indicating the current capacity of each jail and the quantity and category of offenses charged;

(v) The ability to communicate directly and immediately with the city and county jails and other criminal justice entities; and

(vi) The date and time that an offender was released or transferred from a local jail;

(b) Develop and amend as needed operational standards for city and county jail booking systems, which at a minimum shall include the type of information collected and transmitted, and the technical requirements needed for the city and county jail booking system to communicate with the statewide jail booking and reporting system;

(c) Develop and amend as needed standards for allocating grants to city and county jails or law enforcement agencies that will be implementing or reconfiguring electronic jail booking systems.

(5) By January 1, 2001, the standards committee shall complete the initial standards described in subsection (4) of this section, and the standards shall be placed into a report and provided to all Washington state city and county jails, all other criminal justice agencies as defined in RCW 10.97.030, the chair of the Washington state senate human services and corrections committee, and the chair of the Washington state house of representatives criminal justice and corrections committee.

[2001 c 169 § 3; 2000 c 3 § 1.]

NOTES:

Contingent expiration date--2000 c 3: "If the Washington association of sheriffs and police chiefs does not receive federal funding for purposes of this act by December 31, 2000, this act is null and void." [2000 c 3 § 4.] According to the Washington association of sheriffs and police chiefs, federal funding for the purposes of chapter 3, Laws of 2000, was received by December 31, 2000.

RCW 36.28A.050 Statewide city and county jail booking and reporting system--Grant fund.

(1) The Washington association of sheriffs and police chiefs shall establish and manage a local jail booking system grant fund. All federal or state money collected to offset the costs associated with RCW 36.28A.040(2) shall be processed through the grant fund established by this section. The statewide jail booking and reporting system standards committee established under RCW 36.28A.040(4) shall distribute the grants in accordance with any standards it develops.

(2) The Washington association of sheriffs and police chiefs shall pursue federal funding to be placed into the local jail booking system grant fund.

[2000 c 3 § 2.]

NOTES:

Contingent expiration date--2000 c 3: See note following RCW 36.28A.040.

**Chapter 36.29 RCW
COUNTY TREASURER**

Sections

36.29.010	General duties.
36.29.020	Custodian of moneys--Investment of funds not required for immediate expenditures--Service fee.
36.29.022	Combining of moneys for investment.
36.29.024	Investment expenses.
36.29.025	Official seal.
36.29.040	Interest on unpaid warrants.
36.29.050	Interest to be entered on warrant register.
36.29.060	Warrant calls.
36.29.070	Penalty for failure to call.
36.29.090	Suspension of treasurer.
36.29.100	Ex officio collector of first class city taxes.
36.29.110	City taxes.

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- 36.29.120 Ex officio collector of other city taxes.
- 36.29.130 Duty to collect taxes.
- 36.29.160 Segregation and collection of specified assessments and charges made by public utility districts, water-sewer districts, or the county--Fee.
- 36.29.170 Office at county seat.
- 36.29.180 Fees for handling, collecting, dispersing, and accounting for special assessments, fees, rates, or charges.
- 36.29.190 Acceptance of payment by credit cards, charge cards, and other electronic communications authorized--Costs borne by payer--Exception.
- 36.29.200 Collection of sales and use taxes for zoo and aquarium advisory authority.

Notes:

Deeds issued by, limitation on actions against: RCW 4.16.090.

Department of revenue to advise: RCW 84.08.020.

Deposit of public funds with: State Constitution Art. 11 § 15.

Duties relating to

assessment and charges against state lands (local purposes): Chapter 79.44 RCW.

bailiff's salary: RCW 2.32.370.

bonds, form, sale, etc.: RCW 39.44.130.

cemetery districts: Chapter 68.52 RCW.

cities and towns

agreements with county for planning, construction, etc., of streets: RCW 35.77.030.

annexation of unincorporated areas: Chapter 35.13 RCW.

disincorporation of: Chapter 35.07 RCW.

incorporation of: Chapter 35.02 RCW.

unfit buildings, structures, or premises, proceedings to abate: RCW 35.80.030.

community college fees: Chapter 28B.15 RCW.

county and city tuberculosis hospital: Chapter 70.30 RCW.

county law library fund: RCW 27.24.070.

county road fund

illegal use of: RCW 47.08.100.

penalty: RCW 47.08.110.

county superintendent of schools of joint county district, funds for: Chapter 28A.310 RCW.

court reporter compensation, traveling expenses: RCW 2.32.210.

damage done by dogs: Chapter 16.08 RCW.

dances, licensing of: Chapter 67.12 RCW.

diking and drainage, intercounty districts: Chapter 85.24 RCW.

diking districts: Chapter 85.05 RCW.

reorganization of (1917 act): Chapter 85.20 RCW.

diking, drainage or sewerage improvement districts: Chapter 85.08 RCW.

federal aid to: Chapter 85.12 RCW.

maintenance costs and levies: Chapter 85.16 RCW.

diking, drainage district benefits to roads, how paid: RCW 85.07.040, 85.07.050.

disinfection of horticultural premises: Chapter 15.08 RCW.

district court income: Chapter 3.62 RCW.

district courts and other inferior courts (1961 act): Chapters 3.30, 3.34, 3.38, 3.42, 3.46, 3.50, 3.54, 3.58, 3.62, 3.66, 3.70, 3.74 RCW.

dogs: Chapter 16.08 RCW.

drainage districts: Chapter 85.06 RCW.

revenue act: Chapter 85.32 RCW.

fire protection district: Chapter 52.16 RCW.

local improvement districts: Chapter 52.20 RCW.

flood control by counties jointly: Chapter 86.13 RCW.

flood control districts (1937 act): Chapter 86.09 RCW.

flood control zone districts: Chapter 86.15 RCW.

forest insect and disease control: Chapter 76.06 RCW.

forest rehabilitation: Chapter 76.14 RCW.

funding indebtedness of counties: Chapter 39.52 RCW.

health districts: Chapter 70.46 RCW.

hospital districts: Chapter 70.44 RCW.

industrial development districts: Chapter 53.25 RCW.

intercounty rural library district: Chapter 27.12 RCW.

intercounty weed districts: Chapter 17.06 RCW.

irrigation districts

dissolution of insolvent districts: Chapter 87.56 RCW.

generally: Chapter 87.03 RCW.

joint control of: Chapter 87.80 RCW.

refunding bonds (1923 act): Chapter 87.19 RCW.

refunding bonds (1929 act): Chapter 87.22 RCW.

revenue bonds on domestic water or power service: Chapter 87.28 RCW.

under contract with United States: Chapter 87.68 RCW.

island counties, refund of vehicle license and fuel tax fees: RCW 46.68.080.

lien for transportation, storage, advancements, etc.: Chapter 60.60 RCW.

lien foreclosure: Chapter 84.64 RCW.

liquor, billiard tables, bowling alleys, licensing of use, sale of: Chapter 67.14 RCW.

metropolitan municipal corporations: Chapter 35.58 RCW.

local improvement districts: RCW 35.58.500.

metropolitan park district bonds: Chapter 35.61 RCW.

mobile home movement permits and decals: RCW 46.44.170, 46.44.173.

mosquito control districts: Chapter 17.28 RCW.

municipal courts: Chapter 35.20 RCW.

pest districts: Chapter 17.12 RCW.

port districts

acquisition of property by: Chapter 53.08 RCW.

dissolution of: Chapter 53.48 RCW.

finances of: Chapter 53.36 RCW.

local improvement districts: RCW 53.08.050.

public health pooling fund: RCW 70.12.030 through 70.12.070.

public lands, sales and lease of, treasurer to perform auditors duties in certain counties: RCW 79.08.170.

public utility districts

local improvement assessment delinquency: Chapter 54.24 RCW.

privilege tax, distribution of: Chapter 54.28 RCW.

public waterway district: Chapter 91.08 RCW.

public works, treasurer to require statement of hourly wage paid: RCW 39.12.040.

reclamation districts of one million acres: Chapter 89.30 RCW.

recording of town plats, generally: Chapter 58.08 RCW.

reforestation: Chapter 76.12 RCW.

regional libraries: RCW 27.12.080.

registration of land titles: Chapter 65.12 RCW.

river and harbor improvement districts: Chapter 88.32 RCW.

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rural county library district: Chapter 27.12 RCW.

school districts

bonds: Chapter 28A.530 RCW.

funds, investment by: RCW 28A.320.320.

organization: Chapter 28A.315 RCW.

first class, signing of warrants by: RCW 28A.330.080.

validation of indebtedness: Chapter 28A.535 RCW.

warrants of: Chapter 28A.350 RCW.

school funds: Chapter 28A.545 RCW.

stock restricted areas: Chapter 16.24 RCW.

tax liens, foreclosure of when city or town L.I.D. assessments on: RCW 35.49.130 through 35.49.160.

taxes

excise tax on real estate sales: Chapter 82.45 RCW.

transportation vehicle fund: RCW 28A.160.130.

property

collection of: Chapter 84.56 RCW.

lien foreclosure: Chapter 84.64 RCW.

lien of: Chapter 84.60 RCW.

listing of: Chapter 84.40 RCW.

recovery: Chapter 84.68 RCW.

teachers' certification fees: RCW 28A.410.060.

townsites on United States lands, acquisition of land by inhabitants: Chapter 58.28 RCW.

traffic schools: Chapter 46.83 RCW.

trespass by animals, sale of for damages: Chapter 16.04 RCW.

water-sewer districts

generally: Title 57 RCW.

local improvement districts: Chapter 57.16 RCW.

local improvement guaranty fund: RCW 57.20.030.

maintenance fund, special funds: RCW 57.20.140.

weed districts: Chapter 17.04 RCW.

Flood control districts (1937 act), treasurer as ex officio district treasurer: RCW 86.09.313.

Intercounty weed district, treasurer as ex officio treasurer of: RCW 17.06.060.

Irrigation districts

generally, treasurer as ex officio treasurer: RCW 87.03.440.

refunding bonds (1929 act), payable at office of: RCW 87.22.165.

Misappropriation by: RCW 42.20.090.

Public depositaries--Deposit and investment of public funds: Chapter 39.58 RCW.

Public utility districts, treasurer as ex officio treasurer of: RCW 54.24.010.

Reclamation districts of one million acres

treasurer as ex officio treasurer: RCW 89.30.310.

treasurer may act as district secretary: RCW 89.30.625.

treasurer's liability: RCW 89.30.313.

Recording of town plats, proceedings for violations brought in name of treasurer: RCW 58.08.035.

School districts, treasurer as ex officio treasurer of: RCW 28A.510.270.

Taxes, property, penalty for nonperformance of duty: RCW 84.09.040.

Taxes and assessments, prepayment and deposit of: RCW 36.32.120.

Unclaimed money and property in hands of public authority, disposition: RCW 63.29.130.

Vehicle licensing handling fee to go to: RCW 46.01.140.

Violations bureau moneys remitted to: RCW 3.30.090.

Water-sewer districts, bonds, payment of interest: RCW 57.20.130.

Weed district, treasurer as ex officio treasurer of: RCW 17.04.250.

RCW 36.29.010 General duties.

The county treasurer:

(1) Shall receive all money due the county and disburse it on warrants issued and attested by the county auditor and electronic funds transfer under RCW 39.58.750 as attested by the county auditor;

(2) Shall issue a receipt in duplicate for all money received other than taxes; the treasurer shall deliver immediately to the person making the payment the original receipt and the duplicate shall be retained by the treasurer;

(3) Shall affix on the face of all paid warrants the date of redemption or, in the case of proper contract between the treasurer and a qualified public depository, the treasurer may consider the date affixed by the financial institution as the date of redemption;

(4) Shall endorse, before the date of issue by the county or by any taxing district for whom the county treasurer acts as treasurer, on the face of all warrants for which there are not sufficient funds for payment, "interest bearing warrant." When there are funds to redeem outstanding warrants, the county treasurer shall give notice:

(a) By publication in a legal newspaper published or circulated in the county; or

(b) By posting at three public places in the county if there is no such newspaper; or

(c) By notification to the financial institution holding the warrant;

(5) Shall pay interest on all interest-bearing warrants from the date of issue to the date of notification;

(6) Shall maintain financial records reflecting receipts and disbursement by fund in accordance with generally accepted accounting principles;

(7) Shall account for and pay all bonded indebtedness for the county and all special districts for which the county treasurer acts as treasurer;

(8) Shall invest all funds of the county or any special district in the treasurer's custody, not needed for immediate expenditure, in a manner consistent with appropriate statutes. If cash is needed to redeem warrants issued from any fund in the custody of the treasurer, the treasurer shall liquidate investments in an amount sufficient to cover such warrant redemptions; and

(9) May provide certain collection services for county departments.

The treasurer, at the expiration of the term of office, shall make a complete settlement with the county legislative authority, and shall deliver to the successor all public money, books, and papers in the treasurer's possession.

[2001 c 299 § 4; 1998 c 106 § 3; 1995 c 38 § 4; 1994 c 301 § 7; 1991 c 245 § 4; 1963 c 4 § 36.29.010. Prior: (i) 1893 c 104 § 1; Code 1881 § 2740; 1863 p 553 § 3; 1854 p 427 § 3; RRS § 4109. (ii) Code 1881 § 2742; 1863 p 553 § 5; 1854 p 427 § 5; RRS § 4110. (iii) Code 1881 § 2743; 1863 p 553 § 6; 1854 p 427 § 6; RRS § 4111. (iv) 1895 c 73 § 4; Code 1881 § 2744; 1863 p 553 § 7; 1854 p 427 § 7; RRS § 4113. (v) Code 1881 § 2745; 1863 p 553 § 8; RRS § 4114. (vi) 1893 c 104 § 3; Code 1881 § 2748; 1863 p 554 § 11; 1854 p 428 § 11; RRS § 4120. (vii) Code 1881 § 2750; 1863 p 554 § 13; 1854 p 428 § 13; RRS § 4121. (viii) 1895 c 73 § 3; RRS § 4122.]

NOTES:

Acts of municipal officers ratified and confirmed--1995 c 38: See note following RCW 3.02.045.

RCW 36.29.020 Custodian of moneys--Investment of funds not required for immediate expenditures--Service fee.

The county treasurer shall keep all moneys belonging to the state, or to any county, in his or her own possession until disbursed according to law. The county treasurer shall not place the same in the possession of any person to be used for any purpose; nor shall he or she loan or in any manner use or permit any person to use the same; but it shall be lawful for a county treasurer to deposit any such moneys in any regularly designated qualified public depository. Any municipal corporation may by action of its governing body authorize any of its funds which are not required for immediate expenditure, and which are in the custody of the county treasurer or other municipal corporation treasurer, to be invested by such treasurer. The county treasurer may invest in savings or time accounts in designated qualified public depositories or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED, Five percent of the earnings, with an annual maximum of fifty dollars, on each transaction authorized by the governing body shall be paid as an investment service fee to the office of the county treasurer or other municipal corporation treasurer when the earnings become available to the governing body: PROVIDED FURTHER, That if such investment service fee amounts to five dollars or less the county treasurer or other municipal corporation treasurer may waive such fee.

If in the judgment of the governing body of the municipal corporation or the county treasurer it is necessary to redeem or to sell any of the purchased securities before their ultimate maturity date, the governing body may, by resolution, direct the county treasurer pursuant to RCW 36.29.010(8) to cause such redemption to be had at the redemption value of the securities or to sell the securities at not less than market value and accrued interest.

Whenever the funds of any municipal corporation which are not required for immediate expenditure are in the custody or control of the county treasurer, and the governing body of such municipal corporation has not taken any action pertaining to the investment of any such funds, the county finance committee shall direct the county treasurer, under the investment policy of the county finance committee, to invest, to the maximum prudent extent, such funds or any portion thereof in savings or time accounts in designated qualified public depositories or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, in bankers'

acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED, That the county treasurer shall have the power to select the specific qualified financial institution in which the funds may be invested. The interest or other earnings from such investments or deposits shall be deposited in the current expense fund of the county and may be used for general county purposes. The investment or deposit and disposition of the interest or other earnings therefrom authorized by this paragraph shall not apply to such funds as may be prohibited by the state Constitution from being so invested or deposited.

[1999 c 18 § 4; 1997 c 393 § 4; 1991 c 245 § 5; 1984 c 177 § 7; 1982 c 73 § 1; 1980 c 56 § 1; 1979 c 57 § 1; 1973 1st ex.s. c 140 § 1; 1969 ex.s. c 193 § 26; 1967 c 173 § 1; 1965 c 111 § 2; 1963 c 4 § 36.29.020. Prior: 1961 c 254 § 1; 1895 c 73 § 1; RRS § 4112.]

Notes:

Construction--Severability--1969 ex.s. c 193: See notes following RCW 39.58.010.

Liability of treasurers for losses on public deposits: RCW 39.58.140.

Public depositaries: Chapter 39.58 RCW.

RCW 36.29.022 Combining of moneys for investment.

Upon the request of one or several units of local government that invest their money with the county under the provisions of RCW 36.29.020, the treasurer of that county may combine those units' moneys for the purposes of investment.

[1986 c 294 § 11.]

RCW 36.29.024 Investment expenses.

The county treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any county funds appropriated and expended for the initial administrative costs of establishing a county investment pool provided in RCW 36.29.022. Any credits or payments to political subdivisions shall be calculated and made in a manner which equitably reflects the differing amounts of the political subdivision's respective deposits in the county investment pool and the differing periods of time for which the amounts were placed in the county investment pool.

[1988 c 281 § 5.]

Notes:

Severability--1988 c 281: See RCW 39.59.900.

RCW 36.29.025 Official seal.

The county treasurer in each of the organized counties of the state of Washington, shall be by his county provided with a seal of office for the authentication of all tax deeds, papers, writing and documents required by law to be certified or authenticated by him. Such seal shall bear the device of crosskeys and the words: Official Seal Treasurer County, Washington; and an imprint of such seal, together with the certificate of the county treasurer that such seal has been regularly adopted, shall be filed in the office of the county auditor of such county.

[1963 c 4 § 36.29.025. Prior: 1903 c 15 § 1; RRS § 4125.]

RCW 36.29.040 Interest on unpaid warrants.

All county, school, city and town warrants, and taxing district warrants when not otherwise provided for by law, shall be paid according to their number, date and issue, and when not paid upon presentation shall draw interest from the date of their presentation to the proper treasurers or from the date the warrants were originally issued, as determined by the proper treasurer. No compound interest shall be paid directly or indirectly on any such warrants.

[1980 c 100 § 3; 1963 c 4 § 36.29.040. Prior: 1893 c 48 § 1, part; RRS § 4116, part.]

RCW 36.29.050 Interest to be entered on warrant register.

When the county treasurer redeems any warrant on which interest is due, the treasurer shall enter on the warrant register account the amount of interest paid, distinct from the principal.

[2001 c 299 § 5; 1969 ex.s. c 48 § 1; 1963 c 4 § 36.29.050. Prior: Code 1881 § 2746; 1863 p 554 § 9; 1854 p 427 § 9; RRS § 4117.]

RCW 36.29.060 Warrant calls.

Whenever the county treasurer has funds belonging to any fund upon which "interest-bearing" warrants are outstanding, the treasurer shall have the discretion to call warrants. The county treasurer shall give notice as provided for in RCW 36.29.010(4). The treasurer shall pay on demand, in the order of their issue, any warrants when there shall be in the treasury sufficient funds applicable to such payment.

[1991 c 245 § 6; 1985 c 469 § 44; 1980 c 100 § 4; 1963 c 4 § 36.29.060. Prior: 1895 c 152 § 1, part; RRS § 4118, part.]

RCW 36.29.070 Penalty for failure to call.

Any treasurer who knowingly fails to call for or pay any warrant in accordance with the provisions of RCW 36.29.060 shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than twenty-five dollars nor more than five hundred dollars, and such conviction shall be sufficient cause for removal from office.

[1963 c 4 § 36.29.070. Prior: 1895 c 152 § 2, part; RRS § 4119, part.]

RCW 36.29.090 Suspension of treasurer.

Whenever an action based upon official misconduct is commenced against any county treasurer the county commissioners may suspend the treasurer from office until such suit is determined, and may appoint some person to fill the vacancy.

[2001 c 299 § 6; 1963 c 4 § 36.29.090. Prior: 1895 c 73 § 2; Code 1881 § 2749; 1863 p 554 § 12; 1854 p 428 § 12; RRS § 4124.]

RCW 36.29.100 Ex officio collector of first class city taxes.

The county treasurer of each county in which there is a city of the first class is ex officio collector of city taxes of such city, and before entering upon the duties of office the treasurer shall execute in favor of the city and file with the clerk thereof a good and sufficient bond, the penal sum to be fixed by the city council, such bond to be approved by the mayor of such city or other authority thereof by whom the bond of the city treasurer is required to be approved. All special assessments and special taxation for local improvements assessed on property benefited shall be collected by the city treasurer.

[2001 c 299 § 7; 1963 c 4 § 36.29.100. Prior: 1895 c 160 § 1; 1893 c 71 § 4; RRS § 11321.]

RCW 36.29.110 City taxes.

All city taxes and earnings on such taxes, as provided for in RCW 36.29.020, collected during the month shall be remitted to the city by the county treasurer on or before the tenth day of the following month. The county treasurer shall submit a statement of taxes collected with such remittance. To facilitate the investment of collected taxes, the treasurer may invest as provided for in RCW 36.29.020 without the necessity of the cities specifically requesting combining funds for the purposes of investment.

[1991 c 245 § 7; 1963 c 4 § 36.29.110. Prior: 1905 c 157 § 1; 1895 c 160 § 2; 1893 c 71 § 5; RRS § 11322.]

RCW 36.29.120 Ex officio collector of other city taxes.

For the purpose of collection of all taxes levied for cities and towns of other than the first class, the county treasurer of the county wherein such city or town is situated shall be ex officio tax collector.

[1963 c 4 § 36.29.120. Prior: 1893 c 72 § 3; RRS § 11330.]

RCW 36.29.130 Duty to collect taxes.

The county treasurer, upon receipt of the tax roll, shall proceed to collect and receipt for the municipal taxes extended thereon at the same time and in the same manner as he proceeds in the collection of other taxes on such roll.

[1963 c 4 § 36.29.130. Prior: 1893 c 72 § 7; RRS § 11334.]

RCW 36.29.160 Segregation and collection of specified assessments and charges made by public utility districts, water-sewer districts, or the county--Fee.

The county treasurer shall make segregation, collect, and receive from any owner or owners of any subdivision or portion of any lot, tract or parcel of land upon which assessments or charges have been made or may be made by public utility districts, water-sewer districts, or the county, under the terms of Title 54 RCW, Title 57 RCW, or chapter 36.88, 36.89, or 36.94 RCW, such portion of the assessments or charges levied or to be levied against such lot, tract or parcel of land in payment of such assessment or charges as the board of commissioners of the public utility district, the water-sewer district commissioners or the board of county commissioners, respectively, shall certify to be chargeable to such subdivision, which certificate shall state that such property as segregated is sufficient security for the assessment or charges. Upon making collection upon any such subdivision the county treasurer shall note such payment upon the records of the office of the treasurer and give receipt therefor. When a segregation is required, a certified copy of the resolution shall be delivered to the treasurer of the county in which the real property is located who shall proceed to make the segregation ordered upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made.

[2001 c 299 § 8; 1998 c 106 § 4; 1996 c 230 § 1607; 1963 c 4 § 36.29.160. Prior: 1959 c 142 § 2; 1953 c 210 § 1.]

NOTES:

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

RCW 36.29.170 Office at county seat.

The county treasurer shall keep the office of the treasurer at the county seat, and shall keep the same open for transaction of business during business hours; and the treasurer and the treasurer's deputy are authorized to administer all oaths necessary in the discharge of the duties of the office.

[2001 c 299 § 9; 1963 c 4 § 36.29.170. Prior: Code 1881 § 2742; 1863 p 553 § 5; 1854 p 427 § 5; RRS § 4110.]

RCW 36.29.180 Fees for handling, collecting, dispersing, and accounting for special assessments, fees, rates, or charges.

The county treasurer, in all instances where required by law to handle, collect, disburse, and account for special assessments, fees, rates, or charges within the county, may charge and collect a fee for services not to exceed four dollars per parcel for each year in which the funds are collected. Such charges for services shall be based upon costs incurred by the treasurer in handling, collecting, disbursing, and accounting for the funds.

Such fees shall be a charge against the district and shall be credited to the county current expense fund by the county treasurer.

[1991 c 245 § 8; 1963 c 4 § 36.29.180. Prior: 1961 c 270 § 1.]

RCW 36.29.190 Acceptance of payment by credit cards, charge cards, and other electronic communications authorized--Costs borne by payer--Exception.

County treasurers are authorized to accept credit cards, charge cards, debit cards, smart cards, stored value cards, federal wire, and automatic clearinghouse system transactions, or other electronic communication, for any payment of any kind including, but not limited to, taxes, fines, interest, penalties, special assessments, fees, rates, charges, or moneys due counties. A payer desiring to pay by a credit card, charge card, debit card, smart card, stored value card, federal wire, automatic clearinghouse system, or other electronic communication shall bear the cost of processing the transaction in an amount determined by the treasurer, unless the county legislative authority finds that it is in the best interests of the county to not charge transaction processing costs for all payment transactions made for a specific category of nontax payments due the county, including, but not limited to, fines, interest not associated with taxes, penalties not associated with taxes, special assessments, fees, rates, and charges. The treasurer's cost determination shall be based upon costs incurred by the treasurer and may not, in any event, exceed the additional direct costs incurred by the county to accept the specific form of payment utilized by the payer.

[1997 c 393 § 19; 1996 c 153 § 3.]

Notes:

Applicability--1996 c 153: See note following RCW 84.56.020.

RCW 36.29.200 Collection of sales and use taxes for zoo and aquarium advisory authority.

The county treasurer or, in the case of a home rule county, the county official designated by county charter and ordinance as the official with custody over the collection of county-wide tax revenues, shall receive all money representing revenues from taxes authorized under RCW 82.14.400, and shall disburse such money to the authority established in RCW 36.01.190.

[1999 c 104 § 2.]

**Chapter 36.32 RCW
COUNTY COMMISSIONERS**

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public health pooling fund: RCW 70.12.030.

public lands

rights of way over for roads, county wharves: RCW 79.01.340.

tide and shorelands, petition for replat: RCW 79.94.100.

public utility districts: Chapters 54.08, 54.40 RCW.

privilege tax: Chapter 54.28 RCW.

public waterway districts: Chapter 91.08 RCW.

railroad grade crossings: Chapter 81.53 RCW.

reclamation districts of one million acres: Chapter 89.30 RCW.

reforestation: Chapter 76.12 RCW.

county exchange of land to block up holdings: RCW 76.12.050 through 76.12.060.

right to back and hold waters over county roads: RCW 90.28.010, 90.28.020.

river and harbor improvement districts: Chapter 88.32 RCW.

river and harbor improvements by counties jointly: RCW 88.32.180 through 88.32.220.

roads, closure of: Chapter 47.48 RCW.

roads and bridges, limited access facilities: Chapter 47.52 RCW.

rural county library districts: Chapter 27.12 RCW.

rural pool halls, billiard halls and bowling alleys, licensing of: Chapter 67.12 RCW.

school district organization: Chapter 28A.315 RCW.

school districts

penalties relating to: Chapter 28A.635 RCW.

second class, expenditures: Chapter 28A.330 RCW.

validation of indebtedness: Chapter 28A.535 RCW.

school funds: Chapter 28A.545 RCW.

section and corner lines, establishment of: Chapter 58.04 RCW.

*special districts in counties with a population of two hundred ten thousand or more, disincorporation of:
Chapter 57.90 RCW.*

state highways, acquisition of county lands for: RCW 47.12.040.

stock restricted areas: Chapter 16.24 RCW.

street railways: Chapter 81.64 RCW.

superior court special sessions: RCW 2.08.140, 2.08.150.

taxes, excise tax on real estate sales: Chapter 82.45 RCW.

property

collection of: Chapter 84.56 RCW.

levy of: Chapter 84.52 RCW.

lien foreclosure: Chapter 84.64 RCW.

listing of: Chapter 84.40 RCW.

reevaluation: Chapter 84.41 RCW.

temporary gates across highways: RCW 16.60.080.

temporary quarters for court: RCW 2.28.141.

towns, uncertain boundaries: RCW 35.27.040 through 35.27.060.

traffic control devices: Chapter 47.36 RCW.

traffic schools: Chapter 46.83 RCW.

underground storage of natural gas, lease of county lands for: RCW 80.40.070.

United States reclamation areas, contracts to bring county lands into: RCW 89.12.110.

veterans, indigent, deceased, burial of: RCW 73.08.070.

veterans' meeting places, rent by county: RCW 73.04.080.

veterans' relief: Chapter 73.08 RCW.

vouchers on public funds: Chapter 42.24 RCW.

water-sewer districts

annexation of property to: Chapter 57.24 RCW.

board of commissioners, vacancies: RCW 57.12.020.

consolidation of: Chapter 57.32 RCW.

generally: Title 57 RCW.

transfer of part: RCW 57.32.160.

withdrawal of territory from: Chapter 57.28 RCW.

weed district tax on county lands: RCW 17.04.180.

weed districts: Chapter 17.04 RCW.

wharves, authorizing of and prescribing rates: RCW 88.24.020.

Flood control

district (1937 act) board, commissioner to act for absent member: RCW 86.09.292.

zone districts, commissioners as ex officio supervisors: RCW 86.15.050.

Health districts: Chapter 70.46 RCW.

Metropolitan sewer advisory committee, commissioner as member: RCW 35.58.210.

Metropolitan water advisory committee, commissioner as member: RCW 35.58.230.

Property tax advisor: RCW 84.48.140.

Public assistance as county function: RCW 74.04.040.

Rangers, commissioners as ex officio: RCW 76.04.045.

Reclamation district commission, commissioner as member of: RCW 89.30.055.

Redistricting by local governments and municipal corporations--Census information for--Plan, prepared when, criteria for, hearing on, request for review of, certification, remand--Sanctions when review request frivolous: RCW 29.70.100.

Revenue, department of, to advise commissioners: RCW 84.08.020.

Review board, commissioner as member of: RCW 35.13.171.

Solid waste collection districts: Chapter 36.58A RCW.

Traffic safety commission, member of association of county commissioners appointed to: RCW 43.59.030.

United States townsite law, dedication of streets, etc., under commissioners may alienate: RCW 58.28.440.

RCW 36.32.005 "County commissioners" defined.

The term "county commissioners" when used in this title or any other provision of law shall include the governmental authority empowered to so act under the provisions of a charter adopted by any county of the state.

[1971 ex.s. c 117 § 1.]

RCW 36.32.010 Board of commissioners established--Quorum.

There is established in each county in this state a board of county commissioners. Except as provided in RCW 36.32.055 and 36.32.0552, each board of county commissioners shall consist of three qualified electors, two of whom shall constitute a quorum to do business.

[1990 c 252 § 1; 1963 c 4 § 36.32.010. Prior: Code 1881 § 2663; 1869 p 303 § 1; 1867 p 52 § 1; 1863 p 540 § 1; 1854 p 420 § 1; RRS § 4036.]

RCW 36.32.020 Commissioner districts.

The board of county commissioners of each county shall divide their county into three commissioner districts so that each district shall comprise as nearly as possible one-third of the population of the county: PROVIDED, That the territory comprised in any voting precincts of such districts shall remain compact, and shall not be divided by the lines of said districts.

However, the commissioners of any county composed entirely of islands and with a population of less than thirty-five thousand may divide their county into three commissioner districts without regard to population, except that if any single island is included in more than one district, the districts on such island shall comprise, as nearly as possible, equal populations.

The lines of the districts shall not be changed oftener than once in four years and only when a full board of commissioners is present. The districts shall be designated as districts numbered one, two and three.

[1982 c 226 § 4; 1970 ex.s. c 58 § 1; 1963 c 4 § 36.32.020. Prior: 1893 c 39 § 2; 1890 p 317 §§ 1, 2; RRS § 4037.]

Notes:

Effective date--1982 c 226: See note following RCW 35.21.180.

RCW 36.32.030 Terms of commissioners.

The terms of office of county commissioners shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170: PROVIDED, That the terms shall be staggered so that either one or two commissioners are elected at a general election held in an even-numbered year.

[1979 ex.s. c 126 § 27; 1963 c 4 § 36.32.030. Prior: 1951 c 89 § 1. Formerly: (i) 1891 c 97 §§ 1, 2; RRS § 4038. (ii) 1891 c 67 § 3; RRS § 4039. (iii) 1891 c 89 § 4; RRS § 4040. (iv) 1891 c 67 § 5; RRS § 4041.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 36.32.040 Nomination by districts.

(1) Except as provided in subsection (2) of this section, the qualified electors of each county commissioner district, and they only, shall nominate from among their own number, candidates for the office of county commissioner of such commissioner district to be voted for at the following general election. Such candidates shall be nominated in the same manner as candidates for other county and district offices are nominated in all other respects.

(2) Where the commissioners of a county composed entirely of islands with a population of less than thirty-five thousand have chosen to divide the county into unequal-sized commissioner districts pursuant to the exception provided in RCW 36.32.020, the qualified electors of the entire county shall nominate from among their own number who reside within a commissioner district, candidates for the office of county commissioner of such commissioner district to be voted for at the following general election. Such candidates shall be nominated in

the same manner as candidates for other county offices are nominated in all other respects.

[1982 c 226 § 5; 1963 c 4 § 36.32.040. Prior: 1909 c 232 § 1; RRS § 4043.]

Notes:

Effective date--1982 c 226: See note following RCW 35.21.180.

RCW 36.32.050 Elected by entire county.

County commissioners shall be elected by the qualified voters of the county and the person receiving the highest number of votes for the office of commissioner for the district in which he resides shall be declared duly elected from that district.

[1963 c 4 § 36.32.050. Prior: 1895 c 110 § 1; 1893 c 39 § 1; 1891 c 67 § 6; 1890 p 317 § 3; RRS § 4042.]

RCW 36.32.055 Five-member commission--When authorized--Ballot proposition--Petition--Procedures.

(1) The board of commissioners of any noncharter county with a population of three hundred thousand or more may cause a ballot proposition to be submitted at a general election to the voters of the county authorizing the board of commissioners to be increased to five members.

(2) As an alternative procedure, a ballot proposition shall be submitted to the voters of a noncharter county authorizing the board of commissioners to be increased to five members, upon petition of the county voters equal to at least ten percent of the voters voting at the last county general election. At least twenty percent of the signatures on the petition shall come from each of the existing commissioner districts.

Any petition requesting that such an election be held shall be submitted to the county auditor for verification of the signatures thereon. Within no more than thirty days after the submission of the petition, the auditor shall determine if the petition contains the requisite number of valid signatures. The auditor shall certify whether or not the petition has been signed by the requisite number of county voters and forward such petition to the board of county commissioners. If the petition has been signed by the requisite number of county voters, the board of county commissioners shall submit such a proposition to the voters for their approval or rejection at the next general election held at least sixty days after the proposition has been certified by the auditor.

[1990 c 252 § 2.]

RCW 36.32.0552 Five-member commission--Newly created positions--How filled--County divided into five districts.

If the ballot proposition receives majority voter approval, the size of the board of county commissioners shall be increased to five members as provided in this section.

The two newly created positions shall be filled at elections to be held in the next year. The county shall, as provided in this section, be divided into five commissioner districts, so that each district shall comprise as nearly as possible one-fifth of the population of the county. No

two members of the existing board of county commissioners may, at the time of the designation of such districts, permanently reside in one of the five districts. The division of the county into five districts shall be accomplished as follows:

(1) The board of county commissioners shall, by the second Monday of March of the year following the election, adopt a resolution creating the districts;

(2) If by the second Tuesday of March of the year following the election the board of county commissioners has failed to create the districts, the prosecuting attorney of the county shall petition the superior court of the county to appoint a referee to designate the five commissioner districts. The referee shall designate such districts by no later than June 1st of the year following the election. The two commissioner districts within which no existing member of the board of county commissioners permanently resides shall be designated as districts four and five.

[1990 c 252 § 3.]

RCW 36.32.0554 Five-member commission--Newly created positions--Terms of initially elected commissioners.

The terms of the persons who are initially elected to positions four and five under RCW 36.32.0552 shall be as follows:

(1) If the year in which the primary and general elections are held is an even-numbered year, the person elected to position four shall be elected for a two-year term, and the person elected to position five shall be elected for a four-year term; or

(2) If the year in which the primary and general elections are held is an odd-numbered year, the person elected to position four shall be elected for a one-year term, and the person elected to position five shall be elected for a three-year term.

The length of the terms shall be calculated from the first day of January in the year following the election. Each person elected pursuant to subsection (1) or (2) of this section shall take office immediately upon the issuance of a certificate of his or her election.

Thereafter, persons elected to commissioner positions four and five shall be elected for four-year terms and shall take office at the same time the other members of the board of county commissioners take office.

[1990 c 252 § 4.]

RCW 36.32.0556 Five-member commissions--Four-year terms--Nominations by districts--Elected by entire county--Quorum.

The commissioners in a five-member board of county commissioners shall be elected to four-year staggered terms. Each commissioner shall reside in a separate commissioner district. Each commissioner shall be nominated from a separate commissioner district by the voters of that district. Each shall be elected by the voters of the entire county. Three members of a five-member board of commissioners shall constitute a quorum to do business.

[1990 c 252 § 5.]

RCW 36.32.0558 Five-member commissions--Vacancies.

Vacancies on a board of county commissioners consisting of five members shall be filled as provided in RCW 36.32.070, except that:

(1) Whenever there are three or more vacancies, the governor shall appoint one or more commissioners until there are a total of three commissioners;

(2) Whenever there are two vacancies, the three commissioners shall fill one of the vacancies; and

(3) Whenever there is one vacancy, the four commissioners shall fill the single vacancy.

[1990 c 252 § 6.]

RCW 36.32.060 Conditions of official bond.

The bond of each county commissioner shall be payable to the county, and it shall be conditioned that the commissioner shall well and faithfully discharge the duties of his office, and not approve, audit, or order paid any illegal, unwarranted, or unjust claim against the county for personal services.

[1963 c 4 § 36.32.060. Prior: 1955 c 157 § 10; prior: 1921 c 132 § 1, part; 1893 c 75 § 7, part; RRS § 4046, part.]

RCW 36.32.070 Vacancies on board.

Whenever there is a vacancy in the board of county commissioners, except as provided in RCW 36.32.0558, it shall be filled as follows:

(1) If there are three vacancies, the governor of the state shall appoint two of the officers. The two commissioners thus appointed shall then meet and select the third commissioner. If the two appointed commissioners fail to agree upon selection of the third after the expiration of five days from the day they were appointed, the governor shall appoint the remaining commissioner.

(2) Whenever there are two vacancies in the office of county commissioner, the governor shall appoint one commissioner, and the two commissioners then in office shall appoint the third commissioner. If they fail to agree upon a selection after the expiration of five days from the day of the governor's appointment, the governor shall appoint the third commissioner.

(3) Whenever there is one vacancy in the office of county commissioner, the two remaining commissioners shall fill the vacancy. If the two commissioners fail to agree upon a selection after the expiration of five days from the day the vacancy occurred, the governor shall appoint the third commissioner.

[1990 c 252 § 7; 1963 c 4 § 36.32.070. Prior: 1933 c 100 § 1; RRS § 4038-1.]

RCW 36.32.080 Regular meetings.

The county legislative authority of each county shall hold regular meetings at the county seat to transact any business required or permitted by law.

[1989 c 16 § 1; 1963 c 4 § 36.32.080. Prior: 1893 c 105 § 1; Code 1881 § 2667; 1869 p 303 § 5; 1867 p 53 § 5; 1863 p 541 § 5; 1854 p 420 § 5; RRS § 4047. Cf. 1893 c 75 § 1; RRS § 4048.]

RCW 36.32.090 Special meetings.

The county legislative authority of each county may hold special meetings to transact the business of the county. Notice of a special meeting shall be made as provided in RCW 42.30.080. A special meeting may be held outside of the county seat at any location within the county if the agenda item or items are of unique interest or concern to the citizens of the portion of the county in which the special meeting is to be held.

[1989 c 16 § 2; 1963 c 4 § 36.32.090. Prior: Code 1881 § 2669; 1869 p 304 § 7; 1867 p 53 § 7; 1863 p 541 § 7; 1854 p 420 § 7; RRS § 4049. Cf. 1893 c 75 § 2; RRS § 4050.]

RCW 36.32.100 Chairman of board--Election, powers.

The board of county commissioners at their first session after the general election shall elect one of its number to preside at its meetings. He shall sign all documents requiring the signature of the board, and his signature as chairman of the board shall be as legal and binding as if all members had affixed their names. In case the chairman is absent at any meeting of the board, all documents requiring the signature of the board shall be signed by both members present.

[1963 c 4 § 36.32.100. Prior: Code 1881 § 2676; 1869 p 305 § 14; 1867 p 55 § 14; 1863 p 542 § 14; 1854 p 421 § 14; RRS § 4051.]

RCW 36.32.110 Clerk of board.

The county auditor shall be the clerk of the board of county commissioners unless the board of county commissioners designates one of its employees to serve as clerk who shall attend its meetings and keep a record of its proceedings.

[1981 c 240 § 1; 1963 c 4 § 36.32.110. Prior: Code 1881 § 2668; 1869 p 304 § 6; 1867 p 53 § 6; 1863 p 541 § 6; 1854 p 420 § 6; RRS § 4052.]

RCW 36.32.120 Powers of legislative authorities.

The legislative authorities of the several counties shall:

- (1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;
- (2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative authorities which shall not exceed the costs of administration and operation of such licensed activities;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: PROVIDED, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: PROVIDED FURTHER, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor or a civil violation subject to a monetary penalty: PROVIDED FURTHER, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime and no act that is a state crime may be made a civil violation. The notice must set out a copy of the proposed regulations or summarize the content of each proposed regulation; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. For purposes of this subsection, a summary shall mean a brief description which succinctly describes the main points of the proposed regulation. When the county publishes a summary, the publication shall include a statement that the full text of the proposed regulation will be mailed upon request. An inadvertent mistake or omission in publishing the text or a summary of the content of a proposed regulation shall not render the regulation invalid if it is adopted. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county

when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as district judges.

[1994 c 301 § 8; 1993 c 83 § 9; 1989 c 378 § 39; 1988 c 168 § 8; 1987 c 202 § 206; 1986 c 278 § 2; 1985 c 91 § 1; 1982 c 226 § 3; 1979 ex.s. c 136 § 35; 1975 1st ex.s. c 216 § 1; 1967 ex.s. c 59 § 1; 1963 c 4 § 36.32.120. Prior: 1961 c 27 § 2; prior: (i) 1947 c 61 § 1; 1943 c 99 § 1; Code 1881 § 2673; 1869 p 305 § 11; 1867 p 54 § 11; 1863 p 542 § 11; 1854 p 421 § 11; Rem. Supp. 1947 § 4056. (ii) Code 1881 § 2681; 1869 p 307 § 20; 1867 p 56 § 20; 1863 p 543 § 20; 1854 p 422 § 20; RRS § 4061. (iii) Code 1881 § 2687; 1869 p 308 § 26; 1867 p 57 § 26; 1863 p 545 § 28; 1854 p 423 § 22; RRS § 4071.]

Notes:

Effective date--1993 c 83: See note following RCW 35.21.163.

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

Severability--1986 c 278: See note following RCW 36.01.010.

Effective date--1982 c 226: See note following RCW 35.21.180.

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 36.32.121 Community revitalization financing--Public improvements.

In addition to other authority that a county possesses, a county may provide any public improvement as defined under RCW 39.89.020, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW 39.89.050.

This section does not limit the authority of a county to otherwise participate in the public improvements if that authority exists elsewhere.

[2001 c 212 § 13.]

NOTES:

Severability--2001 c 212: See RCW 39.89.902.

RCW 36.32.122 Authority to regulate massage practitioners--Limitations.

(1) A state licensed massage practitioner seeking a county license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The county may charge a licensing or operating fee, but the fee charged a state licensed massage practitioner shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same county.

(3) A state licensed massage practitioner is not subject to additional licensing requirements not currently imposed on similar health care providers, such as physical therapists or occupational therapists.

[1991 c 182 § 3.]

RCW 36.32.125 Adoption of certain regulations proscribed.

Nothing in this chapter shall permit the counties to adopt, by reference or by ordinance, regulations relating to the subject matter contained in chapters 19.28, 43.22, 70.79, or 70.87 RCW.

[1971 ex.s. c 117 § 2.]

Notes:

Adoption of provisions relating to electricians and electrical installations by ordinance proscribed: RCW 19.28.101.

RCW 36.32.127 Driving while under the influence of liquor or drugs--Minimum penalties.

No county may establish a penalty for an act that constitutes the crime of driving while under the influence of intoxicating liquor or any drug, as provided for in RCW 46.61.502, or the crime of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.504, that is less than the penalties prescribed for those crimes in RCW 46.61.5055.

[1995 c 332 § 9; 1994 c 275 § 37; 1983 c 165 § 41.]

Notes:

Severability--Effective dates--1995 c 332: See notes following RCW 46.20.308.

Short title--Effective date--1994 c 275: See notes following RCW 46.04.015.

Legislative finding, intent--Effective dates--Severability--1983 c 165: See notes following RCW 46.20.308.

RCW 36.32.130 Postponement of action.

When only two members are present at a meeting of the board, and a division takes place on any question, the matter under consideration shall be postponed to the next subsequent meeting.

[1963 c 4 § 36.32.130. Prior: Code 1881 § 2671; 1869 p 304 § 9; 1867 p 53 § 9; 1863 p 541 § 9; 1854 p 421 § 9; RRS § 4055.]

RCW 36.32.135 Official seal.

The county commissioners of each county shall have and use a seal for the purpose of sealing their proceedings, and copies of the same when signed and sealed by the said county commissioners, and attested by their clerk, shall be admitted as evidence of such proceedings in the trial of any cause in any court in this state; and until such seal shall be provided, the private seal of the chairman of such board of county commissioners shall be adopted as a seal.

[1963 c 4 § 36.32.135. Prior: Code 1881 § 2672; 1854 p 421 § 10; RRS § 4069. Formerly RCW 36.16.080.]

RCW 36.32.140 Record of proceedings.

The board of county commissioners shall cause to be recorded, in a book kept for that purpose, all their proceedings and determinations touching all matters properly cognizable before it; and all books, accounts, vouchers, and papers, touching the business or property of the county shall be carefully kept by the clerk, and be open to public inspection.

[1963 c 4 § 36.32.140. Prior: Code 1881 § 2675; 1869 p 305 § 13; 1867 p 54 § 13; 1863 p 542 § 13; 1854 p 421 § 13; RRS § 4072.]

RCW 36.32.150 Transcribing mutilated records.

The county commissioners shall, when any of the county records become so mutilated that their handling becomes dangerous to the safety of such records, and when in the judgment of the county commissioners it may become necessary to, order the transcribing of said records at a sum not exceeding eight cents per folio of one hundred words, in books to be provided for that purpose by the county.

[1963 c 4 § 36.32.150. Prior: 1893 c 14 § 1; RRS § 4065.]

RCW 36.32.155 Transcribing mutilated records--Prior transcribing validated.

All records transcribed by order of any board of county commissioners in this state prior to the effective date of chapter 14, Laws of 1893, shall be and are hereby declared the legal records of said county the same as if transcribed under the provisions of RCW 36.32.150 through 36.32.170.

[1963 c 4 § 36.32.155. Prior: 1893 c 14 § 4; RRS § 4068.]

RCW 36.32.160 Transcribing mutilated records--Auditor to direct transcribing, certify.

The books containing the transcribed records shall be certified by the county auditor, under whose direction the transcribing was done, as being true copies of the original.

[1963 c 4 § 36.32.160. Prior: 1893 c 14 § 2; RRS § 4066.]

RCW 36.32.170 Transcribing mutilated records--Original records to be preserved.

All the original record books, after the transcribing thereof, shall be filed away in the auditor's office and only be used in case of contest on the correctness of the transcribed records.

[1963 c 4 § 36.32.170. Prior: 1893 c 14 § 3; RRS § 4067.]

RCW 36.32.200 Special attorneys, employment of.

It shall be unlawful for a county legislative authority to employ or contract with any

attorney or counsel to perform any duty which any prosecuting attorney is authorized or required by law to perform, unless the contract of employment of such attorney or counsel has been first reduced to writing and approved by the presiding superior court judge of the county in writing endorsed thereon. This section shall not prohibit the appointment of deputy prosecuting attorneys in the manner provided by law.

Any contract written pursuant to this section shall be limited to two years in duration.

[1983 c 129 § 1; 1963 c 4 § 36.32.200. Prior: 1905 c 25 § 1; RRS § 4075.]

RCW 36.32.210 Inventory of county capitalized assets--County commission inventory statement--Contents.

Each board of county commissioners of the several counties of the state of Washington shall, on the first Monday of March of each year, file with the auditor of the county a statement verified by oath showing for the twelve months period ending December 31st of the preceding year, the following:

(1) A full and complete inventory of all capitalized assets shall be kept in accordance with standards established by the state auditor. This inventory shall be segregated to show the following subheads:

(a) The assets, including equipment, on hand, together with a statement of the date when acquired, the amount paid therefor, the estimated life thereof and a sufficient description to fully identify such property;

(b) All equipment of every kind or nature sold or disposed of in any manner during such preceding twelve months period, together with the name of the purchaser, the amount paid therefor, whether or not the same was sold at public or private sale, the reason for such disposal and a sufficient description to fully identify the same;

(c) All the equipment purchased during said period, together with the date of purchase, the amount paid therefor, whether or not the same was bought under competitive bidding, the price paid therefor and the probable life thereof, the reason for making the purchase and a sufficient description to fully identify such property;

(2) The person to whom such money or any part thereof was paid and why so paid and the date of such payment.

[1997 c 245 § 3; 1995 c 194 § 5; 1969 ex.s. c 182 § 2; 1963 c 108 § 1; 1963 c 4 § 36.32.210. Prior: 1931 c 95 § 1; RRS § 4056-1. FORMER PARTS OF SECTION: (i) 1931 c 95 § 2; RRS § 4056-2, now codified as RCW 36.32.213. (ii) 1931 c 95 § 3; RRS § 4056-3, now codified as RCW 36.32.215.]

Notes:

State building code: Chapter 19.27 RCW.

RCW 36.32.215 Inventory of county capitalized assets--Filing and public inspection.

Inventories shall be filed with the county auditor as a public record and shall be open to the inspection of the public.

[1995 c 194 § 6; 1963 c 4 § 36.32.215. Prior: 1931 c 95 § 3; RRS § 4056-3. Formerly RCW 36.32.210, part.]

RCW 36.32.220 Inventory of county capitalized assets--Penalty.

Any county commissioner failing to file such statement or wilfully making any false or incorrect statement therein or aiding or abetting in the making of any false or incorrect statement shall be guilty of a gross misdemeanor.

[1963 c 4 § 36.32.220. Prior: 1931 c 95 § 4; RRS § 4056-4.]

RCW 36.32.225 Inventory of county capitalized assets--Prosecutions.

It is the duty of the prosecuting attorney of each county to within three days from the calling to his attention of any violation to institute proceedings against such offending official and in addition thereto to prosecute appropriate action to remove such commissioner from office.

[1963 c 4 § 36.32.225. Prior: 1931 c 95 § 5; RRS § 4056-5. Formerly RCW 36.32.230, part.]

RCW 36.32.230 Inventory of county personal property--Taxpayer's action.

Any taxpayer of such county is hereby authorized to institute said action in conjunction with or independent of the action of the prosecuting attorney.

[1963 c 4 § 36.32.230. Prior: 1931 c 95 § 6; RRS § 4056-6. FORMER PART OF SECTION: 1931 c 95 § 5; RRS § 4057-5, now codified as RCW 36.32.225.]

RCW 36.32.235 Competitive bids--Purchasing department--Counties with a population of one million or more--Public works procedures--Exceptions.

(1) In each county with a population of one million or more which by resolution establishes a county purchasing department, the purchasing department shall enter into leases of personal property on a competitive basis and purchase all supplies, materials, and equipment on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases that are paid from the county road fund or equipment rental and revolving fund.

(2) As used in this section, "public works" has the same definition as in RCW 39.04.010.

(3) Except as otherwise specified in this chapter or in chapter 36.77 RCW, all counties subject to these provisions shall contract on a competitive basis for all public works after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection.

(4) An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as

possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper is sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(5) The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

(6) The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law.

(7) If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(8) As limited by subsection (10) of this section, a county subject to these provisions may have public works performed by county employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period.

Whenever a county subject to these provisions has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works except emergency work under subsection (12) of this section within that budget period shall be done by contract pursuant to public notice and call for competitive bids as specified in subsection (3) of this section. The state auditor shall report to the state treasurer any county subject to these provisions that exceeds this amount and the extent to which the county has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(9) If a county subject to these provisions has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that county in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that county shall be withheld if two years after the year in which the excess amount of work occurred, the county has failed to so reduce the amount of public works that it has performed by public employees. The amount withheld

shall be distributed to the county when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been reduced as required.

(10) In addition to the percentage limitation provided in subsection (8) of this section, counties subject to these provisions containing a population of one million or more shall not have public employees perform a public works project in excess of seventy thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of twenty-five thousand dollars if only a single craft or trade is involved with the public works project. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by public employees on a single project.

The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(11) In addition to the accounting and recordkeeping requirements contained in chapter 39.04 RCW, any county which uses public employees to perform public works projects under RCW 36.32.240(1) shall prepare a year-end report to be submitted to the state auditor indicating the total dollar amount of the county's public works construction budget and the total dollar amount for public works projects performed by public employees for that year.

The year-end report submitted pursuant to this subsection to the state auditor shall be in accordance with the standard form required by RCW 43.09.205.

(12) Notwithstanding any other provision in this section, counties may use public employees without any limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the county legislative authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency. Additionally this section shall not apply to architectural and engineering or other technical or professional services performed by public employees in connection with a public works project.

(13) In lieu of the procedures of subsections (3) through (11) of this section, a county may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the county shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(14) The allocation of public works projects to be performed by county employees shall not be subject to a collective bargaining agreement.

(15) This section does not apply to performance-based contracts, as defined in *RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(16) Nothing in this section prohibits any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(17) This section does not apply to contracts between the public stadium authority and a team affiliate under RCW 36.102.060(4), or development agreements between the public

stadium authority and a team affiliate under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

[2000 c 138 § 206; 1997 c 220 § 401 (Referendum Bill No. 48, approved June 17, 1997); 1996 c 219 § 2.]

NOTES:

***Reviser's note:** RCW 39.35A.020 was amended by 2001 c 214 § 18, changing subsection (3) to subsection (4).

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

Referendum--Other legislation limited--Legislators' personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements--1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law--Severability--1997 c 220: See RCW 36.102.900 and 36.102.901.

RCW 36.32.240 Competitive bids--Purchasing department--Counties with a population of less than one million.

(1) In any county the county legislative authority may by resolution establish a county purchasing department.

(2) In each county with a population of less than one million which exercises this option, the purchasing department shall contract on a competitive basis for all public works, enter into leases of personal property on a competitive basis, and purchase all supplies, materials, and equipment, on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases for the county hospital, or make purchases that are paid from the county road fund or equipment rental and revolving fund.

[1996 c 219 § 1; 1993 c 198 § 5; 1991 c 363 § 57; 1985 c 169 § 8; 1983 c 3 § 77; 1974 ex.s. c 52 § 1; 1967 ex.s. c 144 § 15; 1963 c 4 § 36.32.240. Prior: 1961 c 169 § 1; 1949 c 33 § 1; 1945 c 61 § 1; Rem. Supp. 1949 § 10322-15.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

RCW 36.32.245 Competitive bids--Requirements--Advertisements--Exceptions--Recycled materials.

(1) No contract for the purchase of materials, equipment, or supplies may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county. Bid specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection. An advertisement shall be published in the official newspaper of the county stating the time and place where bids will be opened, the time after which bids will not be received, the materials, equipment, supplies, or services to be purchased, and that the specifications may be seen at the office of the clerk of the county legislative authority. The advertisement shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(2) The bids shall be in writing and filed with the clerk. The bids shall be opened and

read in public at the time and place named in the advertisement. Contracts requiring competitive bidding under this section may be awarded only to the lowest responsible bidder. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiry. Any or all bids may be rejected for good cause.

(3) For advertisement and formal sealed bidding to be dispensed with as to purchases between two thousand five hundred and twenty-five thousand dollars, the county legislative authority must use the uniform process to award contracts as provided in RCW 39.04.190. Advertisement and formal sealed bidding may be dispensed with as to purchases of less than two thousand five hundred dollars upon the order of the county legislative authority.

(4) This section does not apply to performance-based contracts, as defined in *RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW; or contracts and purchases for the printing of election ballots, voting machine labels, and all other election material containing the names of candidates and ballot titles.

(5) Nothing in this section shall prohibit the legislative authority of any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(6) This section does not apply to contracting for public defender services by a county.

[1993 c 233 § 1; 1993 c 198 § 7; 1991 c 363 § 62.]

NOTES:

Reviser's note: *(1) RCW 39.35A.020 was amended by 2001 c 214 § 18, changing subsection (3) to subsection (4).

(2) This section was amended by 1993 c 198 § 7 and by 1993 c 233 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.32.250 Competitive bids--Contract procedure--Contracts under ten thousand dollars--Small works roster process.

No contract for public works may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection. An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper shall be sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received. The bids shall

be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract for public works involving less than ten thousand dollars, advertisement and competitive bidding may be dispensed with on order of the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

As an alternative to requirements under this section, a county may let contracts using the small works roster process under RCW 39.04.155.

This section does not apply to performance-based contracts, as defined in *RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

[2000 c 138 § 207; 1996 c 18 § 3; 1993 c 198 § 8; 1991 c 363 § 58. Prior: 1989 c 431 § 57; 1989 c 244 § 6; prior: 1985 c 369 § 1; 1985 c 169 § 9; 1977 ex.s. c 267 § 1; 1975 1st ex.s. c 230 § 1; 1967 ex.s. c 144 § 16; 1967 c 97 § 1; 1965 c 113 § 1; 1963 c 4 § 36.32.250; prior: 1945 c 61 § 2; Rem. Supp. 1945 § 10322-16.]

NOTES:

***Reviser's note:** RCW 39.35A.020 was amended by 2001 c 214 § 18, changing subsection (3) to subsection (4).

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1989 c 431: See RCW 70.95.901.

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

Subcontractors to be identified by bidder, when: RCW 39.30.060.

RCW 36.32.253 Competitive bids--Leases of personal property.

No lease of personal property may be entered into by the county legislative authority or by any elected or appointed officer of the county except upon use of the procedures specified in this chapter and chapter 39.04 RCW for awarding contracts for purchases when it leases personal property from the lowest responsible bidder.

[1993 c 198 § 6; 1991 c 363 § 63.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.32.256 Competitive bids--Multiple awards for road maintenance materials.

A county when calling for competitive bids for the procurement of road maintenance materials may award to multiple bidders for the same commodity when the bid specifications provide for the factors of haul distance to be included in the determination of which vendor is truly the lowest price to the county. The county may readvertise for additional bidders and vendors if it deems it necessary in the public interest.

[1991 c 363 § 61.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.32.260 Competitive bids--Purchasing agent.

In any county having a purchasing department the board of county commissioners shall appoint a county purchasing agent, who shall be the head of such purchasing department. The county purchasing agent shall have had previous purchasing experience as purchasing agent of a commercial, industrial, institutional, or governmental plant or agency, and shall be placed under such bond as the board may require. The board may establish a central storeroom or storerooms in charge of the county purchasing agent in which supplies and equipment may be stored and issued upon proper requisition by department heads. The purchasing agent shall be responsible for maintaining perpetual inventories of supplies and equipment and shall at least yearly, or oftener when so required by the board, report to the county commissioners a balancing of the inventory record with the actual amount of supplies or equipment on hand.

[1963 c 4 § 36.32.260. Prior: 1961 c 169 § 2; 1945 c 61 § 3; Rem. Supp. 1945 § 10322-17.]

RCW 36.32.265 Competitive bids--Inapplicability to certain agreements relating to water pollution control, solid waste handling facilities.

RCW 36.32.240, 36.32.250, and 36.32.260 do not apply to the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under RCW 70.150.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 36.58.090.

[1989 c 399 § 8; 1987 c 436 § 9.]

RCW 36.32.270 Competitive bids--Exemptions.

The county legislative authority may waive the competitive bidding requirements of this chapter pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

[1998 c 278 § 4; 1963 c 4 § 36.32.270. Prior: 1961 c 169 § 3; 1945 c 61 § 4; Rem. Supp. 1945 § 10322-18.]

RCW 36.32.280 Regulation of watercourses.

The state in the exercise of its sovereign and police power authorizes any county alone or acting jointly with any other county to regulate and control the flow of waters, both navigable and nonnavigable, within such county or counties, for the purpose of preventing floods which may threaten or cause damage, public or private.

[1963 c 4 § 36.32.280. Prior: 1921 c 30 § 1; RRS § 4057-1.]

RCW 36.32.290 Regulation of watercourses--Removal of obstructions.

When the board of county commissioners of any county deems it essential to the public interest for flood prevention purposes it may remove drifts, jams, logs, debris, gravel, earth, stone or bars forming obstructions to the stream, or other material from the beds, channels, and banks of watercourses in any manner deemed expedient, including the deposit thereof on bars not forming obstructions to the stream, or on subsidiary or high water channels of such watercourses.

[1963 c 4 § 36.32.290. Prior: 1921 c 30 § 2; RRS § 4057-2.]

RCW 36.32.300 Regulation of watercourses--Trees may be removed from river banks.

When any forest trees are situated upon the bank of any watercourse or so close thereto as to be in danger of falling into it, the owner or occupant of any of the premises shall be notified to remove them forthwith. The notice shall be based upon a resolution or order of the county commissioners and may be given by mail to the last known address of the owner or occupant. If the trees are not removed within ten days after the date of the notice, the county may thereupon fell them.

[1963 c 4 § 36.32.300. Prior: 1921 c 30 § 3; RRS § 4057-3.]

RCW 36.32.310 Compensation for extra services.

Whenever a member of the board of county commissioners of any county has a claim for compensation for per diem and expenses for attendance upon any special session of the board or a claim for compensation for extra services or expenses incurred as such commissioners, including services performed as road commissioner, the claim shall be verified by him and after being approved by a majority of the board of county commissioners of the county shall be filed with the clerk of the superior court and be approved by a judge of the superior court of such county or any superior court judge holding court in such county. The judge may make such investigation as he deems necessary to determine the correctness of the claim and may, after such investigation, approve or reject any part of such claim. If the judge so approve the claim or

any part thereof the same shall be certified by the clerk under the seal of his office and be returned to the county auditor who shall draw a warrant therefor. The court shall not be required oftener than once in each month to pass upon such claims and it may fix a time in each month by general order filed with the clerk of the board of county commissioners on or before which such claims must be filed with the clerk of the court.

[1963 c 4 § 36.32.310. Prior: 1921 c 100 § 1; 1911 c 66 § 1; RRS § 4053.]

RCW 36.32.330 Appeals from board's action.

Any person may appeal to the superior court from any decision or order of the board of county commissioners. Such appeal shall be taken within twenty days after the decision or order, and the appellant shall within that time serve notice of appeal on the county commissioners. The notice shall be in writing and shall be delivered to at least one of the county commissioners personally, or left with the county auditor. The appellant shall, within ten days after service of the notice of appeal give a bond to the county with one or more sureties, to be approved by the county auditor, conditioned for the payment of all costs which shall be adjudged against him on such appeal in the superior court. The practice regulating appeals from and writs of certiorari to justice's courts shall, insofar as applicable, govern in matters of appeal from a decision or order of the board of county commissioners.

Nothing herein contained shall be construed to prevent a party having a claim against any county in this state from enforcing the collection thereof by civil action in any court of competent jurisdiction after the same has been presented to and filed as provided by law and disallowed in whole or in part by the board of county commissioners of the proper county. Such action must, however, be commenced within the time limitation provided in *RCW 36.45.030.

[1963 c 4 § 36.32.330. Prior: 1957 c 224 § 5; 1893 c 121 § 1; Code 1881 § 2695; 1869 p 308 § 29; 1867 p 57 § 29; 1863 p 545 § 30; 1854 p 423 § 24; RRS § 4076. Cf. 1879 p 143 §§ 1, 2.]

Notes:

*Reviser's note: RCW 36.45.030 was repealed by 1993 c 449 § 13.

RCW 36.32.335 Coordination of county administrative programs--Legislative declaration.

The public necessity for the coordination of county administrative programs, especially in the fields of highways and social security, be and is hereby recognized.

[1963 c 4 § 36.32.335. Prior: 1939 c 188 § 1; RRS § 4077-2.]

RCW 36.32.340 Coordination of county administrative programs--Duties incident to.

The county commissioners shall take such action as is necessary to effect coordination of their administrative programs and prepare reports annually on the operations of all departments under their jurisdiction.

[1998 c 245 § 27; 1963 c 4 § 36.32.340. Prior: 1939 c 188 § 2; RRS § 4077-3.]

RCW 36.32.350 Coordination of county administrative programs--Coordinating agency--Agency reimbursement.

County legislative authorities may designate the Washington state association of counties as a coordinating agency in the execution of duties imposed by RCW 36.32.335 through 36.32.360 and reimburse the association from county current expense funds in the county legislative authority's budget for the costs of any such services rendered. Such reimbursement shall be paid on vouchers submitted to the county auditor and approved by the county legislative authority in the manner provided for the disbursement of other current expense funds and the vouchers shall set forth the nature of the service rendered, supported by affidavit that the service has actually been performed.

[1991 c 363 § 59; 1973 1st ex.s. c 195 § 30; 1971 ex.s. c 85 § 3; 1970 ex.s. c 47 § 1; 1963 c 4 § 36.32.350. Prior: 1947 c 49 § 1; 1939 c 188 § 3; Rem. Supp. 1947 § 4077-4.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Associations of municipal corporations or municipal officers to furnish information to legislature and governor: RCW 44.04.170.

Merger of state association of counties with state association of county officials: RCW 36.47.070.

Winter recreation advisory committee, representative of association of counties as member: RCW 79A.05.255.

RCW 36.32.360 Coordination of county administrative programs--Attendance at conventions authorized.

County commissioners are hereby authorized to take such other and further action as may be deemed necessary to the compliance with the intent of RCW 36.32.335 through 36.32.360, including attendance at such state or district meetings as may be required to formulate the reports directed in RCW 36.32.340.

[1963 c 4 § 36.32.360. Prior: 1939 c 188 § 4; RRS § 4077-5.]

RCW 36.32.370 Land surveys.

Except as otherwise provided in this title, the board of county commissioners, through a surveyor employed by it shall execute all surveys of land that may be required by the county. The certificate of the surveyor so employed of any survey made of lands within the county shall be presumptive evidence of the facts therein contained.

[1963 c 4 § 36.32.370. Prior: (i) 1895 c 77 § 3; RRS § 4144. (ii) 1895 c 77 § 4; RRS § 4145.]

RCW 36.32.380 Land surveys--Record of surveys.

Except as otherwise provided in this title, the board of county commissioners shall cause

to be recorded in a suitable book all surveys except such as are made for a temporary purpose. The record book shall be so constructed as to have one page for diagrams to be numbered progressively and the opposite page for notes and remarks; no diagram shall be so constructed as to scale less than one inch to twenty chains.

[1963 c 4 § 36.32.380. Prior: 1895 c 77 § 5; RRS § 4150.]

RCW 36.32.390 Nonmonthly employees, vacations and sick leaves.

Each employee of any county in this state who is employed on an hourly or per diem basis, who shall have worked fifteen hundred hours or more in any one year may in the discretion of the board of county commissioners be given the same vacations and sick leaves as are provided for the employees of the county employed on a monthly basis.

[1963 c 4 § 36.32.390. Prior: 1951 c 187 § 1.]

RCW 36.32.400 Health care and group insurance.

Subject to chapter 48.62 RCW, any county by a majority vote of its board of county commissioners may enter into contracts to provide health care services and/or group insurance for the benefit of its employees, and may pay all or any part of the cost thereof. Any two or more counties, by a majority vote of their respective boards of county commissioners may, if deemed expedient, join in the procuring of such health care services and/or group insurance, and the board of county commissioners of each participating county may, by appropriate resolution, authorize their respective counties to pay all or any portion of the cost thereof.

Nothing in this section shall impair the eligibility of any employee of a county, municipality, or other political subdivision under RCW 41.04.205.

[1991 sp.s. c 30 § 21; 1975-'76 2nd ex.s. c 106 § 7; 1963 c 4 § 36.32.400. Prior: 1957 c 106 § 1; 1955 c 51 § 1.]

Notes:

Effective date, implementation, application--Severability--1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

RCW 36.32.410 Participation in Economic Opportunity Act programs.

The board of county commissioners of any county is hereby authorized and empowered in its discretion by resolution or ordinance passed by a majority of the board, to take whatever action it deems necessary to enable the county to participate in the programs set forth in the Economic Opportunity Act of 1964 (Public Law 88-452; 78 Stat. 508), as amended. Such participation may be engaged in as a sole county operation or in conjunction or cooperation with the state, any other county, city, or municipal corporation, or any private corporation qualified under said Economic Opportunity Act.

[1971 ex.s. c 177 § 1; 1965 c 14 § 1.]

RCW 36.32.415 Low-income housing--Loans and grants.

A county may assist in the development or preservation of publicly or privately owned housing for persons of low income by providing loans or grants of general county funds to the owners or developers of the housing. The loans or grants shall be authorized by the legislative authority of a county. They may be made to finance all or a portion of the cost of construction, reconstruction, acquisition, or rehabilitation of housing that will be occupied by a person or family of low income. As used in this section, "low income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the county is located. Housing constructed with loans or grants made under this section shall not be considered public works or improvements subject to competitive bidding or a purchase of services subject to the prohibition against advance payment for services: PROVIDED, That whenever feasible the borrower or grantee shall make every reasonable and practicable effort to utilize a competitive public bidding process.

[1986 c 248 § 2.]

RCW 36.32.420 Youth agencies--Establishment authorized.

See RCW 35.21.630.

RCW 36.32.425 Juvenile curfews.

(1) The legislative authority of any county has the authority to enact an ordinance, for the purpose of preserving the public safety or reducing acts of violence by or against juveniles that are occurring at such rates as to be beyond the capacity of the police to assure public safety, establishing times and conditions under which juveniles may be present on the public streets, in the public parks, or in any other public place during specified hours.

(2) The ordinance shall not contain any criminal sanctions for a violation of the ordinance.

[1994 sp.s. c 7 § 504.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

RCW 36.32.430 Parks, may designate name of.

The board of county commissioners is authorized to designate the name of any park established by the county.

[1965 ex.s. c 76 § 3.]

Notes:

Acquisition of property for park, recreational, viewpoint, greenbelt, conservation, historic, scenic, or view purposes: RCW 36.34.340.

RCW 36.32.435 Historic preservation--Authorization to acquire property, borrow money, issue bonds, etc.

Any county may acquire title to or any interest in real and personal property for the purpose of historic preservation and may restore, improve, maintain, manage, and lease the property for public or private use and may enter into contracts, borrow money, and issue bonds and other obligations for such purposes. This authorization shall not expand the eminent domain powers of counties.

[1984 c 203 § 4.]

Notes:

Severability--1984 c 203: See note following RCW 35.43.140.

RCW 36.32.440 Staff to aid in purchasing, poverty programs, parks, emergency services, budget, etc., authorized.

The board of county commissioners of the several counties may employ such staff as deemed appropriate to serve the several boards directly in matters including but not limited to purchasing, poverty and relief programs, parks and recreation, emergency services, budgetary preparations set forth in RCW 36.40.010-36.40.050, code enforcement and general administrative coordination. Such authority shall in no way infringe upon or relieve the county auditor of responsibilities contained in RCW *36.22.010(9) and 36.22.020.

[1974 ex.s. c 171 § 3; 1969 ex.s. c 252 § 3.]

Notes:

***Reviser's note:** RCW 36.22.010 was amended by 1984 c 128 § 2, changing subsection (9) to subsection (8); and was subsequently amended by 1995 c 194 § 1, changing subsection (8) to subsection (6).

RCW 36.32.450 Tourist promotion.

Any county in this state acting through its council or other legislative body shall have power to expend moneys and conduct promotion of resources and facilities in the county or general area by advertising, publicizing, or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion.

[1971 ex.s. c 61 § 1.]

RCW 36.32.460 Employee safety award programs.

The board of county commissioners may establish an employee safety award program to reward and encourage the safe performance of assigned duties by county employees.

The board may establish standards and regulations necessary or appropriate for the proper administration and for otherwise accomplishing the purposes of such program.

The board may authorize every department head and other officer of county government

who oversees or directs county employees to make the determination as to whether an employee safety award will be made.

Such awards shall be made annually from the county general fund by warrant on vouchers duly authorized by the board according to the following schedule based upon safe and accident-free performance:

5 years.....	\$ 2.50
10 years.....	5.00
15 years.....	7.50
20 years.....	10.00
25 years.....	12.50
30 years.....	20.00:

PROVIDED, That the board may give such department heads and other officers overseeing and directing county employees discretion to purchase a noncash award of equal value in lieu of the cash award. If a noncash award is given the warrants shall be made payable to the business enterprise from which the noncash award is purchased.

However, safety awards made to persons whose safe and accident-free performance has directly benefited the county road system shall be made from the county road fund by warrant on vouchers duly authorized by the board.

[1971 c 79 § 1.]

RCW 36.32.470 Fire protection, ambulance or other emergency services provided by municipal corporations within county--Financial and other assistance authorized.

The legislative authority of any county shall have the power to furnish, upon such terms as the board may deem proper, with or without consideration, financial or other assistance to any municipal corporation, or political subdivision within such county for the purpose of implementing the fire protection, ambulance, medical or other emergency services provided by such municipal corporation, or political subdivision: PROVIDED, That no such municipal corporation or political subdivision shall be authorized to expend any funds or property received as part of such assistance for any purpose, or in any manner, for which it could not otherwise legally expend its own funds.

[1974 ex.s. c 51 § 1.]

Notes:

Ambulance services may be provided by county: RCW 36.01.100.

RCW 36.32.475 Regulation of automatic number or location identification--Prohibited.

No county may enact or enforce an ordinance or regulation mandating automatic number

identification or automatic location identification for a private telecommunications system or for a provider of private shared telecommunications services.

[1995 c 243 § 8.]

Notes:

Findings--Severability--1995 c 243: See notes following RCW 80.36.555.

RCW 36.32.480 Emergency medical service districts--Creation authorized--Composition of governing body.

(1) A county legislative authority may adopt an ordinance creating an emergency medical service district in all or a portion of the unincorporated area of the county and, pursuant to subsection (2) of this section, within the corporate limits of any city or town. The ordinance may only be adopted after a public hearing has been held on the creation of such a district and the county legislative authority makes a finding that it is in the public interest to create the district.

An emergency medical service district shall be a quasi-municipal corporation and an independent taxing "authority" within the meaning of Article 7, Section 1, Washington State Constitution. Emergency medical service districts shall also be "taxing authorities" within the meaning of Article 7, Section 2, Washington State Constitution.

An emergency medical service district shall have the authority to provide emergency medical services.

(2) When any part of a proposed emergency medical service district includes an area within the corporate limits of a city or town, the governing body of the city or town shall approve the inclusion, and the county governing body shall maintain a certified copy of the resolution of approval before adopting an ordinance including the area.

(3) The members of the county legislative authority shall compose the governing body of any emergency medical service district which is created within the county: PROVIDED, That where an emergency medical service district includes an area within the corporate limits of a city or town, the emergency medical service district may be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. The voters of an emergency medical service district must be registered voters residing within the service area.

[2000 c 31 § 1; 1979 ex.s. c 200 § 2.]

Notes:

Severability--1979 ex.s. c 200: See note following RCW 84.52.069.
Levy for emergency medical care and services: RCW 84.52.069.

RCW 36.32.490 County freeholders--Method of filling vacancies.

Vacancies in the position of county freeholder shall be filled with a person qualified for the position who is appointed by majority action of the remaining county freeholders.

[1984 c 163 § 1.]

RCW 36.32.510 Right of way donations--Credit against required improvements.

Where the zoning and planning provisions of a county require landscaping, parking, or other improvements as a condition to granting permits for commercial or industrial developments, the county may credit donations of right of way in excess of that required for traffic improvement against such landscaping, parking, or other requirements.

[1987 c 267 § 10.]

Notes:

Severability--1987 c 267: See RCW 47.14.910.

Right of way donations: Chapter 47.14 RCW.

RCW 36.32.520 Child care facilities--Review of need and demand--Adoption of ordinances.

If a county operating under home rule charter zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, nor chapter 36.70 RCW, and that county does not provide for the siting of family day care homes in zones or areas that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or commercial uses, the county shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 335 § 8.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings--Purpose--Severability--1989 c 335: See notes following RCW 35.63.170.

Definitions for RCW 36.32.520: See RCW 35.63.170.

RCW 36.32.525 Conditional and special use permit applications by parties licensed or certified by the department of social and health services or the department of corrections--Mediation prior to appeal required.

A final decision by a hearing examiner involving a conditional or special use permit application under a home-rule charter that is requested by a party that is licensed or certified by the department of social and health services or the department of corrections is subject to

mediation under RCW 35.63.260 before an appeal may be filed.

[1998 c 119 § 5.]

RCW 36.32.540 Settlement of Indian claims.

(1) The settlement of Indian land and other claims against public and private property owners is declared to be in the interest of public health and safety, orderly government, environmental protection, economic development, and the social well-being of the citizens of this state, and to specifically benefit the properties released from those claims.

It is the purpose of *this act to encourage the settlement of such Indian land and other claims lawsuits by permitting the establishment and use of local improvement districts to finance all or a portion of the settlement costs of such lawsuits.

(2) A local improvement district may be established by a county legislative authority to finance all or part of the settlement costs in an Indian land and other claims settlement related to public and private property located within the incorporated or unincorporated areas of the county. The settlement of an Indian land and other claims lawsuit shall be deemed to be an improvement that may be financed in whole or in part through use of a local improvement district.

(3) Except as expressly provided in this section, all matters relating to the establishment and operation of such a local improvement district, the levying and collection of special assessments, the issuance of local improvement district bonds and other obligations, and all related matters, shall be subject to the provisions of chapter 36.94 RCW concerning the use of local improvement districts to finance sewer or water facilities. The requirements of chapter 36.94 RCW concerning the preparation of a general plan and formation of a review committee shall not apply to a local improvement district used to finance all or a portion of Indian land and other claims settlements. The resolution or petition that initiates the creation of a local improvement district used to finance all or a portion of an Indian land and other claims settlement shall describe the general nature of the Indian land and other claims and the proposed settlement. The value of a contribution by any person, municipal corporation, political subdivision, or the state of money, real property, or personal property to the settlement of Indian land and other claims shall be credited to any assessment for a local improvement district under this section.

[1989 1st ex.s. c 4 § 3.]

Notes:

***Reviser's note:** "This act" consists of the enactment of this section, RCW 35.43.280, and an uncodified section.

Severability--1989 1st ex.s. c 4: See note following RCW 35.43.280.

RCW 36.32.550 Conformance with chapter 43.97 RCW required.

With respect to the National Scenic Area, as defined in the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the exercise of any power or authority by a county

pursuant to this chapter shall be subject to and in conformity with the requirements of chapter 43.97 RCW, including the Interstate Compact adopted by RCW 43.97.015, and with the management plan regulations and ordinances adopted by the Columbia River Gorge commission pursuant to the Compact.

[1987 c 499 § 8.]

RCW 36.32.560 Home rule charter counties--Residential care facilities--Review of need and demand--Adoption of ordinances.

If a county operating under home rule charter zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, nor chapter 36.70 RCW, and that county does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, the county shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 427 § 40.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability--1989 c 427: See RCW 74.39.900.

RCW 36.32.570 Conservation area acquisition and maintenance.

The legislative authority of each county may acquire a fee simple interest, or lesser interest, in conservation areas in the county and may maintain the conservation areas. The conservation areas may be acquired and maintained with moneys obtained from the excise tax under RCW 82.46.070, or any other moneys available for such purposes.

As used in this section, the term "conservation area" means land and water that has environmental, agricultural, aesthetic, cultural, scientific, historic, scenic, or low-intensity recreational value for existing and future generations, and includes, but is not limited to, open spaces, wetlands, marshes, aquifer recharge areas, shoreline areas, natural areas, and other lands and waters that are important to preserve flora and fauna.

[1990 1st ex.s. c 5 § 2.]

Notes:

Purpose--1990 1st ex.s. c 5: "The purpose of this act is to provide a mechanism for the acquisition and maintenance of conservation areas through an orderly process that is approved by the voters of a county. The authorities provided in this act are supplemental, and shall not be construed to limit otherwise existing authorities."
[1990 1st ex.s. c 5 § 1.]

RCW 36.32.580 Home rule charter counties subject to limitations on moratoria, interim zoning controls.

A charter county that plans under the authority of its charter is subject to the provisions of RCW 36.70.795.

[1992 c 207 § 5.]

RCW 36.32.590 Building construction projects--County prohibited from requiring state agencies or local governments to provide bond or other security as a condition for issuance of permit.

A county legislative authority may not require any state agency or unit of local government to secure the performance of a permit requirement with a surety bond or other financial security device, including cash or assigned account, as a condition of issuing a permit to that unit of local government for a building construction project.

As used in this section, "building construction project" includes, in addition to its usual meaning, associated landscaping, street alteration, pedestrian or vehicular access alteration, or other amenities or alterations necessarily associated with the project.

[1993 c 439 § 3.]

RCW 36.32.600 Amateur radio antennas--Local regulation to conform with federal law.

No county shall enact or enforce an ordinance or regulation that fails to conform to the limited preemption entitled "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" issued by the federal communications commission. An ordinance or regulation adopted by a county with respect to amateur radio antennas shall conform to the limited federal preemption, that states local regulations that involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to reasonably accommodate amateur communications, and to represent the minimal practicable regulation to accomplish the local authority's legitimate purpose.

[1994 c 50 § 3.]

Notes:

Effective date--1994 c 50: See note following RCW 35.21.315.

RCW 36.32.610 Library capital facility areas authorized.

A county legislative authority may establish a library capital facility area pursuant to chapter 27.15 RCW.

[1995 c 368 § 8.]

Notes:

Findings--1995 c 368: See RCW 27.15.005.

**Chapter 36.33 RCW
COUNTY FUNDS**

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36.33.020	Cumulative reserve fund--Purposes--Election to allow other specified use.
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Notes:

Abandoned mining shafts and excavation violations, fines for as: RCW 78.12.050.

Assessments and taxes, prepayment and deposit of: RCW 36.32.120.

Authorized for

air pollution control: Chapter 70.94 RCW.

airport purposes: Chapters 14.07, 14.08 RCW.

validation of funds spent: RCW 14.08.070.

combined city-county health department: RCW 70.08.080.

prior expenditures validated: RCW 70.08.110.

flood control zone districts: RCW 86.15.150, 86.15.160, 86.15.180.

housing cooperation law: Chapter 35.83 RCW.

legal aid: Chapter 2.50 RCW.

mosquito control: Chapter 70.22 RCW.

public utility district election costs: RCW 54.08.041.

railroad crossing signals, warning devices: RCW 81.53.271 through 81.53.281.

river and harbor improvement district joint board expenses: RCW 88.32.220.

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toll bridges, tunnels, and ferries: Chapter 47.56 RCW.

traffic schools: RCW 46.83.030.

transcripts of testimony forma pauperis: RCW 2.32.240.

Billiard tables, licensing of, receipts as: RCW 67.14.120.

Bonds, notes of port district toll facility as investment for: RCW 53.34.150.

Bonds for capitol building purposes, as investment for: RCW 79.24.150 and chapter 43.83 RCW.

Bonds of federal agencies as investment for: Chapter 39.60 RCW.

Bonds of housing authority as investment for: RCW 35.82.220.

Bonds to build schools as investment for: Chapter 28A.525 RCW.

Bowling alleys, licensing of, receipts as: RCW 67.14.120.

County law library fund: RCW 27.24.070, 27.24.090.

County road fund

illegal use of, department of transportation to investigate; penalties: RCW 47.08.100, 47.08.110.

moneys from may be paid on establishing, constructing, etc., of streets: RCW 35.77.030.

surplus, unclaimed money in public waterway district funds to go into: RCW 91.08.610, 91.08.620.

traffic control devices to be paid from: RCW 47.36.040.

County school funds: Chapter 28A.545 RCW.

apportionment of: Chapter 28A.150 RCW.

penalties collected paid into: RCW 6.17.120.

violations and penalties applicable to: RCW 28A.635.050, 28A.635.070.

County tax refund fund: RCW 84.68.030.

Disposition of off-road vehicle moneys: RCW 46.09.110.

Distribution of snowmobile registration fees: RCW 46.10.080.

Employee safety award program, funds affected: RCW 36.32.460.

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Flood control maintenance fund: RCW 86.26.070.

Forest reserve funds, distribution of: RCW 28A.520.010 and 28A.520.020.

Game and game fish law, fines from violations as: RCW 77.12.170.

Horticultural tax receipts as: Chapter 15.08 RCW.

Indigent soldiers' relief funds, veterans meeting place rent paid from: RCW 73.04.080.

Intercounty river improvement fund: RCW 86.13.030.

Liquor

excise tax fund moneys as: RCW 82.08.170.

law violation receipts as: RCW 66.44.010.

licensing sale of, receipts as: RCW 67.14.120.

revolving fund moneys as: Chapter 66.08 RCW.

Metropolitan municipal corporation fund: RCW 35.58.430.

Mineral and petroleum leases, moneys as: RCW 78.16.050.

Moneys paid into from

general tax levy for road fund: RCW 36.82.040.

television reception improvement districts: Chapter 36.95 RCW.

Motor vehicle fuel tax moneys as: RCW 82.36.020, 82.36.100, 82.36.420.

Motor vehicle funds allocated to counties

distribution of: RCW 46.68.120.

generally: Chapter 46.68 RCW.

Motor vehicle licensing fees for oversize or overweight movements paid to county, when: RCW 46.44.096.

Public assistance moneys, allocation to counties: Chapter 74.04 RCW.

Public health funds (county): Chapter 70.12 RCW.

Public health pooling fund: RCW 70.12.030 through 70.12.070.

Public utility district privilege taxes as: Chapter 54.28 RCW.

Reforestation lands proceeds as: RCW 76.12.030, 76.12.120.
Registration of land titles, disposition of fees: RCW 65.12.800.
Reserve fund for labor, material or tax liens on public works: Chapter 60.28 RCW.
River improvement fund
flood control maintenance account: RCW 86.12.010, 86.12.020.
generally: Chapter 86.12 RCW.
Sale of stock found in stock restricted area, proceeds as: RCW 16.24.070.
Taxes for city and town purposes: State Constitution Art. 11 § 12.
Teachers' institute fund: RCW 28A.410.060.
Tuberculosis funds, moneys to go into: RCW 70.30.045.
Witness fees of county officers as: RCW 42.16.030.

RCW 36.33.010 Current expense fund.

Every county shall maintain a current expense fund to which shall be credited all taxes levied for that purpose and all fees collected, fines assessed, and forfeitures adjudged in the county the proceeds of which have not been specifically allocated to any other purpose.

[1963 c 4 § 36.33.010. Prior: 1945 c 85 § 1; Rem. Supp. 1945 § 5634-1.]

Notes:

Moneys paid from for

disinfection of horticultural premises: Chapter 15.08 RCW.
public health pooling fund: RCW 70.12.040.
weed district taxes on county lands: RCW 17.04.180.

Moneys paid into from

disinfection of horticultural premises tax: RCW 15.08.170.
horticultural tax funds: RCW 15.08.260.
motor vehicle fuel tax violation fines: RCW 82.36.420.
motor vehicle use tax collection fees: RCW 82.12.045.
registration of land titles fees: RCW 65.12.800.
unclaimed property in hands of sheriff, sale of: RCW 63.40.030.
use tax on motor vehicles, auditor's collection fees: RCW 82.12.045.
vehicle licensing handling fees: RCW 46.01.140.
violations bureau funds: RCW 3.30.090.

RCW 36.33.020 Cumulative reserve fund--Purposes--Election to allow other specified use.

Any board of county commissioners may establish by resolution a cumulative reserve fund in general terms for several different county purposes as well as for a very specific county purpose, including that of buying any specified supplies, material or equipment, or the construction, alteration or repair of any public building or work, or the making of any public improvement. The resolution shall designate the fund as "cumulative reserve fund for (naming the purpose or purposes for which the fund is to be accumulated and expended)." The moneys in said fund may be allowed to accumulate from year to year until the board of county

commissioners of the county shall determine to expend the moneys in the fund for the purpose or purposes specified: PROVIDED, That any moneys in said fund shall never be expended for any other purpose or purposes than those specified, without an approving vote by a majority of the electors of the county at a general or special election to allow other specified uses to be made of said fund.

[1963 c 4 § 36.33.020. Prior: 1961 c 172 § 1; 1945 c 51 § 1; Rem. Supp. 1945 § 5634-10.]

RCW 36.33.030 Cumulative reserve fund--Accumulation of, current expense fund limits not to affect.

An item for said cumulative reserve fund may be included in the county's annual budget or estimate of amounts required to meet public expense for the ensuing year and a tax levy made within the limits and as authorized by law for said item; and said item and levy may be repeated from year to year until, in the judgment of the board of county commissioners of the county the amount required for the specified purpose or purposes has been raised or accumulated. The board of county commissioners may accept gifts or bequests for the cumulative reserve fund and may make transfers from the current expense fund to the cumulative reserve fund. Any moneys in said fund at the end of the fiscal year shall not lapse nor shall the same be a surplus available or which may be used for any other purpose or purposes than those specified, except as herein provided, nor shall moneys in said fund be considered when computing the limitations on cash balances set out in section 4, chapter 164, Laws of 1923 as last amended by section 1, chapter 145, Laws of 1943 and RCW 36.40.090.

[1963 c 4 § 36.33.030. Prior: 1961 c 172 § 2; 1945 c 51 § 2; Rem. Supp. 1945 § 5634-11.]

RCW 36.33.040 Cumulative reserve fund--Permissible uses of funds in.

No money in any cumulative reserve fund shall be used for any purpose other than that for which the fund was created except:

(1) If the purpose of the creation of a cumulative reserve fund has been accomplished by the completion of the proposed building or improvement, the balance remaining in the fund may be transferred to any other cumulative reserve fund or to the county current expense fund by order of the board.

(2) If the purpose of the creation of a cumulative reserve fund ceases to exist or is abandoned, the fund or any part thereof, may be transferred to any other cumulative reserve fund or to the county current expense fund by order of the board after a public hearing thereon pursuant to a notice by publication: PROVIDED, That if the amount to be transferred exceeds fifty thousand dollars, no transfer may be made until authorized by a majority of the voters of the county voting upon the question at an election.

[1963 c 4 § 36.33.040. Prior: 1945 c 51 § 3; Rem. Supp. 1945 § 5634-12.]

RCW 36.33.060 Salary fund--Reimbursement.

The county legislative authority of each county with a population of one hundred twenty-five thousand or more shall establish a salary fund to be used for paying the salaries and wages of all officials and employees. The county legislative authority of any other county may establish such a salary fund. Said salary fund shall be reimbursed from any county funds or other funds under the jurisdiction or control of the county treasurer or county auditor budgeted for salaries and wages. The deposits shall be made in the exact amount of the payroll or vouchers paid from the salary fund.

[1991 c 363 § 64; 1973 1st ex.s. c 38 § 1; 1971 ex.s. c 214 § 1; 1963 c 4 § 36.33.060. Prior: 1961 c 273 § 1; prior: (i) 1935 c 94 § 1; 1933 ex.s. c 14 § 1; RRS § 4201-1. (ii) 1933 ex.s. c 14 § 2; RRS § 4201-2. (iii) 1933 ex.s. c 14 § 3; RRS § 4201-3.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.33.065 Claims fund--Reimbursement.

The county legislative authority of any county may establish by resolution a fund to be known as the claims fund, which shall be used for paying claims against the county. Such claims fund shall be reimbursed from any county funds or other funds under the jurisdiction or control of the county treasurer or county auditor budgeted for such expenditures. The deposits shall be made in the exact amount of the vouchers paid from the claims fund.

[1991 c 363 § 65; 1973 1st ex.s. c 38 § 2; 1971 ex.s. c 214 § 2.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.33.070 Investment in warrants on tax refund fund.

Whenever the county treasurer deems it expedient and for the best interests of the county he may invest any moneys in the county current expense fund in outstanding warrants on the county tax refund fund in the following manner: When he has determined the amount of moneys in the county current expense fund available for investment, he shall call, in the order of their issuance, a sufficient number of warrants drawn on the county tax refund fund as nearly as possible equaling in amount but not exceeding the moneys to be invested, and upon presentation and surrender thereof he shall pay to the holders of such warrants the face amount thereof and the accrued interest thereon out of moneys in the county current expense fund.

[1963 c 4 § 36.33.070. Prior: 1943 c 61 § 1; Rem. Supp. 1943 § 5545-10.]

RCW 36.33.080 Investment in warrants on tax refund fund--Procedure upon purchase--Interest on.

Upon receipt of any such warrant on the tax refund fund the county treasurer shall enter

the principal amount thereof, and accrued interest thereon, as a suspense credit upon his records, and shall hold the warrant until it with interest, if any, is paid in due course out of the county tax refund fund, and upon such payment, the amount thereof shall be restored to the county current expense fund. The refund warrants held by the county treasurer shall continue to draw interest until the payment thereof out of the county tax refund fund, which interest accruing subsequent to acquisition of the warrants by the county treasurer shall be paid into the county current expense fund.

[1963 c 4 § 36.33.080. Prior: 1943 c 61 § 2; Rem. Supp. 1943 § 5545-11.]

RCW 36.33.090 Investment in warrants on tax refund fund--Breaking of warrants authorized.

Whenever it appears to the county treasurer that the face amount plus accrued interest of the tax refund warrant next eligible for investment exceeds by one hundred dollars the amount of moneys in the county current expense fund available for investment, the county treasurer may notify the warrant holder who shall thereupon apply to the county auditor for the breaking of the warrant and the county auditor upon such application shall take up the original warrant and reissue, as of the date which the original warrant bears, two new refund warrants one of which shall be in an amount approximately equaling, with accrued interest, the amount of moneys in the county current expense fund determined by the county treasurer to be available for investment. The new warrants when issued shall be callable and payable in the same order with respect to other outstanding tax refund warrants as the original warrant in lieu of which the new warrants were issued.

[1963 c 4 § 36.33.090. Prior: 1943 c 61 § 3; Rem. Supp. 1943 § 5545-12.]

RCW 36.33.100 Investment in warrants on tax refund fund--Purchased warrants as cash.

In making settlements of accounts between outgoing and incoming county treasurers, any county tax refund warrant in which money in the county current expense fund has been invested shall be deemed in every way the equivalent of cash and shall be receipted for by the incoming county treasurer as such.

[1963 c 4 § 36.33.100. Prior: 1943 c 61 § 4; Rem. Supp. 1943 § 5545-13.]

RCW 36.33.120 County lands assessment fund created--Levy for.

The boards of county commissioners may annually levy a tax upon all taxable property in the county, for the purpose of creating a fund to be known as "county lands assessment fund."

[1963 c 4 § 36.33.120. Prior: 1929 c 193 § 1; RRS § 4027-1.]

RCW 36.33.130 County lands assessment fund created--Purpose of fund.

The county lands assessment fund may be expended by the county commissioners to pay in full or in part, any assessment or installment of assessments of drainage improvement districts, diking improvement districts, or districts formed for the foregoing purposes, or assessments for road improvements, falling due against lands in the year when such lands are acquired by the county or while they are owned by the county, including lands acquired by the county for general purposes; also lands which have been acquired by the county by foreclosure of general taxes. Payment may be made of such assessments, or installments thereof, against such lands or classes of lands, and in such districts or classes of districts as the county commissioners deem advisable. No payment shall be made of any assessments or installments of assessments falling due prior to the year in which the lands were acquired by the county, nor shall any assessments be paid in advance of the time when they fall due. Assessments for maintenance and operation of dikes, drains, or other improvements of districts falling due upon such lands while owned by the county, may be paid without the payment of assessments or installments thereof for construction of the improvements, if the county commissioners elect so to do.

[1963 c 4 § 36.33.130. Prior: 1929 c 193 § 2; RRS § 4027-2.]

RCW 36.33.140 County lands assessment fund created--Amount of levy.

The amount of the levy in any year for the county lands assessment fund shall not exceed the estimated amount needed over and above all moneys on hand in the fund, to pay the aggregate amount of such assessments falling due against the lands in the ensuing year; and in no event shall the levy exceed twelve and one-half cents per thousand dollars of assessed value upon all taxable property in the county.

[1973 1st ex.s. c 195 § 31; 1963 c 4 § 36.33.140. Prior: 1929 c 193 § 3; RRS § 4027-3.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 36.33.150 County lands assessment fund created--Surplus from tax sales to go into fund.

Into the county lands assessment fund shall also be paid any surplus moneys from the sale by the county, pursuant to foreclosure of real estate taxes, of any lands lying in any district formed for diking or drainage purposes or for assessment of road improvements, over and above the amount necessary to redeem the general taxes and other assessments against them, as required by law. Any surplus from any county levy for the fund, unexpended in any year, shall be carried forward in the fund to the next year.

[1963 c 4 § 36.33.150. Prior: 1929 c 193 § 4; RRS § 4027-4.]

RCW 36.33.160 County lands assessment fund created--List of lands to be furnished.

Upon request the county treasurer shall furnish to the county legislative authority a list of all lands owned by the county, together with the amounts levied as assessments and the district in or by which such assessments are levied, against each description of the lands, as it appears on the assessment roll of the district. On or before the first day of August of each year, upon request, the treasurer shall furnish to the county legislative authority a similar list of all land owned by the county and subject to any such assessments, together with the amounts of any installment of assessments falling due against any of such lands in the ensuing year and an estimate of any maintenance or other assessments to be made against same to fall due in the ensuing year.

[1991 c 245 § 9; 1963 c 4 § 36.33.160. Prior: 1929 c 193 § 5; RRS § 4027-5.]

RCW 36.33.170 County lands assessment fund created--Rentals may be applied against assessments.

Moneys received as rentals of irrigated lands may be applied to the payment of current irrigation charges or assessments against the land.

[1963 c 4 § 36.33.170. Prior: 1929 c 193 § 6; RRS § 4027-6.]

RCW 36.33.190 County lands assessment fund created--Disposal of bonds.

The county treasurer shall cash any United States bonds owned by the county as they mature or, with the approval of the state finance committee and of the county finance committee, he may at any time sell them. In either event he must return the proceeds into the treasury.

[1963 c 4 § 36.33.190. Prior: 1937 c 209 § 2; RRS § 5646-12.]

RCW 36.33.200 Election reserve fund.

The board of county commissioners may establish an election reserve fund for the payment of expenses of conducting regular and special state and county elections and compensation of election and registration officers and annually budget and levy a tax therefor. It may also make transfers into the election reserve fund from the current expense fund and receive funds for such purposes from cities, school districts and other subdivisions.

[1963 c 4 § 36.33.200. Prior: 1955 c 48 § 1.]

RCW 36.33.210 Election reserve fund--Accumulation of fund--Transfers.

The limits placed upon the amount to be accumulated in the current expense fund shall not affect the election reserve fund nor shall the existence of the election reserve fund affect the amount which may be accumulated in the current expense fund, nor shall any unexpended balance in the election reserve fund at the end of any budget year revert to the current expense fund but shall be carried forward in the election reserve fund to be used for the purposes for

which the fund was created: PROVIDED, That at a regular session, the county commissioners may transfer any surplus in said fund to the current expense fund, if they deem it expedient to do so.

[1963 c 4 § 36.33.210. Prior: 1955 c 48 § 2.]

RCW 36.33.220 County road property tax revenues, expenditure for services authorized.

The legislative authority of any county may budget, in accordance with the provisions of chapter 36.40 RCW, and expend any portion of the county road property tax revenues for any service to be provided in the unincorporated area of the county notwithstanding any other provision of law, including chapter 36.82 RCW and RCW 84.52.050 and 84.52.043. County road property tax revenues that are diverted under chapter 39.89 RCW may be expended as provided under chapter 39.89 RCW.

[2001 c 212 § 25; 1973 1st ex.s. c 195 § 142; 1973 1st ex.s. c 195 § 32; 1971 ex.s. c 25 § 1.]

NOTES:

Severability--2001 c 212: See RCW 39.89.902.

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability--1971 ex.s. c 25: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 25 § 4.]

**Chapter 36.33A RCW
EQUIPMENT RENTAL AND REVOLVING FUND**

Sections

36.33A.010	Equipment rental and revolving fund--Establishment--Purposes.
36.33A.020	Use of fund by other offices, departments or agencies.
36.33A.030	Administration of fund.
36.33A.040	Rates for equipment rental.
36.33A.050	Deposits in fund.
36.33A.060	Accumulated moneys.

RCW 36.33A.010 Equipment rental and revolving fund--Establishment--Purposes.

Every county shall establish, by resolution, an "equipment rental and revolving fund", hereinafter referred to as "the fund", in the county treasury to be used as a revolving fund for the purchase, maintenance, and repair of county road department equipment; for the purchase of equipment, materials, supplies, and services required in the administration and operation of the fund; and for the purchase or manufacture of materials and supplies needed by the county road department.

[1977 c 67 § 1.]

RCW 36.33A.020 Use of fund by other offices, departments or agencies.

The legislative body of any county may authorize, by resolution, the use of the fund by any other office or department of the county government or any other governmental agency for similar purposes.

[1977 c 67 § 2.]

RCW 36.33A.030 Administration of fund.

With the approval of the county legislative body, the county engineer, or other appointee of the county legislative body, shall administer the fund and shall be responsible for establishing the terms and charges for the sale of any material or supplies which have been purchased, maintained, or manufactured with moneys from the fund. The terms and charges shall be set to cover all costs of purchasing, storing, and distributing the material or supplies, and may be amended as considered necessary.

[1977 c 67 § 3.]

RCW 36.33A.040 Rates for equipment rental.

Rates for the rental of equipment owned by the fund shall be set to cover all costs of maintenance and repair, material and supplies consumed in operating or maintaining the equipment, and the future replacement thereof. The rates shall be determined by the county engineer and shall be subject to annual review by the legislative body.

[1977 c 67 § 4.]

RCW 36.33A.050 Deposits in fund.

The legislative authority of the county may, from time to time, place moneys in the fund from any source lawfully available to it and may transfer equipment, materials, and supplies of any office or department to the equipment rental and revolving fund with or without charge consistent with RCW 43.09.210. Charges for the rental of equipment and for providing materials, supplies, and services to any county office or department shall be paid monthly into the fund. Proceeds received from other governmental agencies for similar charges and from the sale of equipment or other personal property owned by the equipment rental and revolving fund, which is no longer of any value to or needed by the county, shall be placed in the fund as received.

[1977 c 67 § 5.]

RCW 36.33A.060 Accumulated moneys.

Moneys accumulated in the equipment rental and revolving fund shall be retained therein from year to year; shall be used only for the purposes stated in this chapter; and shall be subject to the budgetary regulations in chapter 36.40 RCW.

[1977 c 67 § 6.]

Chapter 36.34 RCW COUNTY PROPERTY

Sections

- 36.34.005 Establishment of comprehensive procedures for management of county property authorized--Exemption from chapter.
- 36.34.010 Authority to sell--May sell timber, minerals separately--Mineral reservation.
- 36.34.020 Publication of notice of intention to sell.
- 36.34.030 Requirements of notice--Posting.
- 36.34.040 Public hearing.
- 36.34.050 Findings and determination--Minimum price.
- 36.34.060 Sales of personalty.
- 36.34.070 Sales and purchases of equipment--Trade-ins.
- 36.34.080 Sales to be at public auction.
- 36.34.090 Notice of sale.
- 36.34.100 Notice of sale--Requirements of.
- 36.34.110 Disposition of proceeds.
- 36.34.120 Used equipment sales.
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- 36.34.135 Leases of county property--Affordable housing.
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- 36.34.145 Leases of county property to nonprofit organizations for agricultural fairs.
- 36.34.150 Application to lease--Deposit.
- 36.34.160 Notice of intention to lease.
- 36.34.170 Objections to leasing.
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- 36.34.192 Application of RCW 36.34.150 through 36.34.190 to certain service provider agreements under chapter 70.150 RCW.
- 36.34.200 Execution of lease agreement.
- 36.34.205 Lease of building space--Counties with a population of one million or more.
- 36.34.210 Forest lands may be conveyed to United States.
- 36.34.220 Lease or conveyance to United States for flood control, navigation, and allied purposes.
- 36.34.230 Lease or conveyance to United States for flood control, navigation, and allied purposes--State consents to conveyance.
- 36.34.240 Lease or conveyance to United States for flood control, navigation, and allied purposes--Cession of jurisdiction.
- 36.34.250 Lease or conveyance to the state or to United States for military, housing, and other purposes.
- 36.34.260 Lease or conveyance to the state or to United States for military, housing, and other purposes--Procedure.
- 36.34.270 Lease or conveyance to the state or to United States for military, housing, and other

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- 36.34.280 purposes--Execution of instrument of transfer.
Conveyance to municipality.
- 36.34.290 Dedication of county land for streets and alleys.
- 36.34.300 Dedication of county land for streets and alleys--Execution of dedication--Effective date.
- 36.34.310 Long term leases to United States.
- 36.34.320 Executory conditional sales contracts for purchase of property--Limit on indebtedness--Election, when.
- 36.34.330 Exchange for privately owned real property of equal value.
- 36.34.340 May acquire property for park, recreational, viewpoint, greenbelt, conservation, historic, scenic, or view purposes.

Notes:

Acquisition and operation of public cemeteries and funeral facilities: Chapter 68.52 RCW.

Eminent domain by state of county property: Chapter 8.04 RCW.

Federal areas on

generally: Chapters 37.08, 37.16 RCW.

Indians and Indian lands, jurisdiction: Chapter 37.12 RCW.

King county

Auburn general depot: RCW 37.08.260.

Lake Washington ship canal: RCW 37.08.240, 37.08.250.

military installations (permanent United States), county aid in acquisition of land for: Chapter 37.16 RCW.

Flood control by counties jointly, lease or sale of property: RCW 86.13.100.

Industrial development districts, transfer of county lands to: Chapter 53.25 RCW.

Local improvement assessments against county lands: RCW 35.44.140, 35.49.070.

Mineral and petroleum leases on county lands: Chapter 78.16 RCW.

Property subject to diking, drainage or sewerage improvement assessments, resale or lease by county: RCW 85.08.500.

Rights of way over by diking districts: RCW 85.05.080.

Tax liens, property, county acquisitions as subject to: RCW 84.60.050.

Television reception improvement district dissolution, disposition of property: RCW 36.95.200.

Underground storage of natural gas, lease of county lands for: RCW 80.40.070.

RCW 36.34.005 Establishment of comprehensive procedures for management of county property authorized--Exemption from chapter.

Pursuant to public notice and hearing, any county may establish comprehensive procedures for the management of county property consistent with the public interest and counties establishing such procedures shall be exempt from the provisions of chapter 36.34 RCW: PROVIDED, That all counties shall retain all powers now or hereafter granted by chapter 36.34 RCW.

[1973 1st ex.s. c 196 § 1.]

RCW 36.34.010 Authority to sell--May sell timber, minerals separately--Mineral reservation.

Whenever it appears to the board of county commissioners that it is for the best interests

of the county and the taxing districts and the people thereof that any part or parcel, or portion of such part or parcel, of property, whether real, personal, or mixed, belonging to the county, including tax title land, should be sold, the board shall sell and convey such property, under the limitations and restrictions and in the manner hereinafter provided.

In making such sales the board of county commissioners may sell any timber, mineral, or other resources on any land owned by the county separate and apart from the land in the same manner and upon the same terms and conditions as provided in this chapter for the sale of real property.

The board of county commissioners may reserve mineral rights in such land and, if such reservation is made, any conveyance of the land shall contain the following reservation:

"The party of the first part hereby expressly saves, excepts, and reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, all oils, gases, coals, ores, minerals, gravel, timber, and fossils of every name, kind, or description, and which may be in or upon said lands above described; or any part thereof, and the right to explore the same for such oils, gases, coals, ores, minerals, gravel, timber and fossils; and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, the right to enter by itself, its agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals, gravel, timber, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, the right by it or its agents, servants, and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads and railroads, sink such shafts, remove such oil, and to remain on said lands or any part thereof, for the business of mining and to occupy as much of said lands as may be necessary or convenient for the successful prosecution of such mining business, hereby expressly reserving to itself, its successors, and assigns, as aforesaid, generally, all rights and powers in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and the rights hereby expressly reserved."

No rights shall be exercised under the foregoing reservation until provision has been made to pay to the owner of the land upon which the rights reserved are sought to be exercised, full payment for all damages sustained by reason of entering upon the land: PROVIDED, That if the owner for any cause refuses or neglects to settle the damages, the county, its successors, or assigns, or any applicant for a lease or contract from the county for the purpose of prospecting for or mining valuable minerals, or operation contract, or lease, for mining coal, or lease for extracting petroleum or natural gas, shall have the right to institute such legal proceedings in the superior court of the county wherein the land is situated, as may be necessary to determine the damages which the owner of the land may suffer. Any of the reserved minerals or other resources not exceeding two hundred dollars in value may be sold, when the board deems it advisable, either with or without publication of notice of sale, and in such manner as the board may determine will be most beneficial to the county.

[1963 c 4 § 36.34.010. Prior: 1945 c 172 § 3; 1943 c 19 § 1; 1891 c 76 § 1; Rem. Supp. 1945 § 4007.]

RCW 36.34.020 Publication of notice of intention to sell.

Whenever the county legislative authority desires to dispose of any county property except:

- (1) When selling to a governmental agency;
- (2) When personal property to be disposed of is to be traded in upon the purchase of a like article;
- (3) When the value of the property to be sold is less than two thousand five hundred dollars;
- (4) When the county legislative authority by a resolution setting forth the facts has declared an emergency to exist;

it shall publish notice of its intention so to do once each week during two successive weeks in a legal newspaper of general circulation in the county.

[1991 c 363 § 66; 1985 c 469 § 45; 1967 ex.s. c 144 § 1; 1963 c 4 § 36.34.020. Prior: 1945 c 254 § 1; Rem. Supp. 1945 § 4014-1; prior: 1891 c 76 § 2, part; RRS § 4008, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

RCW 36.34.030 Requirements of notice--Posting.

The notice of hearing on the proposal to dispose of any county property must particularly describe the property or portion thereof proposed to be sold and designate the place where and the day and hour when a hearing will be held thereon and be posted in a conspicuous place in the courthouse. Both posting and the date of first publication must be at least ten days before the day set for the hearing.

[1963 c 4 § 36.34.030. Prior: 1945 c 254 § 2; Rem. Supp. 1945 § 4014-2; prior: 1891 c 76 § 2, part; RRS § 4008, part.]

RCW 36.34.040 Public hearing.

The board shall hold a public hearing upon a proposal to dispose of county property at the day and hour fixed in the notice at its usual place of business and admit evidence offered for and against the propriety and advisability of the proposed action. Any taxpayer in person or by counsel may submit evidence and submit an argument, but the board may limit the number to three on a side.

[1963 c 4 § 36.34.040. Prior: 1945 c 254 § 3; Rem. Supp. 1945 § 4014-3; prior: 1891 c 76 § 2, part; RRS § 4008, part.]

RCW 36.34.050 Findings and determination--Minimum price.

Within three days after the hearing upon a proposal to dispose of county property, the county legislative authority shall make its findings and determination thereon and cause them to be spread upon its minutes and made a matter of record. The county legislative authority may set a minimum sale price on property that is proposed for sale.

[1991 c 363 § 67; 1963 c 4 § 36.34.050. Prior: 1945 c 254 § 4; Rem. Supp. 1945 § 4014-4; prior: 1891 c 76 § 3; RRS § 4009.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.34.060 Sales of personalty.

Sales of personal property must be for cash except:

- (1) When property is transferred to a governmental agency;
- (2) When the county property is to be traded in on the purchase of a like article, in which case the proposed cash allowance for the trade-in must be part of the proposition to be submitted by the seller in the transaction.

[1963 c 4 § 36.34.060. Prior: 1945 c 254 § 5; Rem. Supp. 1945 § 4014-5; prior: 1915 c 8 § 1, part; 1891 c 76 § 5, part; RRS § 4011, part.]

RCW 36.34.070 Sales and purchases of equipment--Trade-ins.

The board may advertise and sell used highway or other equipment belonging to the county or to any taxing division thereof subject to its jurisdiction in the manner prescribed for the sale of county property, or it may trade it in on the purchase of new equipment. If the board elects to trade in the used equipment it shall include in its call for bids on the new equipment a notice that the county has for sale or trade-in used equipment of a specified type and description which will be sold or traded in on the same day and hour that the bids on the new equipment are opened. Any bidder on the new equipment may include in his offer to sell, an offer to accept the used equipment as a part payment of the new equipment purchase price, setting forth the amount of such allowance.

In determining the lowest and best bid on the new equipment the board shall consider the net cost to the county of such new equipment after trade-in allowances have been deducted. The board may accept the new equipment bid of any bidder without trading in the used equipment but may not require any such bidder to purchase the used equipment without awarding the bidder the new equipment contract. Nothing in this section shall bar anyone from making an offer for the purchase of the used equipment independent of a bid on the new equipment and the board shall consider such offers in relation to the trade-in allowances offered to determine the net best sale and purchase combination for the county.

[1963 c 4 § 36.34.070. Prior: 1945 c 254 § 6; Rem. Supp. 1945 § 4014-6.]

RCW 36.34.080 Sales to be at public auction.

All sales of county property ordered after a public hearing upon the proposal to dispose thereof must be supervised by the county treasurer and may be sold at a county or other government agency's public auction, at a privately operated consignment auction that is open to the public, or by sealed bid to the highest and best bidder meeting or exceeding the minimum sale price as directed by the county legislative authority.

[1993 c 8 § 1. Prior: 1991 c 363 § 68; 1991 c 245 § 10; 1965 ex.s. c 23 § 1; 1963 c 4 § 36.34.080; prior: 1945 c 254 § 7; Rem. Supp. 1945 § 4014-7; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.
Public auction sales, where held: RCW 36.16.140.

RCW 36.34.090 Notice of sale.

Whenever county property is to be sold at public auction, consignment auction, or sealed bid, the county treasurer or the county treasurer's designee shall publish notice thereof once during each of two successive calendar weeks in a newspaper of general circulation in the county. Notice thereof must also be posted in a conspicuous place in the courthouse. The posting and date of first publication must be at least ten days before the day fixed for the sale.

[1997 c 393 § 5; 1991 c 363 § 69; 1985 c 469 § 46; 1963 c 4 § 36.34.090. Prior: 1945 c 254 § 8; Rem. Supp. 1945 § 4014-8; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.34.100 Notice of sale--Requirements of.

The notice of sale of county property by auction sale must particularly describe the property to be sold and designate the day and hour and the location of the auction sale. The notice of sale of county property by sealed bid must describe the property to be sold, designate the date and time after which the bids are not received, the location to turn in the sealed bid, and the date, time, and location of the public meeting of the county legislative authority when the bids are opened and read in public.

[1991 c 363 § 70; 1963 c 4 § 36.34.100. Prior: 1945 c 254 § 9; Rem. Supp. 1945 § 4014-9; prior: 1891 c 76 § 4, part; RRS § 4010, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.34.110 Disposition of proceeds.

The proceeds of sales of county property except in cases of trade-in allowances upon purchases of like property must be paid to the county treasurer who must receipt therefor and

execute the proper documents transferring title attested to by the county auditor. In no case shall the title be transferred until the purchase price has been fully paid.

[1963 c 4 § 36.34.110. Prior: 1945 c 254 § 10; Rem. Supp. 1945 § 4014-10; prior: (i) 1915 c 8 § 1, part; 1891 c 76 § 5, part; RRS § 4011, part. (ii) 1891 c 76 § 6, part; RRS § 4013, part.]

RCW 36.34.120 Used equipment sales.

Proceeds from the sale of used equipment must be credited to the fund from which the original purchase price was paid.

[1963 c 4 § 36.34.120. Prior: 1945 c 254 § 11; Rem. Supp. 1945 § 4014-11.]

RCW 36.34.130 Intergovernmental sales.

The board of county commissioners may dispose of county property to another governmental agency and may acquire property for the county from another governmental agency by means of private negotiation upon such terms as may be agreed upon and for such consideration as may be deemed by the board of county commissioners to be adequate.

[1963 c 4 § 36.34.130. Prior: 1945 c 254 § 12; Rem. Supp. 1945 § 4014-12.]

RCW 36.34.135 Leases of county property--Affordable housing.

If a county owns property that is located anywhere within the county, including within the limits of a city or town, and that is suitable for affordable housing, the legislative authority of the county may, by negotiation, lease the property for affordable housing for a term not to exceed seventy-five years to any public housing authority or nonprofit organization that has demonstrated its ability to construct or operate housing for very low-income, low-income, or moderate-income households as defined in RCW 43.63A.510 and special needs populations. Leases for housing for very low-income, low-income, or moderate-income households and special needs populations shall not be subject to any requirement of periodic rental adjustments, as provided in RCW 36.34.180, but shall provide for such fixed annual rents as appear reasonable considering the public, social, and health benefits to be derived by providing an adequate supply of safe and sanitary housing for very low-income, low-income, or moderate-income households and special needs populations.

[1993 c 461 § 6; 1990 c 253 § 7.]

Notes:

Finding--1993 c 461: See note following RCW 43.63A.510.

Legislative finding and purpose--1990 c 253: See note following RCW 43.70.340.

RCW 36.34.137 Affordable housing--Inventory of suitable property.

(1) Every county shall identify and catalog real property owned by the county that is no longer required for its purposes and is suitable for the development of affordable housing for

very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. Every county shall provide a copy of the inventory to the *department of community development by November 1, 1993, with inventory revisions each November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, every county shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The inventory revision shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land.

[1993 c 461 § 5.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Finding--1993 c 461: See note following RCW 43.63A.510.

RCW 36.34.140 Leases of county property--Airports.

The board of county commissioners, if it appears that it is for the best interests of the county and the people thereof, that any county real property and its appurtenances should be leased for a year or a term of years, may lease such property under the limitations and restrictions and in the manner provided in this chapter, and, if it appears that it is for the best interests of the county and the people thereof, that any county real property and its appurtenances which is now being, or is to be devoted to airport or aeronautical purposes or purposes incidental thereto, should be leased for a year or a term of years, said board of county commissioners may lease such property under the limitations and restrictions and in the manner provided in this chapter, and said board of county commissioners shall have power to lease such county real property and its appurtenances whether such property was heretofore or hereafter acquired or whether heretofore or hereafter acquired by tax deed under tax foreclosure proceedings for nonpayment of taxes or whether held or acquired in any other manner. Any lease executed under the authority of the provisions hereof creates a vested interest and a contract binding upon the county and the lessee.

[1963 c 4 § 36.34.140. Prior: 1951 2nd ex.s. c 14 § 1; prior: (i) 1901 c 87 § 1; RRS § 4019. (ii) 1901 c 87 § 6, part; RRS § 4024, part.]

RCW 36.34.145 Leases of county property to nonprofit organizations for agricultural fairs.

The legislative authority of any county owning property in or outside the limits of any city or town, or anywhere within the county, which is suitable for agricultural fair purposes may by negotiation lease such property for such purposes for a term not to exceed seventy-five years

to any nonprofit organization that has demonstrated its qualification to conduct agricultural fairs. Such agricultural fair leases shall not be subject to any requirement of periodic rental adjustments, as provided in RCW 36.34.180, but shall provide for such fixed annual rental as shall appear reasonable, considering the benefit to be derived by the county in the promotion of the fair and in the improvement of the property. The lessee may utilize or rent out such property at times other than during the fair season for nonfair purposes in order to obtain income for fair purposes, and during the fair season may sublease portions of the property for purposes and activities associated with such fair. No sublease shall be valid unless the same shall be approved in writing by the county legislative authority: PROVIDED, That failure of such lessee, except by act of God, war or other emergency beyond its control, to conduct an annual agricultural fair or exhibition, shall cause said lease to be subject to cancellation by the county legislative authority. A county legislative authority entering into an agreement with a nonprofit association to lease property for agricultural fair purposes shall, when requested to do so, file a copy of the lease agreement with the department of agriculture or the state fair commission in order to assure compliance with the provisions of RCW 15.76.165.

[1986 c 171 § 2; 1963 c 4 § 36.34.145. Prior: 1957 c 134 § 1.]

RCW 36.34.150 Application to lease--Deposit.

Any person desiring to lease county lands shall make application in writing to the board of county commissioners. Each application shall be accompanied by a deposit of not less than ten dollars or such other sum as the county commissioners may require, not to exceed twenty-five dollars. The deposit shall be in the form of a certified check or certificate of deposit on some bank in the county, or may be paid in cash. In case the lands applied for are leased at the time they are offered, the deposit shall be returned to the applicant, but if the party making application fails or refuses to comply with the terms of his application and to execute the lease, the deposit shall be forfeited to the county, and the board of county commissioners shall pay the deposit over to the county treasurer, who shall place it to the credit of the current expense fund.

[1963 c 4 § 36.34.150. Prior: 1901 c 87 § 2; RRS § 4020.]

RCW 36.34.160 Notice of intention to lease.

When, in the judgment of the board of county commissioners, it is found desirable to lease the land applied for, it shall first give notice of its intention to make such lease by publishing a notice in a legal newspaper at least once a week for the term of three weeks, and shall also post a notice of such intention in a conspicuous place in the courthouse for the same length of time. The notice so published and posted shall designate and describe the property which is proposed to be leased, together with the improvements thereon and appurtenances thereto, and shall contain a notice that the board of county commissioners will meet at the county courthouse on a day and at an hour designated in the notice, for the purpose of leasing the property which day and hour shall be at a time not more than a week after the expiration of the time required for the publication of the notice.

[1963 c 4 § 36.34.160. Prior: 1901 c 87 § 3; RRS § 4021.]

RCW 36.34.170 Objections to leasing.

Any person may appear at the meeting of the county commissioners or any adjourned meeting thereof, and make objection to the leasing of the property, which objection shall be stated in writing. In passing upon objections the board of county commissioners shall, in writing, briefly give its reasons for accepting or rejecting the same, and such objections, and the reasons for accepting or refusing the application, shall be published by the board in the next subsequent weekly issue of the newspaper in which the notice of hearing was published.

[1963 c 4 § 36.34.170. Prior: 1901 c 87 § 5; RRS § 4023.]

RCW 36.34.180 Lease terms.

At the day and hour designated in the notice or at any subsequent time to which the meeting may be adjourned by the board of county commissioners, but not more than thirty days after the day and hour designated for the meeting in the published notice, the board may lease the property in such notice described for a term of years and upon such terms and conditions as to the board may seem just and right in the premises. No lease shall be for a longer term in any one instance than ten years, and no renewal of a lease once executed and delivered shall be had, except by a re-leasing and re-letting of the property according to the terms and conditions of this chapter: PROVIDED, That if a county owns property within or outside the corporate limits of any city or town or anywhere in the county suitable for municipal purposes, or for commercial buildings, or owns property suitable for manufacturing or industrial purposes or sites, or for military purposes, or for temporary or emergency housing, or for any requirement incidental to manufacturing, commercial, agricultural, housing, military, or governmental purposes, the board of county commissioners may lease it for such purposes for any period not to exceed thirty-five years: PROVIDED FURTHER, Where the property involved is or is to be devoted to airport purposes and construction work or the installation of new facilities is contemplated, the board may lease said property for such period as may equal the estimated useful life of such work or facilities but not to exceed seventy-five years.

If property is leased for municipal purposes or for commercial buildings or manufacturing or industrial purposes the lessee shall prior to the execution of the lease file with the board of county commissioners general plans and specifications of the building or buildings to be erected thereon for such purposes. All leases when executed shall provide that they shall be canceled by failure of the lessee to construct such building or buildings or other improvements for such purposes within three years from date of the lease, and in case of failure so to do the lease and all improvements thereon including the rentals paid, shall thereby be forfeited to the county unless otherwise stipulated. No change or modification of the plans shall be made unless first approved by the board of county commissioners. If at any time during the life of the lease the lessee fails to use the property for the purposes leased, without first obtaining permission in writing from the board of county commissioners so to do, the lease shall be forfeited.

Any lease made for a longer period than ten years shall contain provisions requiring the lessee to permit the rentals for every five year period thereafter, or part thereof, at the commencement of such period, to be readjusted and fixed by the board of county commissioners. In the event that the lessee and the board cannot agree upon the rentals for said five year period, the lessee shall submit to have the disputed rentals for the subsequent period adjusted by arbitration. The lessee shall pick one arbitrator and the board one, and the two so chosen shall select a third. No board of arbitrators shall reduce the rentals below the sum fixed or agreed upon for the last preceding period. All buildings, factories, or other improvements made upon property leased shall belong to and become property of such county, unless otherwise stipulated, at the expiration of the lease.

No lease shall be assigned without the assignment being first authorized by resolution of the board of county commissioners and the consent in writing of at least two members of the board endorsed on the lease. All leases when drawn shall contain this provision.

This section shall not be construed to limit the power of the board of county commissioners to sell, lease, or by gift convey any property of the county to the United States or any of its governmental agencies to be used for federal government purposes.

[1963 c 4 § 36.34.180. Prior: 1951 c 41 § 1; 1941 c 110 § 2; 1913 c 162 § 1; 1903 c 57 § 1; 1901 c 87 § 4; RRS § 4022.]

RCW 36.34.190 Lease to highest responsible bidder.

No lease shall be made by the county except to the highest responsible bidder at the time of the hearing set forth in the notice of intention to lease.

[1963 c 4 § 36.34.190. Prior: 1901 c 87 § 6, part; RRS § 4024, part.]

RCW 36.34.192 Application of RCW 36.34.150 through 36.34.190 to certain service provider agreements under chapter 70.150 RCW.

RCW 36.34.150 through 36.34.190 shall not apply to agreements entered into pursuant to chapter 70.150 RCW provided there is compliance with the procurement procedure under RCW 70.150.040.

[1986 c 244 § 12.]

Notes:

Severability--1986 c 244: See RCW 70.150.905.

RCW 36.34.200 Execution of lease agreement.

Upon the decision of the board of county commissioners to lease the lands applied for, a lease shall be executed in duplicate to the lessee by the chairman of the board and the county auditor, attested by his seal of office, which lease shall also be signed by the lessee. The lease shall refer to the order of the board directing the lease, with a description of the lands conveyed,

the periods of payment, and the amounts to be paid for each period.

[1963 c 4 § 36.34.200. Prior: 1901 c 87 § 7; RRS § 4025.]

RCW 36.34.205 Lease of building space--Counties with a population of one million or more.

In accordance with RCW 35.42.010 through 35.42.220, a county with a population of one million or more may lease space and provide for the leasing of such space through leases with an option to purchase and the acquisition of buildings erected upon land owned by the county upon the expiration of lease of such land. For the purposes of this section, "building," as defined in RCW 35.42.020 shall be construed to include any building or buildings used as part of, or in connection with, the operation of the county. The authority conferred by this section is in addition to and not in lieu of any other provision authorizing counties to lease property.

[1998 c 278 § 10.]

RCW 36.34.210 Forest lands may be conveyed to United States.

The board of county commissioners of any county which acquires any lands through foreclosure of tax liens or otherwise, which by reason of their location, topography, or geological formation are chiefly valuable for the purpose of developing and growing timber, and which are situated within the boundaries of any national forest, may, upon application by the proper forest service official of the United States government, convey such lands to the United States government for national forest purposes under the national forest land exchange regulations, for such compensation as may be deemed equitable.

[1963 c 4 § 36.34.210. Prior: 1931 c 69 § 1; RRS § 4015-1.]

RCW 36.34.220 Lease or conveyance to United States for flood control, navigation, and allied purposes.

If the board of county commissioners of any county adjudges that it is desirable and for the general welfare and benefit of the people of the county and for the interest of the county to lease or convey property, real or personal, belonging to the county, however acquired, whether by tax foreclosure or in any other manner, to the United States for the purpose of flood control, navigation, power development, or for use in connection with federal projects within the scope of the federal reclamation act of June 17, 1902, and the act of congress of August 30, 1935, entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," and federal acts amendatory thereof and supplemental thereto, for the reclamation and irrigation of arid lands, the board, by majority vote, may lease or convey such property to the United States for flood control, navigation, and power development purposes, or for use in connection with federal projects for the reclamation and irrigation of arid lands. This property may be conveyed or leased by deed or other

instrument of conveyance or lease without notice and upon such consideration, if any, as shall be determined by the board and the deed or lease may be signed by the county treasurer when authorized to do so by resolution of the board. Any deed issued heretofore by any county to the United States under authority of section 1, chapter 46, Laws of 1937 and the amendments thereto, is ratified and approved and declared to be valid.

[1963 c 4 § 36.34.220. Prior: 1945 c 94 § 1; 1941 c 142 § 1; 1937 c 46 § 1; Rem. Supp. 1945 § 4015-6.]

RCW 36.34.230 Lease or conveyance to United States for flood control, navigation, and allied purposes--State consents to conveyance.

Pursuant to the Constitution and laws of the United States and the Constitution of this state, consent of the legislature is given to such conveyance by a county to the United States for such purposes.

[1963 c 4 § 36.34.230. Prior: 1937 c 46 § 2; RRS § 4015-7.]

RCW 36.34.240 Lease or conveyance to United States for flood control, navigation, and allied purposes--Cession of jurisdiction.

Pursuant to the Constitution and laws of the United States and the Constitution of this state, consent of the legislature is given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever on such tract or parcels of land so conveyed to it: PROVIDED, That all civil process issued from the courts of the state and such criminal process as may issue under the authority of the state against any person charged with crime in cases arising outside of said tract may be served and executed thereon in the same manner as if such property were retained by the county.

[1963 c 4 § 36.34.240. Prior: 1937 c 46 § 3; RRS § 4015-8.]

RCW 36.34.250 Lease or conveyance to the state or to United States for military, housing, and other purposes.

The board of county commissioners of any county by a majority vote are hereby authorized to directly lease, sell, or convey by gift, all or any portion of real estate, or any interest therein owned by the county, however acquired, by tax foreclosure or in any other manner, to the United States for the use and benefit of any branch of the army, navy, marine corps or air forces of the United States, or for enlarging or improving any military base thereof, or for any governmental housing project, or for the purpose of constructing and operating any federal power project, or to the state of Washington, without requiring competitive bids or notice to the public and at such price and terms as the board may deem for the best interests of the county. The property may be conveyed to the United States or to the state of Washington by deed or other instrument of conveyance and shall not require any consideration, if donated, other than the benefit which may be derived by the county on account of the use thereof and

development of such property by the United States government or the state.

[1963 c 4 § 36.34.250. Prior: 1941 c 227 § 1; Rem. Supp. 1941 § 4026-1a.]

RCW 36.34.260 Lease or conveyance to the state or to United States for military, housing, and other purposes--Procedure.

In any county where the federal government owns and maintains property under the jurisdiction of the navy department or war department, or any other federal department, the board of county commissioners by majority vote may sell, lease or transfer to the United States government any real or personal property owned by said county, however acquired, for the use and benefit of any branch of the army, navy, marine corps or air forces thereof or for enlarging or improving any military base thereof, or for any other governmental housing project, or to the state of Washington, without requiring competitive bids or notice to the public and at such price and terms as the board may deem for the best interests of the county. This property may be conveyed to the government of the United States by bill of sale or other instrument of conveyance and need not require consideration other than the benefit which may be derived by the county on account of the use thereof and development of such property by the United States government. The state of Washington may buy and/or sell such property, or the state of Washington may buy and/or sell such property for the purposes herein stated; or mutually interchange or trade such property or purchase one from the other.

[1963 c 4 § 36.34.260. Prior: 1941 c 227 § 2; Rem. Supp. 1941 § 4026-1b.]

RCW 36.34.270 Lease or conveyance to the state or to United States for military, housing, and other purposes--Execution of instrument of transfer.

The resolution of the board of county commissioners to grant an option to purchase, contract to sell, lease, sell and convey, or donate, as provided, shall be entered by said board upon its journal, and any option to purchase, contract to sell, lease, sale and conveyance, or donation executed pursuant thereto, shall be signed on behalf of the county by the board of county commissioners, or a majority thereof, and shall be acknowledged in the manner prescribed by law.

[1963 c 4 § 36.34.270. Prior: 1941 c 227 § 3; Rem. Supp. 1941 § 4026-1c.]

RCW 36.34.280 Conveyance to municipality.

Whenever any county holds title to lands, for county purposes, acquired by grant, patent, or other conveyance from the United States executed under and pursuant to an act of congress, and the board of county commissioners of such county by resolution finds and determines that any portion thereof is not required for county purposes and that it would be for the best interest of the county to have such portion of the lands devoted to use by a municipality lying within the county, the board of county commissioners may, with the consent of the congress of the United

States, by a proper instrument of conveyance executed by the board on behalf of the county, convey such lands to the municipality for municipal purposes, either with or without consideration, and shall not be required to advertise or offer such lands for sale or lease in the manner provided by law for the sale or lease of county property.

[1963 c 4 § 36.34.280. Prior: 1917 c 69 § 1; RRS § 4015.]

RCW 36.34.290 Dedication of county land for streets and alleys.

The boards of county commissioners of the several counties may dedicate any county land to public use for public streets and alleys in any city or town.

[1963 c 4 § 36.34.290. Prior: 1903 c 89 § 1; RRS § 4026.]

RCW 36.34.300 Dedication of county land for streets and alleys--Execution of dedication--Effective date.

Whenever the board of county commissioners of any county deems it for the best interests of the public that any county land lying in any city or town should be dedicated to the public use for streets or alleys, it shall make and enter an order upon its records, designating the land so dedicated, and shall cause a certified copy of the order to be recorded in the auditor's office of the county in which the land is situated, and from and after entry of such order of dedication and the recording thereof as herein provided, such lands shall be thereby dedicated to the public use.

[1963 c 4 § 36.34.300. Prior: 1903 c 89 § 2; RRS § 4027.]

RCW 36.34.310 Long term leases to United States.

Any county in the state may lease any property owned by it to the United States of America or to any agency thereof for a term not exceeding ninety-nine years upon such conditions as may be contained in a written agreement therefor executed on behalf of the county by its board of county commissioners, and by any person on behalf of the United States of America or any agency thereof who has been thereunto authorized: PROVIDED, That any lease made for a longer period than ten years hereunder shall contain provisions requiring the lessee to permit the rentals for every five-year period thereafter, or part thereof, at the commencement of such period, to be readjusted upward and fixed by the board of county commissioners. In the event that the lessee and the board of county commissioners cannot agree upon the rentals for the five-year period, the lessee shall submit to have the disputed rentals for such subsequent period adjusted by arbitration. The lessee shall pick one arbitrator and the board of county commissioners one, and the two so chosen shall select a third. No board of arbitrators shall reduce the rentals below the sum fixed or agreed upon for the last preceding period. All buildings, factories or other improvements made upon property leased under this proviso shall belong to and become property of the county, unless otherwise stipulated, at the expiration of the

lease.

[1963 c 4 § 36.34.310. Prior: 1949 c 85 § 1; Rem. Supp. 1949 § 4019-1.]

RCW 36.34.320 Executory conditional sales contracts for purchase of property--Limit on indebtedness--Election, when.

See RCW 39.30.010.

RCW 36.34.330 Exchange for privately owned real property of equal value.

The board of county commissioners of any county shall have authority to exchange county real property for privately owned real property of equal value whenever it is determined by a decree of the superior court in the county in which the real property is located, after publication of notice of hearing is given as fixed and directed by such court, that:

(1) The county real property proposed to be exchanged is not necessary to the future foreseeable needs of such county; and

(2) The real property to be acquired by such exchange is necessary for the future foreseeable needs of such county; and

(3) The value of the county real property to be exchanged is not more than the value of the real property to be acquired by such exchange.

[1965 ex.s. c 21 § 1.]

RCW 36.34.340 May acquire property for park, recreational, viewpoint, greenbelt, conservation, historic, scenic, or view purposes.

Any county or city may acquire by purchase, gift, devise, bequest, grant or exchange, title to or any interests or rights in real property to be provided or preserved for (a) park or recreational purposes, viewpoint or greenbelt purposes, (b) the conservation of land or other natural resources, or (c) historic, scenic, or view purposes.

[1965 ex.s. c 76 § 4.]

Notes:

Acquisition of interests in land for conservation, protection, preservation, or open space purposes by counties:

RCW 64.04.130.

Historic preservation--Authority of county to acquire property: RCW 36.32.435.

Parks, county commissioners may designate name of: RCW 36.32.430.

**Chapter 36.35 RCW
TAX TITLE LANDS**

Sections

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36.35.280	Tax deeds to cities and towns absolute despite reversionary provision.
36.35.290	Easements.

RCW 36.35.010 Purpose--Powers of county legislative authority as to tax title lands.

The purpose of this chapter is to increase the power of county legislative authorities over tax title lands. The legislative authority of each county shall have the power to devote tax title lands to public use under its own control or the control of other governmental or quasi-governmental agencies, to exchange such lands for lands worth at least ninety percent of the value of the land exchanged, and to manage such lands to produce maximum revenue therefrom in the manner which derives the most income from such lands. The further purpose of this chapter is to relieve the courts of the obligation of supervising the county legislative authorities in the management and disposition of tax title lands.

[1972 ex.s. c 150 § 1.]

RCW 36.35.020 "Tax title lands" defined.

The term "tax title lands" as used in this chapter shall mean any tract of land acquired by the county for lack of other bidders at a tax foreclosure sale.

[1972 ex.s. c 150 § 2.]

RCW 36.35.070 Chapter as alternative.

The provisions of this chapter shall be deemed as alternatives to, and not be limited by, the provisions of RCW 39.33.010, 36.34.130, and 36.35.140, nor shall the authority granted in this chapter be held to be subjected to or qualified by the terms of such statutory provisions.

[1998 c 106 § 22; 1972 ex.s. c 150 § 8.]

RCW 36.35.080 Other lands not affected.

Nothing in this chapter shall affect any land deeded in trust to the department of natural resources or its successors pursuant to the provisions of Title 76 RCW.

[1988 c 128 § 7; 1972 ex.s. c 150 § 9.]

RCW 36.35.090 Chapter not affected by other acts.

Notwithstanding any provision of law to the contrary, or provisions of law limiting the authority granted in this chapter, the legislative authority of any county shall have the authority to manage and exchange tax title lands heretofore or hereafter acquired in the manner and on the terms and conditions set forth in this chapter.

[1972 ex.s. c 150 § 3.]

RCW 36.35.100 County held tax-title property exempt.

All property deeded to the county under the provisions of this chapter shall be stricken from the tax rolls as county property and exempt from taxation and shall not be again assessed or taxed while the property of the county. The sale, management, and leasing of tax title property shall be handled as under chapter 36.35 RCW.

[1998 c 106 § 13; 1961 c 15 § 84.64.220. Prior: 1925 ex.s. c 130 § 131; RRS § 11292; prior: 1899 c 141 § 27. Formerly RCW 84.64.220.]

RCW 36.35.110 Disposition of proceeds of sales.

No claims shall ever be allowed against the county from any municipality, school district, road district or other taxing district for taxes levied on property acquired by the county by tax deed under the provisions of this chapter, but all taxes shall at the time of deeding said property be thereby canceled: PROVIDED, That the proceeds of any sale of any property acquired by the county by tax deed shall be justly apportioned to the various funds existing at the date of the sale, in the territory in which such property is located, according to the tax levies of the year last in process of collection.

[1961 c 15 § 84.64.230. Prior: 1925 ex.s. c 130 § 132; RRS § 11293; prior: 1899 c 141 § 28. Formerly RCW 84.64.230.]

RCW 36.35.120 Sales of tax-title property--Reservations--Notices--Installment contracts--Separate sale of reserved resources.

Real property acquired by any county of this state by foreclosure of delinquent taxes may be sold by order of the county legislative authority of the county when in the judgment of the county legislative authority it is deemed in the best interests of the county to sell the real property.

When the legislative authority desires to sell any such property it may, if deemed advantageous to the county, combine any or all of the several lots and tracts of such property in one or more units, and may reserve from sale coal, oil, gas, gravel, minerals, ores, fossils, timber, or other resources on or in the lands, and the right to mine for and remove the same, and it shall then enter an order on its records fixing the unit or units in which the property shall be sold and the minimum price for each of such units, and whether the sale will be for cash or whether a contract will be offered, and reserving from sale such of the resources as it may determine and from which units such reservations shall apply, and directing the county treasurer to sell such property in the unit or units and at not less than the price or prices and subject to such reservations so fixed by the county legislative authority. The order shall be subject to the approval of the county treasurer if several lots or tracts of land are combined in one unit.

Except in cases where the sale is to be by direct negotiation as provided in RCW 36.35.150, it shall be the duty of the county treasurer upon receipt of such order to publish once a week for three consecutive weeks a notice of the sale of such property in a newspaper of general circulation in the county where the land is situated. The notice shall describe the property to be sold, the unit or units, the reservations, and the minimum price fixed in the order, together with the time and place and terms of sale, in the same manner as foreclosure sales as provided by RCW 84.64.080.

The person making the bid shall state whether he or she will pay cash for the amount of his or her bid or accept a real estate contract of purchase in accordance with the provisions hereinafter contained. The person making the highest bid shall become the purchaser of the property. If the highest bidder is a contract bidder the purchaser shall be required to pay thirty percent of the total purchase price at the time of the sale and shall enter into a contract with the county as vendor and the purchaser as vendee which shall obligate and require the purchaser to pay the balance of the purchase price in ten equal annual installments commencing November 1st and each year following the date of the sale, and shall require the purchaser to pay twelve percent interest on all deferred payments, interest to be paid at the time the annual installment is due; and may contain a provision authorizing the purchaser to make payment in full at any time of any balance due on the total purchase price plus accrued interest on such balance. The contract shall contain a provision requiring the purchaser to pay before delinquency all subsequent taxes and assessments that may be levied or assessed against the property subsequent to the date of the contract, and shall contain a provision that time is of the essence of the contract and that in event of a failure of the vendee to make payments at the time and in the manner required and to keep and perform the covenants and conditions therein required of him or her that the contract may be forfeited and terminated at the election of the vendor, and that in event

of the election all sums theretofore paid by the vendee shall be forfeited as liquidated damages for failure to comply with the provisions of the contract; and shall require the vendor to execute and deliver to the vendee a deed of conveyance covering the property upon the payment in full of the purchase price, plus accrued interest.

The county legislative authority may, by order entered in its records, direct the coal, oil, gas, gravel, minerals, ores, timber, or other resources sold apart from the land, such sale to be conducted in the manner hereinabove prescribed for the sale of the land. Any such reserved minerals or resources not exceeding two hundred dollars in value may be sold, when the county legislative authority deems it advisable, either with or without such publication of the notice of sale, and in such manner as the county legislative authority may determine will be most beneficial to the county.

[2001 c 299 § 10; 1993 c 310 § 1; 1991 c 245 § 30; 1981 c 322 § 7; 1965 ex.s. c 23 § 5; 1961 c 15 § 84.64.270. Prior: 1945 c 172 § 1; 1937 c 68 § 1; 1927 c 263 § 1; 1925 ex.s. c 130 § 133; Rem. Supp. 1945 § 11294; prior: 1903 c 59 § 1; 1899 c 141 § 29; 1890 p 579 § 124; Code 1881 § 2934. Formerly RCW 84.64.270, 84.64.280, 84.64.290, and 84.64.270.]

NOTES:

City may acquire property from county before resale: RCW 35.49.150.

Disposition of proceeds upon resale

generally: RCW 35.49.160.

of property subject to diking, drainage or sewerage improvement district assessments: RCW 85.08.500.

Exchange, lease, management of county tax title lands: Chapter 36.35 RCW.

Tax title land

conveyance of to port districts: RCW 53.25.050.

may be deeded to department of natural resources for reforestation purposes: RCW 76.12.020.

may be leased for mineral, gas and petroleum development: Chapter 78.16 RCW.

RCW 36.35.130 Form of deed and reservation.

The county treasurer shall upon payment to the county treasurer of the purchase price for the property and any interest due, make and execute under the county treasurer's hand and seal, and issue to the purchaser, a deed in the following form for any lots or parcels of real property sold under the provisions of RCW 36.35.120.

State of Washington)
)
) ss.
)
 County of.)

This indenture, made this day of, . . (year) . . ., between, as treasurer of county, state of Washington, the party of the first part, and, party of the second part.

WITNESSETH, That whereas, at a public sale of real property, held on the day of, . . (year) . . ., pursuant

to an order of the county legislative authority of the county of, state of Washington, duly made and entered, and after having first given due notice of the time and place and terms of the sale, and, whereas, in pursuance of the order of the county legislative authority, and of the laws of the state of Washington, and for and in consideration of the sum of dollars, lawful money of the United States of America, to me in hand paid, the receipt whereof is hereby acknowledged, I have this day sold to the following described real property, and which the real property is the property of county, and which is particularly described as follows, to wit:, the being the highest and best bidder at the sale, and the sum being the highest and best sum bid at the sale;

NOW, THEREFORE, Know ye that I,, county treasurer of the county of, state of Washington, in consideration of the premises and by virtue of the statutes of the state of Washington, in such cases made and provided, do hereby grant and convey unto, heirs and assigns, forever, the real property hereinbefore described, as fully and completely as the party of the first part can by virtue of the premises convey the same.

Given under my hand and seal of office this day of, . . (year) . .

.....
County Treasurer,
By
Deputy:

PROVIDED, That when by order of the county legislative authority any of the minerals or other resources enumerated in RCW 36.35.120 are reserved, the deed or contract of purchase shall contain the following reservation:

The party of the first part hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its successors, and assigns, forever, all oils, gases, coals, ores, minerals, gravel, timber and fossils of every name, kind or description, and which may be in or upon the lands above described; or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, gravel, timber and fossils; and it also hereby expressly saves reserves out of the grant hereby made, unto itself, its successors and assigns, forever, the right to enter by itself, its agents, attorneys and servants upon the lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals, gravel, timber and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its successors and assigns,

forever, the right by it or its agents, servants and attorneys at any and all times to erect, construct, maintain and use all such buildings, machinery, roads and railroads, sink such shafts, remove such oil, and to remain on the lands or any part thereof, for the business of mining and to occupy as much of the lands as may be necessary or convenient for the successful prosecution of such mining business, hereby expressly reserving to itself, its successors and assigns, as aforesaid, generally, all rights and powers in, to and over, the land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and the rights hereby expressly reserved. No rights shall be exercised under the foregoing reservation, by the county, its successors or assigns, until provision has been made by the county, its successors or assigns, to pay to the owner of the land upon which the rights herein reserved to the county, its successors or assigns, are sought to be exercised, full payment for all damages sustained by the owner, by reason of entering upon the land: PROVIDED, That if the owner from any cause whatever refuses or neglects to settle the damages, then the county, its successors or assigns, or any applicant for a lease or contract from the county for the purpose of prospecting for or mining valuable minerals, or operation contract, or lease, for mining coal, or lease for extracting petroleum or natural gas, shall have the right to institute such legal proceedings in the superior court of the county wherein the land is situated, as may be necessary to determine the damages which the owner of the land may suffer: PROVIDED, The county treasurer shall cross out of such reservation any of the minerals or other resources which were not reserved by order of the county legislative authority.

[1998 c 106 § 14; 1961 c 15 § 84.64.300. Prior: 1945 c 172 § 2; 1927 c 263 § 2; 1925 ex.s. c 130 § 134; Rem. Supp. 1945 § 11295; prior: 1903 c 59 § 5; 1890 p 577 § 119; Code 1881 § 2938. Formerly RCW 84.64.300.]

RCW 36.35.140 Rental of tax-title property on month to month tenancy authorized.

The board of county commissioners of any county may, pending sale of any county property acquired by foreclosure of delinquent taxes, rent any portion thereof on a tenancy from month to month. From the proceeds of the rentals the board of county commissioners shall first pay all expense in management of said property and in repairing, maintaining and insuring the improvements thereon, and the balance of said proceeds shall be paid to the various taxing units interested in the taxes levied against said property in the same proportion as the current tax levies of the taxing units having levies against said property.

[1961 c 15 § 84.64.310. Prior: 1945 c 170 § 1; Rem. Supp. 1945 § 11298-1. Formerly RCW 84.64.310.]

RCW 36.35.150 Tax-title property may be disposed of without bids in certain cases.

The county legislative authority may dispose of tax foreclosed property by private negotiation, without a call for bids, for not less than the principal amount of the unpaid taxes in any of the following cases: (1) When the sale is to any governmental agency and for public purposes; (2) when the county legislative authority determines that it is not practical to build on the property due to the physical characteristics of the property or legal restrictions on construction activities on the property; (3) when the property has an assessed value of less than

five hundred dollars and the property is sold to an adjoining landowner; or (4) when no acceptable bids were received at the attempted public auction of the property, if the sale is made within twelve months from the date of the attempted public auction.

[2001 c 299 § 11; 1997 c 244 § 2; 1993 c 310 § 2; 1961 c 15 § 84.64.320. Prior: 1947 c 238 § 1; Rem. Supp. 1947 § 11295-1. Formerly RCW 84.64.320.]

NOTES:

Effective date--1997 c 244: See note following RCW 84.36.015.

RCW 36.35.160 Quieting title to tax-title property.

In any and all instances in this state in which a treasurer's deed to real property has been or shall be issued to the county in proceedings to foreclose the lien of general taxes, and for any reason a defect in title exists or adverse claims against the same have not been legally determined, the county or its successors in interest or assigns shall have authority to institute an action in the superior court in the county to correct such defects, and to determine such adverse claims and the priority thereof as provided in RCW 36.35.160 through 36.35.270.

[1998 c 106 § 15; 1961 c 15 § 84.64.330. Prior: 1931 c 83 § 1; 1925 ex.s. c 171 § 1; RRS § 11308-1. Formerly RCW 84.64.330.]

RCW 36.35.170 Quieting title to tax-title property--Form of action--Pleadings.

The county or its successors in interest or assigns shall have authority to include in one action any and all tracts of land in which plaintiff or plaintiffs in such action, jointly or severally, has or claims to have an interest. Such action shall be one in rem as against every right and interest in and claim against any and every part of the real property involved, except so much thereof as may be at the time the summons and notice is filed with the clerk of the superior court in the actual, open and notorious possession of any person or corporation, and then except only as to the interest claimed by such person so in possession: PROVIDED, That the possession required under the provisions of RCW 36.35.160 through 36.35.270 shall be construed to be that by personal occupancy only, and not merely by representation or in contemplation of law. No person, firm or corporation claiming an interest in or to such lands need be specifically named in the summons and notice, except as in RCW 36.35.160 through 36.35.270, and no pleadings other than the summons and notice and the written statements of those claiming a right, title and interest in and to the property involved shall be required.

[1998 c 106 § 16; 1961 c 15 § 84.64.340. Prior: 1931 c 83 § 2; 1925 ex.s. c 171 § 2; RRS § 11308-2. Formerly RCW 84.64.340.]

RCW 36.35.180 Quieting title to tax-title property--Summons and notice.

Upon filing a copy of the summons and notice in the office of the county clerk, service thereof as against every interest in and claim against any and every part of the property described in such summons and notice, and every person, firm, or corporation, except one who is in the actual, open and notorious possession of any of the properties, shall be had by publication in the

official county newspaper for six consecutive weeks; and no affidavit for publication of such summons and notice shall be required. In case special assessments imposed by a city or town against any of the real property described in the summons and notice remain outstanding, a copy of the same shall be served on the treasurer of the city or town within which such real property is situated within five days after such summons and notice is filed.

The summons and notice in such action shall contain the title of the court; specify in general terms the years for which the taxes were levied and the amount of the taxes and the costs for which each tract of land was sold; give the legal description of each tract of land involved, and the tax record owner thereof during the years in which the taxes for which the property was sold were levied; state that the purpose of the action is to foreclose all adverse claims of every nature in and to the property described, and to have the title of existing liens and claims of every nature against the described real property, except that of the county, forever barred.

The summons and notice shall also summon all persons, firms and corporations claiming any right, title and interest in and to the described real property to appear within sixty days after the date of the first publication, specifying the day and year, and state in writing what right, title and interest they have or claim to have in and to the property described, and file the same with the clerk of the court above named; and shall notify them that in case of their failure so to do, judgment will be rendered determining that the title to the real property is in the county free from all existing adverse interests, rights or claims whatsoever: PROVIDED, That in case any of the lands involved is in the actual, open and notorious possession of anyone at the time the summons and notice is filed, as herein provided, a copy of the same modified as herein specified shall be served personally upon such person in the same manner as summons is served in civil actions generally. The summons shall be substantially in the form above outlined, except that in lieu of the statement relative to the date and day of publication it shall require the person served to appear within twenty days after the day of service, exclusive of the date of service, and that the day of service need not be specified therein, and except further that the recitals regarding the amount of the taxes and costs and the years the same were levied, the legal description of the land and the tax record owner thereof may be omitted except as to the land occupied by the persons served.

Every summons and notice provided for in RCW 36.35.160 through 36.35.270 shall be subscribed by the prosecuting attorney of the county, or by any successor or assign of the county or his attorney, as the case may be, followed by the post office address of the successor or assign.

[1998 c 106 § 17; 1961 c 15 § 84.64.350. Prior: 1931 c 83 § 3; 1925 ex.s. c 171 § 3; RRS § 11308-3. Formerly RCW 84.64.350.]

RCW 36.35.190 Quieting title to tax-title property--Redemption before judgment.

Any person, firm or corporation who or which may have been entitled to redeem the property involved prior to the issuance of the treasurer's deed to the county, and his or its successor in interest, shall have the right, at any time after the commencement of, and prior to the judgment in the action authorized herein, to redeem such property by paying to the county

treasurer the amount of the taxes for which the property was sold to the county, and the amount of any other general taxes which may have accrued prior to the issuance of said treasurer's deed, together with interest on all such taxes from the date of delinquency thereof, respectively, at the rate of twelve percent per annum, and by paying for the benefit of the assessment district concerned the amount of principal, penalty and interest of all special assessments, if any, which shall have been levied against such property and by paying such proportional part of the costs of the tax foreclosure proceedings and of the action herein authorized as the county treasurer shall determine.

Upon redemption of any property before judgment as herein provided, the county treasurer shall issue to the redemptioner a certificate specifying the amount of the taxes, special assessments, penalty, interest and costs charged describing the land and stating that the taxes, special assessments, penalty, interest and costs specified have been fully paid, and the lien thereof discharged. Such certificate shall clear the land described therein from any claim of the county based on the treasurer's deed previously issued in the tax foreclosure proceedings.

[1961 c 15 § 84.64.360. Prior: 1925 ex.s. c 171 § 4; RRS § 11308-4. Formerly RCW 84.64.360.]

RCW 36.35.200 Quieting title to tax-title property--Judgment.

At any time after the return day named in the summons and notice the plaintiff in the cause shall be entitled to apply for judgment. In case any person has appeared in such action and claimed any interest in the real property involved adverse to that of the county or its successors in interest, such person shall be given a three days' notice of the time when application for judgment shall be made. The court shall hear and determine the matter in a summary manner similar to that provided in RCW 84.64.080, relating to judgment and order of sale in general tax foreclosure proceedings, and shall pronounce and enter judgment according to the rights of the parties and persons concerned in the action. No order of sale shall be made nor shall any sale on execution be necessary to determine the title of the county to the real property involved in such action.

[1961 c 15 § 84.64.370. Prior: 1931 c 83 § 4; 1925 ex.s. c 171 § 5; RRS § 11308-5. Formerly RCW 84.64.370.]

RCW 36.35.210 Quieting title to tax-title property--Proof--Presumptions.

The right of action of the county, its successors or assigns, under RCW 36.35.160 through 36.35.270 shall rest on the validity of the taxes involved, and the plaintiff shall be required to prove only the amount of the former judgment foreclosing the lien thereof, together with the costs of the foreclosure and sale of each tract of land for the taxes, and all the presumptions in favor of the tax foreclosure sale and issuance of treasurer's deed existing by law shall obtain in the action.

[1998 c 106 § 18; 1961 c 15 § 84.64.380. Prior: 1931 c 83 § 5; 1925 ex.s. c 171 § 6; RRS § 11308-6. Formerly RCW 84.64.380.]

RCW 36.35.220 Quieting title to tax-title property--Appearance fee--Tender of taxes.

Any person filing a statement in such action shall pay the clerk of the court an appearance fee in the amount required by the county for appearances in civil actions, and shall be required to tender the amount of all taxes, interest and costs charged against the real property to which he lays claim, and no further costs in such action shall be required or recovered.

[1961 c 15 § 84.64.390. Prior: 1925 ex.s. c 171 § 7; RRS § 11308-7. Formerly RCW 84.64.390.]

RCW 36.35.230 Quieting title to tax-title property--Appellate review.

Any person aggrieved by the judgment rendered in such action may seek appellate review of the part of said judgment objectionable to him in the manner and within the time prescribed for appeals in RCW 84.64.120.

[1988 c 202 § 71; 1971 c 81 § 155; 1961 c 15 § 84.64.400. Prior: 1925 ex.s. c 171 § 8; 1925 ex.s. c 130 § 121; RRS § 11308-8; prior: 1903 c 59 § 4; 1897 c 71 § 104; 1893 c 124 § 106. Formerly RCW 84.64.400.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 36.35.240 Quieting title to tax-title property--Effect of judgment.

The judgment rendered in such action, unless appealed from within the time prescribed herein and upon final judgment on appeal, shall be conclusive, without the right of redemption upon and against every person who may or could claim any lien or any right, title or interest in or to any of the properties involved in said action, including minors, insane persons, those convicted of crime, as well as those free from disability, and against those who may have at any time attempted to pay any tax on any of the properties, and against those in actual open and notorious possession of any of said properties.

Such judgment shall be conclusive as to those who appeal therefrom, except as to the particular property to which such appellant laid claim in the action and concerning which he appealed, and shall be conclusive as to those in possession of any property and who were not served except as to the property which such person is in the actual, open and notorious possession of, and in any case where it is asserted that the judgment was not conclusive because of such possession, the burden of showing such actual, open and notorious possession shall be on the one asserting such possession.

[1961 c 15 § 84.64.410. Prior: 1925 ex.s. c 171 § 9; RRS § 11308-9. Formerly RCW 84.64.410.]

RCW 36.35.250 Quieting title to tax-title property--Special assessments payable out of surplus.

Nothing in RCW 36.35.160 through 36.35.270 contained shall be construed to deprive any city, town, or other unit of local government that imposed special assessments on the property by including the property in a local improvement or special assessment district of its

right to reimbursement for special assessments out of any surplus over and above the taxes, interest and costs involved.

[1998 c 106 § 19; 1961 c 15 § 84.64.420. Prior: 1925 ex.s. c 171 § 10; RRS § 11308-10. Formerly RCW 84.64.420.]

RCW 36.35.260 Quieting title to tax-title property--Form of deed on sale after title quieted.

That in all cases where any county of the state of Washington has perfected title to real estate owned by the county, under the provisions of RCW 36.35.160 through 36.35.270 and resells the same or part thereof, it shall give to the purchaser a warranty deed in substantially the following form:

STATE OF WASHINGTON	}	}	ss.
County of	}		

This indenture, made this day of (year) . . . , between as treasurer of county, state of Washington, the party of the first part, and , party of the second part.

WITNESSETH, THAT WHEREAS, at a public sale of real property, held on the day of (year) . . . , pursuant to an order of the county legislative authority of the county of , state of Washington, duly made and entered, and after having first given due notice of the time and place and terms of the sale, and, whereas, in pursuance of the order of the county legislative authority, and of the laws of the state of Washington, and for and in consideration of the sum of dollars, lawful money of the United States of America, to me in hand paid, the receipt whereof is hereby acknowledged, I have this day sold to the following described real property, and which the real property is the property of county, and which is particularly described as follows, to wit:

. , the being the highest and best bidder at the sale, and the sum being the highest and best sum bid at the sale:

NOW THEREFORE KNOW YE that I, county treasurer of the county of , state of Washington, in

consideration of the premises and by virtue of the statutes of the state of Washington, in such cases made and provided, do hereby grant, convey and warrant on behalf of county unto, his or her heirs and assigns, forever, the real property hereinbefore described.

Given under my hand and seal of office this day of, . . . (year) . .

.....
County Treasurer.

By
Deputy.

[1998 c 106 § 20; 1961 c 15 § 84.64.430. Prior: 1929 c 197 § 1; RRS § 11308-11. Formerly RCW 84.64.430.]

RCW 36.35.270 Quieting title to tax-title property--Limitation on recovery for breach of warranty.

No recovery for breach of warranty shall be had, against the county executing a deed under the provisions of RCW 36.35.260, in excess of the purchase price of the land described in such deed, with interest at the legal rate.

[1998 c 106 § 21; 1961 c 15 § 84.64.440. Prior: 1929 c 197 § 2; RRS § 11308-12. Formerly RCW 84.64.440.]

RCW 36.35.280 Tax deeds to cities and towns absolute despite reversionary provision.

All sales of tax-title lands heretofore consummated by any county, to a city or town, for municipal purposes, or public use, shall be absolute and final, and transfer title in fee, notwithstanding any reversionary provision in the tax deed to the contrary; and all tax-title deeds containing any such reversionary provision shall upon application of grantee in interest, be revised to conform with the provisions herein.

[1961 c 15 § 84.64.450. Prior: 1947 c 269 § 1; Rem. Supp. 1947 § 11295-2. Formerly RCW 84.64.450.]

RCW 36.35.290 Easements.

The general property tax assessed on any tract, lot, or parcel of real property includes all easements appurtenant thereto, provided said easements are a matter of public record in the auditor's office of the county in which said real property is situated. Any foreclosure of delinquent taxes on any tract, lot or parcel of real property subject to such easement or easements, and any tax deed issued pursuant thereto shall be subject to such easement or easements, provided such easement or easements were established of record prior to the year for which the tax was foreclosed.

[1961 c 15 § 84.64.460. Prior: 1959 c 129 § 1. Formerly RCW 84.64.460.]

Chapter 36.36 RCW AQUIFER PROTECTION AREAS

Sections

36.36.010	Purpose.
36.36.020	Creation of aquifer protection area--Public hearing--Ballot proposition.
36.36.030	Imposition of fees--Ballot proposition to authorize increased fees or additional purposes.
36.36.035	Reduced fees for low-income persons.
36.36.040	Use of fee revenues.
36.36.045	Lien for delinquent fees.
36.36.050	Dissolution of aquifer protection area--Petition--Ballot proposition.
36.36.900	Severability--1985 c 425.

Notes:

Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 36.36.010 Purpose.

The protection of subterranean water from pollution or degradation is of great concern. The depletion of subterranean water is of great concern. The purpose of this chapter is to allow the creation of aquifer protection areas to finance the protection, preservation, and rehabilitation of subterranean water, and to reduce special assessments imposed upon households to finance facilities for such purposes. Pollution and degradation of subterranean drinking water supplies, and the depletion of subterranean drinking water supplies, pose immediate threats to the safety and welfare of the citizens of this state.

[1991 c 151 § 1; 1985 c 425 § 1.]

RCW 36.36.020 Creation of aquifer protection area--Public hearing--Ballot proposition.

The county legislative authority of a county may create one or more aquifer protection areas for the purpose of funding the protection, preservation, and rehabilitation of subterranean water.

When a county legislative authority proposes to create an aquifer protection area it shall conduct a public hearing on the proposal. Notice of the public hearing shall be published at least once, not less than ten days prior to the hearing, in a newspaper of general circulation within the proposed aquifer protection area. The public hearing may be continued to other times, dates, and places announced at the public hearing, without publication of the notice. At the public hearing, the county legislative authority shall hear objections and comments from anyone interested in the proposed aquifer protection area.

After the public hearing, the county legislative authority may adopt a resolution causing a ballot proposition to be submitted to the registered voters residing within the proposed aquifer protection area to authorize the creation of the aquifer protection area, if the county legislative authority finds that the creation of the aquifer protection area would be in the public interest. The resolution shall: (1) Describe the boundaries of the proposed aquifer protection area; (2) find that its creation is in the public interest; (3) state the maximum level of fees for the withdrawal of water, or on-site sewage disposal, occurring in the aquifer protection area, or both; and (4) describe the uses for the fees.

An aquifer protection area shall be created by ordinances of the county if the voters residing in the proposed aquifer protection area approve the ballot proposition by a simple majority vote. The ballot proposition shall be in substantially the following form:

"Shall the . . . (insert the name) aquifer protection area be created and authorized to impose monthly fees on . . . (insert "the withdrawal of water" or "on-site sewage disposal") of not to exceed . . . (insert a dollar amount) per household unit for up to . . . (insert a number of years) to finance . . . (insert the type of activities proposed to be financed)?

Yes.

No "

If both types of monthly fees are proposed to be imposed, maximum rates for each shall be included in the ballot proposition.

An aquifer protection area may not include territory located within a city or town without the approval of the city or town governing body, nor may it include territory located in the unincorporated area of another county without the approval of the county legislative authority of that county.

[1985 c 425 § 2.]

RCW 36.36.030 Imposition of fees--Ballot proposition to authorize increased fees or additional purposes.

Aquifer protection areas are authorized to impose fees on the withdrawal of subterranean water and on on-site sewage disposal. The fees shall be expressed as a dollar amount per household unit. Fees imposed for the withdrawal of water, or on-site sewage disposal, other than by households shall be expressed and imposed in equivalents of household units. If both types of fees are imposed, the rate imposed on on-site sewage disposal shall not exceed the rate imposed for the withdrawal of water.

No fees shall be imposed in excess of the amount authorized by the voters of the aquifer protection area. Fees shall only be used for the activity or activities authorized by the voters of the aquifer protection area. Ballot propositions may be submitted to the voters of an aquifer protection area to authorize a higher maximum level of such fees or to authorize additional

activities for which the fees may be used. Such a ballot proposition shall be substantially in the form of that portion of the proposition to authorize the creation of an aquifer protection district that relates to fees or activities, as provided in RCW 36.36.020. Approval of the ballot proposition by simple majority vote shall authorize the higher maximum level of fees or additional activities for which the fees may be used.

A county may contract with existing public utilities to collect the fees, or collect the fees itself.

[1985 c 425 § 3.]

RCW 36.36.035 Reduced fees for low-income persons.

A county may adopt an ordinance reducing the level of fees, for the withdrawal of subterranean water or for on-site sewage disposal, that are imposed upon the residential property of a class or classes of low-income persons.

[1987 c 381 § 1.]

RCW 36.36.040 Use of fee revenues.

Aquifer protection areas may impose fees to fund:

(1) The preparation of a comprehensive plan to protect, preserve, and rehabilitate subterranean water, including ground water management programs adopted under chapter 90.44 RCW. This plan may be prepared as a portion of a county sewerage and/or water general plan pursuant to RCW 36.94.030;

(2) The construction of facilities for: (a) The removal of water-borne pollution; (b) water quality improvement; (c) sanitary sewage collection, disposal, and treatment; (d) storm water or surface water drainage collection, disposal, and treatment; and (e) the construction of public water systems;

(3) The proportionate reduction of special assessments imposed by a county, city, town, or special district in the aquifer protection area for any of the facilities described in subsection (2) of this section;

(4) The costs of monitoring and inspecting on-site sewage disposal systems or community sewage disposal systems for compliance with applicable standards and rules, and for enforcing compliance with these applicable standards and rules in aquifer protection areas created after June 9, 1988; and

(5) The costs of: (a) Monitoring the quality and quantity of subterranean water and analyzing data that is collected; (b) ongoing implementation of the comprehensive plan developed under subsection (1) of this section; (c) enforcing compliance with standards and rules relating to the quality and quantity of subterranean waters; and (d) public education relating to protecting, preserving, and enhancing subterranean waters.

[1991 c 151 § 2; 1988 c 258 § 1; 1985 c 425 § 4.]

RCW 36.36.045 Lien for delinquent fees.

The county shall have a lien for any delinquent fees imposed for the withdrawal of subterranean water or on-site sewage disposal, which shall attach to the property to which the fees were imposed, if the following conditions are met:

(1) At least eighteen months have passed since the first billing for a delinquent fee installment; and

(2) At least three billing notices and a letter have been mailed to the property owner, within the period specified in subsection (1) of this section, explaining that a lien may be imposed for any delinquent fee installment that has not been paid in that period.

The lien shall otherwise be subject to the provisions of chapter 36.94 RCW related to liens for delinquent charges. The county shall record liens for any delinquent fees in the office of the county auditor. Failure on the part of the county to record the lien does not affect the validity of the lien.

[1997 c 393 § 6; 1987 c 381 § 2.]

RCW 36.36.050 Dissolution of aquifer protection area--Petition--Ballot proposition.

A county legislative authority may dissolve an aquifer protection area upon a finding that such dissolution is in the public interest.

A ballot proposition to dissolve an aquifer protection district shall be placed on the ballot for the approval or rejection of the voters residing in an aquifer protection area, when a petition requesting such a ballot proposition is signed by at least twenty percent of the voters residing in the aquifer protection area and is filed with the county legislative authority of the county originally creating the aquifer protection area. The ballot proposition shall be placed on the ballot at the next general election occurring sixty or more days after the petition has been filed. Approval of the ballot proposition by a simple majority vote shall cause the dissolution of the aquifer protection area.

[1985 c 425 § 5.]

RCW 36.36.900 Severability--1985 c 425.

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

[1985 c 425 § 7.]

**Chapter 36.37 RCW
AGRICULTURAL FAIRS AND POULTRY SHOWS**

Revised Code of Washington 2001

36.37.010	Fairs authorized--Declared county purpose.
36.37.020	Property may be acquired for fairs.
36.37.040	Expenditure of funds--Revolving fund--Management of fairs.
36.37.050	District or multiple county fairs authorized.
36.37.090	Poultry shows--Petition--Appropriation.
36.37.100	Poultry shows--Open to public--Admission charge.
36.37.110	Poultry shows--Conduct of shows.
36.37.150	Lease of state-owned lands for county fairgrounds.
36.37.160	Lease of state-owned lands for county fairgrounds--Lands adjacent to Northern State Hospital.

RCW 36.37.010 Fairs authorized--Declared county purpose.

The holding of county fairs and agricultural exhibitions of stock, cereals, and agricultural produce of all kinds, including dairy produce, as well as arts and manufactures, by any county in the state, and the participation by any county in a district fair or agricultural exhibition, is declared to be in the interest of public good and a strictly county purpose.

[1963 c 4 § 36.37.010. Prior: 1947 c 184 § 1; 1917 c 32 § 1; Rem. Supp. 1947 § 2750.]

RCW 36.37.020 Property may be acquired for fairs.

The board of county commissioners of any county in the state may acquire by gift, devise, purchase, condemnation and purchase, or otherwise, lands, property rights, leases, easements, and all kinds of personal property and own and hold the same and construct and maintain temporary or permanent improvements suitable and necessary for the purpose of holding and maintaining county or district fairs for the exhibition of county or district resources and products.

[1963 c 4 § 36.37.020. Prior: 1947 c 184 § 2; 1917 c 32 § 2; Rem. Supp. 1947 § 2751.]

RCW 36.37.040 Expenditure of funds--Revolving fund--Management of fairs.

The board of county commissioners of any county may appropriate and expend each year such sums of money as they deem advisable and necessary for (1) acquisition of necessary grounds for fairs and world fairs, (2) construction, improvement and maintenance of buildings thereon, (3) payment of fair premiums, and (4) the general maintenance of such fair. The board of county commissioners of any county may also authorize the county auditor to provide a revolving fund to be used by the fair officials for the conduct of the fair. The board of county commissioners may employ persons to assist in the management of fairs or by resolution designate a nonprofit corporation as the exclusive agency to operate and manage such fairs.

[1963 c 4 § 36.37.040. Prior: 1957 c 124 § 1; 1955 c 297 § 1; prior: (i) 1947 c 184 § 3; 1943 c 101 § 1; 1923 c 83 § 2; Rem. Supp. 1947 § 2753 1/2. (ii) 1923 c 83 § 1; 1917 c 32 § 4; RRS § 2753.]

RCW 36.37.050 District or multiple county fairs authorized.

Each county is authorized to hold one county fair in each year, or, as an alternative, to participate with any other county or counties in the holding of a district fair. Where counties participate in the holding of a district fair, the boards of county commissioners of each of participating counties may enter into mutual agreements setting forth the manner and extent of the participation by each county in the management and support of the district fair, subject to the limitations imposed on each respective county by the provisions of this chapter.

[1963 c 4 § 36.37.050. Prior: 1947 c 184 § 4; Rem. Supp. 1947 § 2753a.]

RCW 36.37.090 Poultry shows--Petition--Appropriation.

Upon petition of twenty-five resident taxpayers of any county who are interested in the poultry industry, the board of county commissioners may set aside and include in its annual budget a sum equivalent to five percent of the assessed valuation of poultry in the county each year for the purpose of holding winter poultry shows, the said sum not to exceed five hundred dollars in any one year.

[1963 c 4 § 36.37.090. Prior: 1929 c 109 § 1; RRS § 2755-1.]

RCW 36.37.100 Poultry shows--Open to public--Admission charge.

All poultry shows shall be open to the public. Such admission charge may be made as is authorized by the board of county commissioners.

[1963 c 4 § 36.37.100. Prior: 1929 c 109 § 2; RRS § 2755-2.]

RCW 36.37.110 Poultry shows--Conduct of shows.

All such poultry shows shall be held under the rules of the American Poultry Association and only licensed poultry judges shall be employed thereat.

[1963 c 4 § 36.37.110. Prior: 1929 c 109 § 3; RRS § 2755-3.]

RCW 36.37.150 Lease of state-owned lands for county fairgrounds.

If requested by a county legislative authority, an agency of the state managing state-owned lands, other than state trust lands, shall consider leasing a requested portion of these lands that are not used for any significant purpose and if not otherwise prohibited, to the county to be used as county fairgrounds. If it is determined that such a lease shall be made, the agency in setting lease charges shall consider the fair market return for leasing the land, the public benefit for leasing the land to the county for county fair purposes at a level below the fair market return, and other appropriate factors.

[1986 c 307 § 3.]

Notes:

Intent--1986 c 307: "The legislature finds that county fairs provide unique educational opportunities to the people of this state and are a public purpose. By helping counties acquire lands for county fairs, the legislature intends to preserve and enhance the educational opportunities of the people of this state." [1986 c 307 § 1.]

RCW 36.37.160 Lease of state-owned lands for county fairgrounds--Lands adjacent to Northern State Hospital.

If requested by a county legislative authority, the department of natural resources shall negotiate a lease for any requested portion of the state lands directly adjacent to buildings on the Northern State Hospital site that were transferred to the department under chapter 178, Laws of 1974 ex. sess., if not otherwise prohibited, to the county to use for the purpose of establishing county fairgrounds. However, the portion to be leased shall be contiguous and compact, of an area not to exceed two hundred fifty acres and shall be segregated in such a manner that the remaining portion of these state lands can be efficiently managed by the department. The lease shall be for as long as the county is actually using the land as the site of the county fairgrounds. Notwithstanding chapter 178, Laws of 1974 ex. sess., the department shall charge the county the sum of one thousand dollars per year for the lease of such lands and this sum may be periodically adjusted to compensate the department for any increased costs in administration of the lease. The lease shall contain provisions directing payment of all assessments and authorizing the county to place any improvements on the leased lands if the improvements are consistent with the purposes of county fairs.

[1986 c 307 § 2.]

Notes:

Intent--1986 c 307: See note following RCW 36.37.150.

**Chapter 36.38 RCW
ADMISSIONS TAX**

Sections

36.38.010	Taxes authorized--Exception as to schools.
36.38.020	Optional provisions in ordinance.
36.38.030	Form of ordinance.
36.38.040	Vehicle parking charges tax--Parking facility at stadium and exhibition center--Use of revenues before and after issuance of bonds.

Notes:

Taxes for city and town purposes: State Constitution Art. 11 § 12.

RCW 36.38.010 Taxes authorized--Exception as to schools.

(1) Any county may by ordinance enacted by its county legislative authority, levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid for county purposes by persons who pay an admission charge to any place, including a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations; and require that one who receives any admission charge to any place shall collect and remit the tax to the county treasurer of the county: PROVIDED, No county shall impose such tax on persons paying an admission to any activity of any elementary or secondary school or any public facility of a public facility district under chapter 35.57 or 36.100 RCW for which a tax is imposed under RCW 35.57.100 or 36.100.210.

(2) As used in this chapter, the term "admission charge" includes a charge made for season tickets or subscriptions, a cover charge, or a charge made for use of seats and tables, reserved or otherwise, and other similar accommodations; a charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided; a charge made for rental or use of equipment or facilities for purpose of recreation or amusement, and where the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge. It shall also include any automobile parking charge where the amount of such charge is determined according to the number of passengers in any automobile.

(3) Subject to subsections (4) and (5) of this section, the tax herein authorized shall not be exclusive and shall not prevent any city or town within the taxing county, when authorized by law, from imposing within its corporate limits a tax of the same or similar kind: PROVIDED, That whenever the same or similar kind of tax is imposed by any such city or town, no such tax shall be levied within the corporate limits of such city or town by the county.

(4) Notwithstanding subsection (3) of this section, the legislative authority of a county with a population of one million or more may exclusively levy taxes on events in baseball stadiums constructed on or after January 1, 1995, that are owned by a public facilities district under chapter 36.100 RCW and that have seating capacities over forty thousand at the rates of:

(a) Not more than one cent on twenty cents or fraction thereof, to be used for the purpose of paying the principal and interest payments on bonds issued by a county to construct a baseball stadium as defined in RCW 82.14.0485. If the revenue from the tax exceeds the amount needed for that purpose, the excess shall be placed in a contingency fund which may only be used to pay unanticipated capital costs on the baseball stadium, excluding any cost overruns on initial construction; and

(b) Not more than one cent on twenty cents or fraction thereof, to be used for the purpose of paying the principal and interest payments on bonds issued by a county to construct a baseball stadium as defined in RCW 82.14.0485. The tax imposed under this subsection (4)(b) shall expire when the bonds issued for the construction of the baseball stadium are retired, but not later than twenty years after the tax is first collected.

(5) Notwithstanding subsection (3) of this section, the legislative authority of a county that has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.050 may levy and fix a tax on charges for admission to events in a stadium and

exhibition center, as defined in RCW 36.102.010, constructed in the county on or after January 1, 1998, that is owned by a public stadium authority under chapter 36.102 RCW. The tax shall be exclusive and shall preclude the city or town within which the stadium and exhibition center is located from imposing a tax of the same or similar kind on charges for admission to events in the stadium and exhibition center, and shall preclude the imposition of a general county admissions tax on charges for admission to events in the stadium and exhibition center. For the purposes of this subsection, "charges for admission to events" means only the actual admission charge, exclusive of taxes and service charges and the value of any other benefit conferred by the admission. The tax authorized under this subsection shall be at the rate of not more than one cent on ten cents or fraction thereof. Revenues collected under this subsection shall be deposited in the stadium and exhibition center account under RCW 43.99N.060 until the bonds issued under RCW 43.99N.020 for the construction of the stadium and exhibition center are retired. After the bonds issued for the construction of the stadium and exhibition center are retired, the tax authorized under this section shall be used exclusively to fund repair, reequipping, and capital improvement of the stadium and exhibition center. The tax under this subsection may be levied upon the first use of any part of the stadium and exhibition center but shall not be collected at any facility already in operation as of July 17, 1997.

[1999 c 165 § 20; 1997 c 220 § 301 (Referendum Bill No. 48, approved June 17, 1997); 1995 3rd sp.s. c 1 § 203; 1995 1st sp.s. c 14 § 9; 1963 c 4 § 36.38.010. Prior: 1957 c 126 § 2; 1951 c 34 § 1; 1943 c 269 § 1; Rem. Supp. 1943 § 11241-10.]

Notes:

Severability--1999 c 164: See RCW 35.57.900.

Referendum--Other legislation limited--Legislators' personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements--1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law--Severability--1997 c 220: See RCW 36.102.900 and 36.102.901.

Part headings not law--Effective date--1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

Severability--Effective dates--1995 1st sp.s. c 14: See notes following RCW 36.100.010.

RCW 36.38.020 Optional provisions in ordinance.

In addition to the provisions levying and fixing the amount of tax, the ordinance may contain any or all of the following provisions:

- (1) A provision defining the words and terms used therein;
- (2) A provision requiring the price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold to be conspicuously and indelibly printed or written on the face or back of that part of the ticket which is to be taken up by the management of the place for which an admission charge is exacted, and making the violation of such provision a misdemeanor punishable by fine of not exceeding one hundred dollars;
- (3) Provisions fixing reasonable exemptions from such tax;
- (4) Provisions allowing as an offset against the tax, the amount of like taxes levied, fixed, and collected within their jurisdiction by incorporated cities and towns in the county;
- (5) A provision requiring persons receiving payments for admissions taxed under said

ordinance to collect the amount of the tax from the persons making such payments;

(6) A provision to the effect that the tax imposed by said ordinance shall be deemed to be held in trust by the person required to collect the same until paid to the county treasurer, and making it a misdemeanor for any person receiving payment of the tax and appropriating or converting the same to his own use or to any use other than the payment of the tax as provided in said ordinance to the extent that the amount of such tax is not available for payment on the due date for filing returns as provided in said ordinance;

(7) A provision that in case any person required by the ordinance to collect the tax imposed thereby fails to collect the same, or having collected the tax fails to pay the same to the county treasurer in the manner prescribed by the ordinance, whether such failure is the result of such person's own acts or the result of acts or conditions beyond such person's control, such person shall nevertheless be personally liable to the county for the amount of the tax;

(8) Provisions fixing the time when the taxes imposed by the ordinance shall be due and payable to the county treasurer; requiring persons receiving payments for admissions to make periodic returns to the county treasurer on such forms and setting forth such information as the county treasurer may specify; requiring such return to show the amount of tax upon admissions for which such person is liable for specified preceding periods, and requiring such person to sign and transmit the same to the county treasurer together with a remittance for the amount;

(9) A provision requiring taxpayers to file with the county treasurer verified annual returns setting forth such additional information as he may deem necessary to determine tax liability correctly;

(10) A provision to the effect that whenever a certificate of registration, if required by the ordinance, is obtained for operating or conducting temporary places of amusement by persons who are not the owners, lessees, or custodians of the building, lot or place where the amusement is to be conducted, or whenever the business is permitted to be conducted without the procurement of a certificate, the tax imposed shall be returned and paid as provided in the ordinance by such owner, lessee, or custodian, unless paid by the person conducting the place of amusement;

(11) A provision requiring the applicant for a temporary certificate of registration, if required by the ordinance, to furnish with the application therefor, the name and address of the owner, lessee, or custodian of the premises upon which the amusement is to be conducted, and requiring the county treasurer to notify such owner, lessee, or custodian of the issuance of any such temporary certificate, and of the joint liability for such tax;

(12) A provision empowering the county treasurer to declare the tax upon temporary or itinerant places of amusement to be immediately due and payable and to collect the same, when he believes there is a possibility that the tax imposed under the ordinance will not be otherwise paid;

(13) Any or all of the applicable general administrative provisions contained in RCW 82.32.010 through 82.32.340 and 82.32.380, and the amendments thereto, except that unless otherwise indicated by the context of said sections, in all provisions so incorporated in such ordinance (a) the term "county treasurer" (of the county enacting said ordinance) shall be substituted for each reference made in said sections to the "department," the "department of

revenue," "any employee of the department," or "director of the department of revenue"; (b) the name of the county enacting such ordinance shall be substituted for each reference made in said sections to the "state" or to the "state of Washington"; (c) the term "this ordinance" shall be substituted for each reference made in said sections to "this chapter"; (d) the name of the county enacting said ordinance shall be substituted for each reference made in said sections to "Thurston county"; and (e) the term "board of county commissioners" shall be substituted for each reference made in said sections to the "director of financial management."

[1979 c 151 § 38; 1975 1st ex.s. c 278 § 21; 1963 c 4 § 36.38.020. Prior: 1943 c 269 § 3; Rem. Supp. 1943 § 11241-12.]

Notes:

Construction--Severability--1975 1st ex.s. c 278: See notes following RCW 11.08.160.

RCW 36.38.030 Form of ordinance.

The ordinance levying and fixing the tax shall be headed by a title expressing the subject thereof, and the style of the ordinance shall be: "Be it ordained by the Board of County Commissioners of County, State of Washington." The ordinance shall be enacted by a majority vote of the board at a regular meeting thereof, and only after the form of such ordinance as ultimately enacted has been on file with the clerk of the board and open to public inspection for not less than ten days. The ordinance shall not become effective until thirty days following its enactment, and within five days following its enactment it shall be printed and published in a newspaper of general circulation in the county. The ordinance shall be signed by a majority of the board, attested by the clerk of the board, and shall be duly entered and recorded in the book wherein orders of the board are entered and recorded. The ordinance may be at any time amended or repealed by an ordinance enacted, published, and recorded in the same manner.

[1963 c 4 § 36.38.030. Prior: 1943 c 269 § 2; Rem. Supp. 1943 § 11241-11.]

RCW 36.38.040 Vehicle parking charges tax--Parking facility at stadium and exhibition center--Use of revenues before and after issuance of bonds.

The legislative authority of a county that has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.050 may levy and fix a tax on any vehicle parking charges imposed at any parking facility that is part of a stadium and exhibition center, as defined in RCW 36.102.010. The tax shall be exclusive and shall preclude the city or town within which the stadium and exhibition center is located from imposing within its corporate limits a tax of the same or similar kind on any vehicle parking charges imposed at any parking facility that is part of a stadium and exhibition center. For the purposes of this section, "vehicle parking charges" means only the actual parking charges exclusive of taxes and service charges and the value of any other benefit conferred. The tax authorized under this section shall be at the rate of not more than ten percent. Revenues collected under this section shall be deposited in the stadium and exhibition center account under RCW 43.99N.060 until the bonds

issued under RCW 43.99N.020 for the construction of the stadium and exhibition center are retired. After the bonds issued for the construction of the stadium and exhibition center are retired, the tax authorized under this section shall be used exclusively to fund repair, reequipping, and capital improvement of the stadium and exhibition center. The tax under this section may be levied upon the first use of any part of the stadium and exhibition center but shall not be collected at any facility already in operation as of July 17, 1997.

[1997 c 220 § 302 (Referendum Bill No. 48, approved June 17, 1997).]

Notes:

Referendum--Other legislation limited--Legislator's personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements--1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law--Severability--1997 c 220: See RCW 36.102.900 and 36.102.901.

Chapter 36.39 RCW ASSISTANCE AND RELIEF

Sections

36.39.010	Public assistance.
36.39.030	Disposal of remains of indigent persons.
36.39.040	Federal surplus commodities--County expenses--Handling commodities for certified persons--County program, cooperative program.
36.39.050	Federal surplus commodities--Certification of persons by department of social and health services.
36.39.060	Senior citizens programs--Long-term care ombudsman programs--Authorization.

Notes:

Burial of indigent war veterans: Chapter 73.24 RCW.

Housing authorities law: Chapter 35.82 RCW.

Veterans' relief: Chapter 73.08 RCW.

RCW 36.39.010 Public assistance.

Public assistance generally, see Title 74 RCW.

RCW 36.39.030 Disposal of remains of indigent persons.

The board of county commissioners of any county shall provide for the disposition of the remains of any indigent person including a recipient of public assistance who dies within the county and whose body is unclaimed by relatives or church organization.

[1963 c 4 § 36.39.030. Prior: 1953 c 224 § 1; 1951 c 258 § 1.]

RCW 36.39.040 Federal surplus commodities--County expenses--Handling commodities for certified persons--County program, cooperative program.

The county commissioners of any county may expend from the county general fund for

the purpose of receiving, warehousing and distributing federal surplus commodities for the use of or assistance to recipients of public assistance or other needy families and individuals when such recipients, families or individuals are certified as eligible to obtain such commodities by the state department of social and health services. The county commissioners may expend county general fund moneys to carry out any such program as a sole county operation or in conjunction or cooperation with any similar program of distribution by private individuals or organizations, any department of the state, or any political subdivision of the state.

[1979 c 141 § 43; 1963 c 4 § 36.39.040. Prior: 1957 c 187 § 5.]

RCW 36.39.050 Federal surplus commodities--Certification of persons by department of social and health services.

See RCW 74.04.340 through 74.04.360.

RCW 36.39.060 Senior citizens programs--Long-term care ombudsman programs--Authorization.

(1) Counties, cities, and towns are granted the authority, and it is hereby declared to be a public purpose for counties, cities, and towns, to establish and administer senior citizens programs either directly or by creating public corporations or authorities to carry out the programs and to expend their own funds for such purposes, as well as to expend federal, state, or private funds that are made available for such purposes. Such federal funds shall include, but not be limited to, funds provided under the federal older Americans act, as amended (42 U.S.C. Sec. 3001 et seq.).

(2) Counties, cities, and towns may establish and administer long-term care ombudsman programs for residents, patients, and clients if such a program is not prohibited by federal or state law. Such local ombudsman programs shall be coordinated with the efforts of other long-term care ombudsman programs, including the office of the state long-term care ombudsman established in RCW 43.190.030, to avoid multiple investigation of complaints.

[1983 c 290 § 13; 1979 c 109 § 1.]

Notes:

Severability--1983 c 290: See RCW 43.190.900.

**Chapter 36.40 RCW
BUDGET**

Sections

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|-----------|--|
| 36.40.010 | Estimates to be filed by county officials. |
| 36.40.020 | Commissioners to file road and bridge estimate and estimate of future bond expenditures. |
| 36.40.030 | Forms of estimates--Penalty for delay. |
| 36.40.040 | Preliminary budget prepared by county auditor or chief financial officer. |

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36.40.050	Revision by county commissioners.
36.40.060	Notice of hearing on budget.
36.40.070	Budget hearing.
36.40.071	Budget hearing--Alternate date for budget hearing.
36.40.080	Final budget to be fixed.
36.40.090	Taxes to be levied.
36.40.100	Budget constitutes appropriations--Transfers--Supplemental appropriations.
36.40.120	Limitation on use of borrowed money.
36.40.130	County not liable on overexpenditure--Penalty against officials.
36.40.140	Emergencies subject to hearing.
36.40.150	Emergencies subject to hearing--Right of taxpayer to review order.
36.40.160	Emergencies subject to hearing--Petition for review suspends order.
36.40.170	Emergencies subject to hearing--Court's power on review.
36.40.180	Emergencies subject to hearing--Nondebtable emergencies.
36.40.190	Payment of emergency warrants.
36.40.195	Supplemental appropriations of unanticipated funds from local sources.
36.40.200	Lapse of budget appropriations.
36.40.205	Salary adjustment for county legislative authority office--Ratification and validation of preelection action.
36.40.210	Monthly report by auditor.
36.40.220	Rules, classifications, and forms.
36.40.230	No new funds created.
36.40.240	Penalty.
36.40.250	Biennial budgets--Supplemental and emergency budgets.

Notes:

County road property tax revenues, budgeting of for services: RCW 36.33.220.

Flood control zone district budget as affecting: RCW 86.15.140.

Juvenile detention facilities, budget allocation may be used for: RCW 13.16.080.

Metropolitan municipal corporation costs in: RCW 35.58.420.

RCW 36.40.010 Estimates to be filed by county officials.

On or before the second Monday in July of each year the county auditor shall notify in writing each county official, elective or appointive, in charge of an office, department, service, or institution of the county, to file with him on or before the second Monday in August thereafter detailed and itemized estimates, both of the probable revenues from sources other than taxation, and of all expenditures required by such office, department, service, or institution for the ensuing fiscal year.

[1963 c 4 § 36.40.010. Prior: 1923 c 164 § 1, part; RRS § 3997-1, part.]

RCW 36.40.020 Commissioners to file road and bridge estimate and estimate of future bond expenditures.

The county commissioners shall submit to the auditor a detailed statement showing all new road and bridge construction to be financed from the county road fund, and from bond

issues theretofore issued, if any, for the ensuing fiscal year, together with the cost thereof as computed by the county road engineer or for constructions in charge of a special engineer, then by such engineer, and such engineer shall prepare such estimates of cost for the county commissioners. They shall also submit a similar statement showing the road and bridge maintenance program, as near as can be estimated.

The county commissioners shall also submit to the auditor detailed estimates of all expenditures for construction or improvement purposes proposed to be made from the proceeds of bonds or warrants not yet authorized.

[1963 c 4 § 36.40.020. Prior: 1923 c 164 § 1, part; RRS § 3997-1, part.]

RCW 36.40.030 Forms of estimates--Penalty for delay.

The estimates required in RCW 36.40.010 and 36.40.020 shall be submitted on forms provided by the county auditor or chief financial officer and classified according to the classification established by the state auditor. The county auditor or chief financial officer shall provide such forms. He or she shall also prepare the estimates for interest and debt redemption requirements and any other estimates the preparation of which properly falls within the duties of his or her office.

Each such official shall file his or her estimates within the time and in the manner provided in the notice and form and the county auditor or chief financial officer shall deduct and withhold as a penalty from the salary of each official failing or refusing to file such estimates as herein provided, the sum of ten dollars for each day of delay: PROVIDED, That the total penalty against any one official shall not exceed fifty dollars in any one year.

In the absence or disability of any official the duties required herein shall devolve upon the official or employee in charge of the office, department, service, or institution for the time being. The notice shall contain a copy of this penalty clause.

[1995 c 301 § 62; 1963 c 4 § 36.40.030. Prior: 1923 c 164 § 1, part; RRS § 3997-1, part.]

RCW 36.40.040 Preliminary budget prepared by county auditor or chief financial officer.

Upon receipt of the estimates the county auditor or chief financial officer shall prepare the county budget which shall set forth the complete financial program of the county for the ensuing fiscal year, showing the expenditure program and the sources of revenue by which it is to be financed.

The revenue section shall set forth the estimated receipts from sources other than taxation for each office, department, service, or institution for the ensuing fiscal year, the actual receipts for the first six months of the current fiscal year and the actual receipts for the last completed fiscal year, the estimated surplus at the close of the current fiscal year and the amount proposed to be raised by taxation.

The expenditure section shall set forth in comparative and tabular form by offices, departments, services, and institutions the estimated expenditures for the ensuing fiscal year, the

appropriations for the current fiscal year, the actual expenditures for the first six months of the current fiscal year including all contracts or other obligations against current appropriations, and the actual expenditures for the last completed fiscal year.

All estimates of receipts and expenditures for the ensuing year shall be fully detailed in the annual budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington state association of counties and the Washington state association of county officials.

The county auditor or chief financial officer shall set forth separately in the annual budget to be submitted to the county legislative authority the total amount of emergency warrants issued during the preceding fiscal year, together with a statement showing the amount issued for each emergency, and the legislative authority shall include in the annual tax levy, a levy sufficient to raise an amount equal to the total of such warrants: PROVIDED, That the legislative authority may fund the warrants or any part thereof into bonds instead of including them in the budget levy.

[1995 c 301 § 63; 1995 c 194 § 7; 1973 c 39 § 1. Prior: 1971 ex.s. c 85 § 4; 1969 ex.s. c 252 § 1; 1963 c 4 § 36.40.040; prior: (i) 1923 c 164 § 2; RRS § 3997-2. (ii) 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

Notes:

Reviser's note: This section was amended by 1995 c 194 § 7 and by 1995 c 301 § 63, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 36.40.050 Revision by county commissioners.

The budget shall be submitted by the auditor to the board of county commissioners on or before the first Tuesday in September of each year. The board shall thereupon consider the same in detail, making any revisions or additions it deems advisable.

[1963 c 4 § 36.40.050. Prior: 1923 c 164 § 3, part; RRS § 3997-3, part.]

RCW 36.40.060 Notice of hearing on budget.

The county legislative authority shall then publish a notice stating that it has completed and placed on file its preliminary budget for the county for the ensuing fiscal year, a copy of which will be furnished any citizen who will call at its office for it, and that it will meet on the first Monday in October thereafter for the purpose of fixing the final budget and making tax levies, designating the time and place of the meeting, and that any taxpayer may appear thereat and be heard for or against any part of the budget. The notice shall be published once each week for two consecutive weeks immediately following adoption of the preliminary budget in the official newspaper of the county. The county legislative authority shall provide a sufficient number of copies of the detailed and comparative preliminary budget to meet the reasonable demands of taxpayers therefor and the same shall be available for distribution not later than two weeks immediately preceding the first Monday in October.

[1985 c 469 § 47; 1963 c 4 § 36.40.060. Prior: 1923 c 164 § 3, part; RRS § 3997-3, part.]

RCW 36.40.070 Budget hearing.

On the first Monday in October in each year the board of county commissioners shall meet at the time and place designated in the notice, whereat any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day until concluded but not to exceed a total of five days. The officials in charge of the several offices, departments, services, and institutions shall, at the time the estimates for their respective offices, departments, services or institutions are under consideration be called in and appear before such hearing by the board at the request of any taxpayer and may be questioned concerning such estimates by the commissioners or any taxpayer present.

[1963 c 4 § 36.40.070. Prior: 1943 c 145 § 1, part; 1941 c 99 § 1, part; 1923 c 164 § 4, part; Rem. Supp. 1943 § 3997-4, part.]

RCW 36.40.071 Budget hearing--Alternate date for budget hearing.

Notwithstanding any provision of law to the contrary, the board of county commissioners may meet for the purpose of holding a budget hearing, provided for in RCW 36.40.070, on the first Monday in December. The board of county commissioners may also set other dates relating to the budget process, including but not limited to the dates set in RCW 36.40.010, 36.40.050, and 36.81.130 to conform to the alternate date for the budget hearing.

[1971 ex.s. c 136 § 1.]

RCW 36.40.080 Final budget to be fixed.

Upon the conclusion of the budget hearing the county legislative authority shall fix and determine each item of the budget separately and shall by resolution adopt the budget as so finally determined and enter the same in detail in the official minutes of the board, a copy of which budget shall be forwarded to the state auditor.

[1995 c 301 § 64; 1963 c 4 § 36.40.080. Prior: 1943 c 145 § 1, part; 1941 c 99 § 1, part; 1923 c 164 § 4, part; Rem. Supp. 1943 § 3997-4, part.]

RCW 36.40.090 Taxes to be levied.

The board of county commissioners shall then fix the amount of the levies necessary to raise the amount of the estimated expenditures as finally determined, less the total of the estimated revenues from sources other than taxation, including such portion of any available surplus as in the discretion of the board it shall be advisable to so use, and such expenditures as are to be met from bond or warrant issues: PROVIDED, That no county shall retain an unbudgeted cash balance in the current expense fund in excess of a sum equal to the proceeds of a one dollar and twenty-five cents per thousand dollars of assessed value levy against the

assessed valuation of the county. All taxes shall be levied in specific sums and shall not exceed the amount specified in the preliminary budget.

[1973 1st ex.s. c 195 § 33; 1963 c 4 § 36.40.090. Prior: 1943 c 145 § 1, part; 1941 c 99 § 1, part; 1923 c 164 § 4, part; Rem. Supp. 1943 § 3997-4, part.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 36.40.100 Budget constitutes appropriations--Transfers--Supplemental appropriations.

The estimates of expenditures itemized and classified as required in RCW 36.40.040 and as finally fixed and adopted in detail by the board of county commissioners shall constitute the appropriations for the county for the ensuing fiscal year; and every county official shall be limited in the making of expenditures or the incurring of liabilities to the amount of the detailed appropriation items or classes respectively: PROVIDED, That upon a resolution formally adopted by the board at a regular or special meeting and entered upon the minutes, transfers or revisions within departments, or supplemental appropriations to the budget from unanticipated federal or state funds may be made: PROVIDED FURTHER, That the board shall publish notice of the time and date of the meeting at which the supplemental appropriations resolution will be adopted, and the amount of the appropriation, once each week, for two consecutive weeks prior to the meeting in the official newspaper of the county.

[1985 c 469 § 48; 1973 c 97 § 1; 1969 ex.s. c 252 § 2; 1965 ex.s. c 19 § 1; 1963 c 4 § 36.40.100. Prior: 1945 c 201 § 1, part; 1943 c 66 § 1, part; 1927 c 301 § 1, part; 1923 c 164 § 5, part; Rem. Supp. 1945 § 3997-5, part.]

RCW 36.40.120 Limitation on use of borrowed money.

Moneys received from borrowing shall be used for no other purpose than that for which borrowed except that if any surplus shall remain after the accomplishment of the purpose for which borrowed, it shall be used to redeem the county debt. Where the budget contains an expenditure program to be financed from a bond issue to be authorized thereafter no such expenditure shall be made or incurred until such bonds have been duly authorized.

[1963 c 4 § 36.40.120. Prior: 1945 c 201 § 1, part; 1943 c 66 § 1, part; 1927 c 301 § 1, part; 1923 c 164 § 5, part; Rem. Supp. 1945 § 3997-5, part.]

RCW 36.40.130 County not liable on overexpenditure--Penalty against officials.

Expenditures made, liabilities incurred, or warrants issued in excess of any of the detailed budget appropriations or as revised by transfer as in RCW 36.40.100, *36.40.110 or 36.40.120 provided shall not be a liability of the county, but the official making or incurring such expenditure or issuing such warrant shall be liable therefor personally and upon his official bond. The county auditor shall issue no warrant and the county commissioners shall approve no claim for any expenditure in excess of the detailed budget appropriations or as revised under the

provisions of RCW 36.40.100 through 36.40.130, except upon an order of a court of competent jurisdiction, or for emergencies as hereinafter provided. Any county commissioner, or county auditor, approving any claim or issuing any warrant in excess of any such budget appropriation except as herein provided shall forfeit to the county fourfold the amount of such claim or warrant which shall be recovered by action against such county commissioner or auditor, or all of them, and the several sureties on their official bonds.

[1963 c 4 § 36.40.130. Prior: 1945 c 201 § 1, part; 1943 c 66 § 1, part; 1927 c 301 § 1, part; 1923 c 164 § 5, part; Rem. Supp. 1945 § 3997-5, part.]

Notes:

***Reviser's note:** RCW 36.40.110 was repealed by 1997 c 204 § 6.

RCW 36.40.140 Emergencies subject to hearing.

When a public emergency, other than such as are specifically described in RCW 36.40.180, and which could not reasonably have been foreseen at the time of making the budget, requires the expenditure of money not provided for in the budget, the board of county commissioners by majority vote of the commissioners at any meeting the time and place of which all the commissioners have had reasonable notice, shall adopt and enter upon its minutes a resolution stating the facts constituting the emergency and the estimated amount of money required to meet it, and shall publish the same, together with a notice that a public hearing thereon will be held at the time and place designated therein, which shall not be less than one week after the date of publication, at which any taxpayer may appear and be heard for or against the expenditure of money for the alleged emergency. The resolution and notice shall be published once in the official county newspaper, or if there is none, in a legal newspaper in the county. Upon the conclusion of the hearing, if the board of county commissioners approves it, an order shall be made and entered upon its official minutes by a majority vote of all the members of the board setting forth the facts constituting the emergency, together with the amount of expenditure authorized, which order, so entered, shall be lawful authorization to expend said amount for such purpose unless a review is applied for within five days thereafter.

[1969 ex.s. c 185 § 3; 1963 c 4 § 36.40.140. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

Notes:

Severability--1969 ex.s. c 185: See RCW 36.87.900.

RCW 36.40.150 Emergencies subject to hearing--Right of taxpayer to review order.

No expenditure shall be made or liability incurred pursuant to the order until a period of five days, exclusive of the day of entry of the order, have elapsed, during which time any taxpayer or taxpayers of the county feeling aggrieved by the order may have the superior court of the county review it by filing with the clerk of such court a verified petition, a copy of which has been served upon the county auditor. The petition shall set forth in detail the objections of the petitioners to the order and the reasons why the alleged emergency does not exist.

[1963 c 4 § 36.40.150. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

RCW 36.40.160 Emergencies subject to hearing--Petition for review suspends order.

The service and filing of the petition shall operate to suspend the emergency order and the authority to make any expenditure or incur any liability thereunder until final determination of the matter by the court.

[1963 c 4 § 36.40.160. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

RCW 36.40.170 Emergencies subject to hearing--Court's power on review.

Upon the filing of a petition the court shall immediately fix a time for hearing it which shall be at the earliest convenient date. At such hearing the court shall hear the matter de novo and may take such testimony as it deems necessary. Its proceedings shall be summary and informal and its determination as to whether an emergency such as is contemplated within the meaning and purpose of this chapter exists or not and whether the expenditure authorized by said order is excessive or not shall be final.

[1963 c 4 § 36.40.170. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

RCW 36.40.180 Emergencies subject to hearing--Nondebtable emergencies.

Upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, epidemic, riot, or insurrection, or for the immediate preservation of order or of public health or for the restoration to a condition of usefulness of any public property the usefulness of which has been destroyed by accident, or for the relief of a stricken community overtaken by a calamity, or in settlement of approved claims for personal injuries or property damages, exclusive of claims arising from the operation of any public utility owned by the county, or to meet mandatory expenditures required by any law, the board of county commissioners may, upon the adoption by the unanimous vote of the commissioners present at any meeting the time and place of which all of such commissioners have had reasonable notice, of a resolution stating the facts constituting the emergency and entering the same upon their minutes, make the expenditures necessary to meet such emergency without further notice or hearing.

[1963 c 4 § 36.40.180. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

RCW 36.40.190 Payment of emergency warrants.

All emergency expenditures shall be paid for by the issuance of emergency warrants which shall be paid from any moneys on hand in the county treasury in the fund properly chargeable therewith and the county treasurer shall pay such warrants out of any moneys in the treasury in such fund. If at any time there are insufficient moneys on hand in the treasury to pay

any of such warrants, they shall be registered, bear interest and be called in the manner provided by law for other county warrants.

[1963 c 4 § 36.40.190. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

RCW 36.40.195 Supplemental appropriations of unanticipated funds from local sources.

In addition to the supplemental appropriations provided in RCW 36.40.100 and 36.40.140, the county legislative authority may provide by resolution a policy for supplemental appropriations as a result of unanticipated funds from local revenue sources.

[1997 c 204 § 4.]

RCW 36.40.200 Lapse of budget appropriations.

All appropriations shall lapse at the end of the fiscal year: PROVIDED, That the appropriation accounts may remain open for a period of thirty days, and may, at the auditor's discretion, remain open for a period not to exceed sixty days thereafter for the payment of claims incurred against such appropriations prior to the close of the fiscal year.

After such period has expired all appropriations shall become null and void and any claim presented thereafter against any such appropriation shall be provided for in the next ensuing budget: PROVIDED, That this shall not prevent payments upon uncompleted improvements in progress at the close of the fiscal year.

[1997 c 204 § 2; 1963 c 4 § 36.40.200. Prior: 1925 ex.s. c 143 § 2, part; 1923 c 164 § 6, part; RRS § 3997-6, part.]

RCW 36.40.205 Salary adjustment for county legislative authority office--Ratification and validation of preelection action.

If prior to the election for any county legislative authority office, a salary adjustment for such position to become effective upon the commencement of the term next following such election is adopted by ordinance or resolution of the legislative authority of such county, and a salary adjustment coinciding with such preceding ordinance or resolution thereof is properly adopted as part of the county budget for the years following such election, such action shall be deemed a continuing part of and shall ratify and validate the preelection action as to such salary adjustment.

[1975 1st ex.s. c 32 § 1.]

RCW 36.40.210 Monthly report by auditor.

On or before the twenty-fifth day of each month the auditor shall submit to the board of county commissioners a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding calendar month and like information for the

whole of the current fiscal year to the first day of said month, together with the unexpended and unencumbered balance of each appropriation. He shall also set forth the receipts from taxes and from sources other than taxation for the same periods.

[1963 c 4 § 36.40.210. Prior: 1923 c 164 § 7; RRS § 3997-7.]

RCW 36.40.220 Rules, classifications, and forms.

The state auditor may make such rules, classifications, and forms as may be necessary to carry out the provisions in respect to county budgets, define what expenditures shall be chargeable to each budget account, and establish such accounting and cost systems as may be necessary to provide accurate budget information.

[1995 c 301 § 65; 1963 c 4 § 36.40.220. Prior: 1923 c 164 § 8; RRS § 3997-8.]

RCW 36.40.230 No new funds created.

This chapter shall not be construed to create any new fund.

[1963 c 4 § 36.40.230. Prior: 1923 c 164 § 9; RRS § 3997-9.]

RCW 36.40.240 Penalty.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars.

[1963 c 4 § 36.40.240. Prior: 1923 c 164 § 10; RRS § 3997-10.]

RCW 36.40.250 Biennial budgets--Supplemental and emergency budgets.

In lieu of adopting an annual budget, the county legislative authority of any county may adopt an ordinance or a resolution providing for biennial budgets with a mid-biennium review and modification for the second year of the biennium. The county legislative authority may repeal such an ordinance or resolution and revert to adopting annual budgets for a period commencing after the end of a biennial budget cycle. The county legislative authority of a county with a biennial budget cycle may adopt supplemental and emergency budgets in the same manner and subject to the same conditions as the county legislative authority in a county with an annual budget cycle.

The procedure and steps for adopting a biennial budget shall conform with the procedure and steps for adopting an annual budget and with requirements established by the state auditor. The state auditor shall establish requirements for preparing and adopting the mid-biennium review and modification for the second year of the biennium.

Expenditures included in the biennial budget, mid-term modification budget, supplemental budget, or emergency budget shall constitute the appropriations for the county

during the applicable period of the budget and every county official shall be limited in making expenditures or incurring liabilities to the amount of the detailed appropriation item or classes in the budget.

In lieu of adopting an annual budget or a biennial budget with a mid-biennium review for all funds, the legislative authority of any county may adopt an ordinance or a resolution providing for a biennial budget or budgets for any one or more funds of the county, with a mid-biennium review and modification for the second year of the biennium, with the other funds remaining on an annual budget. The county legislative authority may repeal such an ordinance or resolution and revert to adopting annual budgets for a period commencing after the end of the biennial budget or biennial budgets for the specific agency fund or funds. The county legislative authority of a county with a biennial budget cycle may adopt supplemental and emergency budgets in the same manner and subject to the same conditions as the county legislative authority in a county with an annual budget cycle.

The county legislative authority shall hold a public hearing on the proposed county property taxes and proposed road district property taxes prior to imposing the property tax levies.

[1997 c 204 § 3; 1995 c 193 § 1.]

Notes:

Reviser's note: 1995 c 193 directed that this section be added to chapter 36.32 RCW. Since this placement appears inappropriate, this section has been codified as part of chapter 36.40 RCW.

Chapter 36.42 RCW RETAIL SALES AND USE TAXES

Notes:

County and city sales and use taxes: Chapter 82.14 RCW.

Chapter 36.43 RCW BUILDING CODES AND FIRE REGULATIONS

Sections

36.43.010	Authority to adopt.
36.43.020	Area to which applicable.
36.43.030	Enforcement--Inspectors.
36.43.040	Penalty for violation of code or regulation.

Notes:

Electrical construction regulations applicable to counties: RCW 19.29.010.

Energy-related building standards: Chapter 19.27A RCW.

State building code: Chapter 19.27 RCW.

RCW 36.43.010 Authority to adopt.

The boards of county commissioners may adopt standard building codes and standard fire regulations to be applied within their respective jurisdictions.

[1963 c 4 § 36.43.010. Prior: 1943 c 204 § 1; Rem. Supp. 1943 § 4077-10.]

RCW 36.43.020 Area to which applicable.

The building codes or fire regulations when adopted by the board of county commissioners shall be applicable to all the area of the county situated outside the corporate limits of any city or town, or to such portion thereof as may be prescribed in such building code or fire regulation.

[1963 c 4 § 36.43.020. Prior: 1943 c 204 § 2; Rem. Supp. 1943 § 4077-11.]

RCW 36.43.030 Enforcement--Inspectors.

The boards of county commissioners may appoint fire inspectors or other inspectors to enforce any building code or fire regulation adopted by them. The boards must enforce any building code or fire regulation adopted by them.

[1963 c 4 § 36.43.030. Prior: 1943 c 204 § 3; Rem. Supp. 1943 § 4077-12.]

RCW 36.43.040 Penalty for violation of code or regulation.

Any person violating the provisions of any building code or any fire regulation lawfully adopted by any board of county commissioners shall be guilty of a misdemeanor.

[1963 c 4 § 36.43.040. Prior: 1943 c 204 § 4; Rem. Supp. 1943 § 4077-13.]

**Chapter 36.45 RCW
CLAIMS AGAINST COUNTIES**

Sections

- | | |
|-----------|----------------------------|
| 36.45.010 | Manner of filing. |
| 36.45.040 | Labor and material claims. |

Notes:

Assessor's expense when meeting with department of revenue as: RCW 84.08.190.

Autopsy costs as: RCW 68.50.104, 68.50.106.

Claims, reports, etc., filing: RCW 1.12.070.

Compromise of unlawful, when: RCW 43.09.260.

Costs against county, civil actions: RCW 4.84.170.

Courtrooms, expense of sheriff in providing as county charge: RCW 2.28.140.

Diking, drainage, or sewerage improvement assessments as: RCW 85.08.500, 85.08.530.

Elections, expense of registration of voters as: RCW 29.07.030.

Expense of keeping jury as: RCW 4.44.310.

Flood control

by counties jointly, county liability: RCW 86.13.080.

districts (1937 act) assessments as: RCW 86.09.526, 86.09.529.

Health officers' convention expense as: RCW 43.70.140.

Incorporation into city or town of intercounty areas as: RCW 35.02.240.

Liability of county on failure to require contractors bond: RCW 39.08.015.

Lien for labor, material, taxes on public works: Chapter 60.28 RCW.

Metropolitan municipal corporation costs as: Chapter 35.58 RCW.

Municipal court expenses as: RCW 35.20.120.

Port district election costs as: RCW 53.04.070.

Railroad grade crossing costs as: Chapter 81.53 RCW.

Reclamation district commission expenses as: RCW 89.30.070.

Regional jail camps, cost of committing county prisoners to as: RCW 72.64.110.

Superior court, expenses of visiting judge as: RCW 2.08.170.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

Veterans' meeting place rental as: RCW 73.04.080.

Vital statistics registrars' fees as charge against: RCW 70.58.040.

RCW 36.45.010 Manner of filing.

All claims for damages against any county shall be filed in the manner set forth in chapter 4.96 RCW.

[1993 c 449 § 10; 1967 c 164 § 14; 1963 c 4 § 36.45.010. Prior: 1957 c 224 § 7; prior: 1919 c 149 § 1, part; RRS § 4077, part.]

Notes:

Purpose--Severability--1993 c 449: See notes following RCW 4.96.010.

Severability--Purpose--1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of political subdivisions and municipal corporations, liability for damages: Chapter 4.96 RCW.

RCW 36.45.040 Labor and material claims.

Whenever any county, by its board of county commissioners, has entered into a contract for the construction of any public improvement for the benefit of the county, whereby the contractor agreed to furnish all labor, material, and supplies necessary for the improvement, and the contractor has proceeded with such improvement and procured from other persons labor, material, or supplies and used the same in the construction of the improvement, but has failed to pay such persons therefor, and such persons have filed claims therefor against the county, and the claims have been audited in the manner provided by law and found to be just claims against the county, and valid obligations of the county except for the fact that they were not filed within

the time provided by law; the board of county commissioners may provide funds sufficient therefor, and cause the payment, of such claims in the manner provided by law for the payment of valid claims against the county.

[1963 c 4 § 36.45.040. Prior: 1927 c 220 § 1; RRS § 4077-1.]

Chapter 36.47 RCW COORDINATION OF ADMINISTRATIVE PROGRAMS

Sections

36.47.010	Declaration of necessity.
36.47.020	Joint action by officers of each county.
36.47.030	State association of county officials may be coordinating agency.
36.47.040	Reimbursement for costs and expenses to state association of county officials.
36.47.050	County officials--Further action authorized--Meetings.
36.47.060	Association financial records subject to audit by state auditor.
36.47.070	Merger of state association of county officials with state association of counties.

RCW 36.47.010 Declaration of necessity.

The necessity and the desirability of coordinating the administrative programs of all of the counties in this state is recognized by this chapter.

[1963 c 4 § 36.47.010. Prior: 1959 c 130 § 1.]

RCW 36.47.020 Joint action by officers of each county.

It shall be the duty of the assessor, auditor, clerk, coroner, sheriff, superintendent of schools, treasurer, and prosecuting attorney of each county in the state, including appointive officials in charter counties heading like departments, to take such action as they jointly deem necessary to effect the coordination of the administrative programs of each county.

[1998 c 245 § 28; 1969 ex.s. c 5 § 1; 1963 c 4 § 36.47.020. Prior: 1959 c 130 § 2.]

RCW 36.47.030 State association of county officials may be coordinating agency.

The county officials enumerated in RCW 36.47.020 are empowered to designate the Washington state association of county officials as a coordinating agency through which the duties imposed by RCW 36.47.020 may be performed, harmonized, or correlated.

[1969 ex.s. c 5 § 2; 1963 c 4 § 36.47.030. Prior: 1959 c 130 § 3.]

RCW 36.47.040 Reimbursement for costs and expenses to state association of county officials.

Each county which designates the Washington state association of county officials as the agency through which the duties imposed by RCW 36.47.020 may be executed is authorized to reimburse the association from the county current expense fund for the cost of any such services rendered: PROVIDED, That no reimbursement shall be made to the association for any expenses incurred under RCW 36.47.050 for travel, meals, or lodging of such county officials, or their representatives at such meetings, but such expenses may be paid by such official's respective county as other expenses are paid for county business. Such reimbursement shall be paid only on vouchers submitted to the county auditor and approved by the legislative authority of each county in the manner provided for the disbursement of other current expense funds. Each such voucher shall set forth the nature of the services rendered by the association, supported by affidavit that the services were actually performed.

[1991 c 363 § 71; 1977 ex.s. c 221 § 1; 1973 1st ex.s. c 195 § 35; 1970 ex.s. c 47 § 2; 1969 ex.s. c 5 § 3; 1963 c 4 § 36.47.040. Prior: 1959 c 130 § 4.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 36.47.050 County officials--Further action authorized--Meetings.

The county officials enumerated in RCW 36.47.020 are authorized to take such further action as they deem necessary to comply with the intent of this chapter, including attendance at state and district meetings which may be required to formulate the reports provided for in *RCW 36.47.020.

[1969 ex.s. c 5 § 4; 1963 c 4 § 36.47.050. Prior: 1959 c 130 § 5.]

Notes:

***Reviser's note:** RCW 36.47.020 was amended by 1998 c 245 § 28, removing the requirement to submit reports.

RCW 36.47.060 Association financial records subject to audit by state auditor.

The financial records of the Washington state association of county officials shall be subject to audit by the state auditor.

[1995 c 301 § 66; 1969 ex.s. c 5 § 5; 1963 c 4 § 36.47.060. Prior: 1959 c 130 § 6.]

RCW 36.47.070 Merger of state association of county officials with state association of counties.

It is the desire of the legislature that the Washington State Association of County Officials, as set forth in chapter 36.47 RCW and the Washington State Association of Counties, as set forth in RCW 36.32.350, shall merge into one association of elected county officers. Only one association shall carry out the duties imposed by RCW 36.32.335 through 36.32.360 and 36.47.020 through 36.47.060.

[1998 c 245 § 29; 1977 ex.s. c 221 § 2.]

Chapter 36.48 RCW DEPOSITARIES

Sections

36.48.010	Depositaries to be designated by treasurer.
36.48.040	Depositaries to be designated by treasurer--Deposited funds deemed in county treasury.
36.48.050	Depositaries to be designated by treasurer--Treasurer's liability and bond additional.
36.48.060	Definition--"Financial institution."
36.48.070	County finance committee--Approval of investment policy and debt policy--Rules.
36.48.080	County clerk's funds may be deposited.
36.48.090	Clerk's trust fund created--Deposits--Interest--Investments.

RCW 36.48.010 Depositaries to be designated by treasurer.

Each county treasurer shall annually at the end of each fiscal year or at such other times as may be deemed necessary, designate one or more financial institutions in the state which are qualified public depositaries as set forth by the public deposit protection commission as depository or depositaries for all public funds held and required to be kept by the treasurer, and no county treasurer shall deposit any public money in financial institutions, except as herein provided. Public funds of the county or a special district for which the county treasurer acts as its treasurer may only be deposited in bank accounts authorized by the treasurer or authorized in statute. All bank card depository service contracts for the county and special districts for which the county treasurer acts as its treasurer must be authorized by the county treasurer.

[1998 c 106 § 6; 1984 c 177 § 8; 1973 c 126 § 5; 1969 ex.s. c 193 § 27; 1963 c 4 § 36.48.010. Prior: 1907 c 51 § 1; RRS § 5562.]

Notes:

Construction--Severability--1969 ex.s. c 193: See notes following RCW 39.58.010.
Public depositaries: Chapter 39.58 RCW.

RCW 36.48.040 Depositaries to be designated by treasurer--Deposited funds deemed in county treasury.

The county treasurer shall deposit with any depository, which has fully complied with all requirements of RCW 36.48.010 through 36.48.060, any county money in his hands or under his official control, and for the purpose of making the quarterly settlement and counting funds in the hands of the treasurer any sums so on deposit shall be deemed to be in the county treasury.

[1963 c 4 § 36.48.040. Prior: 1907 c 51 § 4; RRS § 5565.]

RCW 36.48.050 Depositories to be designated by treasurer--Treasurer's liability and bond additional.

The provisions of RCW 36.48.010 through 36.48.060 shall in no way relieve or release the county treasurer from any liability upon his official bond as such treasurer, or any surety upon such bond, and shall in no way affect the duty of the several county treasurers to give bond as required by law.

[1963 c 4 § 36.48.050. Prior: 1907 c 51 § 5; RRS § 5566.]

RCW 36.48.060 Definition--"Financial institution."

"Financial institution," whenever it occurs in RCW 36.48.010 through 36.48.050, means a branch of a bank engaged in banking in this state in accordance with RCW 30.04.300, and any state bank or trust company, national banking association, stock savings bank, mutual savings bank, or savings and loan association, which institution is located in this state and lawfully engaged in business.

[1984 c 177 § 9; 1963 c 4 § 36.48.060. Prior: 1907 c 51 § 6; RRS § 5567.]

RCW 36.48.070 County finance committee--Approval of investment policy and debt policy--Rules.

The county treasurer, the county auditor, and the chair of the county legislative authority, ex officio, shall constitute the county finance committee. The county treasurer shall act as chair of the committee and the county auditor as secretary thereof. The committee shall keep a full and complete record of all its proceedings in appropriate books of record and all such records and all correspondence relating to the committee shall be kept in the office of the county auditor and shall be open to public inspection. The committee shall approve county investment policy and a debt policy and shall make appropriate rules and regulations for the carrying out of the provisions of RCW 36.48.010 through 36.48.060, not inconsistent with law.

[1999 c 18 § 5; 1991 c 245 § 11; 1963 c 4 § 36.48.070. Prior: 1933 ex.s. c 45 § 2; RRS § 5567-1.]

Notes:

Effective date--1999 c 18 § 5: "Section 5 of this act takes effect January 1, 2000." [1999 c 18 § 10.]

RCW 36.48.080 County clerk's funds may be deposited.

The county clerks of all the counties of the state shall deposit all funds in their custody, as clerk of the superior court of their respective counties, in one or more qualified depositories, as provided in chapter 39.58 RCW, as now or hereafter amended.

[1973 c 126 § 7; 1963 c 4 § 36.48.080. Prior: 1933 ex.s. c 40 § 1; RRS § 5561-1.]

RCW 36.48.090 Clerk's trust fund created--Deposits--Interest--Investments.

Whenever the clerk of the superior court has funds held in trust for any litigant or for any purpose, they shall be deposited in a separate fund designated "clerk's trust fund," and shall not be commingled with any public funds. However, in the case of child support payments, the clerk may send the checks or drafts directly to the recipient or endorse the instrument to the recipient and the clerk is not required to deposit such funds. In processing child support payments, the clerk shall comply with RCW 26.09.120. The clerk may invest the funds in any of the investments authorized by RCW 36.29.020. The clerk shall place the income from such investments in the county current expense fund to be used by the county for general county purposes unless: (1) The funds being held in trust in a particular matter are two thousand dollars or more, and (2) a litigant in the matter has filed a written request that such investment be made of the funds being held in trust. Interest income accrued from the date of filing of the written request for investment shall be paid to the beneficiary. In such an event, any income from such investment shall be paid to the beneficiary of such trust upon the termination thereof: PROVIDED, That five percent of the income shall be deducted by the clerk as an investment service fee and placed in the county current expense fund to be used by the county for general county purposes.

In any matter where funds are held in the clerk's trust fund, any litigant who is not represented by an attorney and who has appeared in matters where the funds held are two thousand dollars or more shall receive written notice of the provisions of this section from the clerk.

[1994 c 185 § 4; 1987 c 363 § 4; 1979 ex.s. c 227 § 1; 1977 c 63 § 1; 1973 c 126 § 8; 1963 c 4 § 36.48.090. Prior: 1933 ex.s. c 40 § 2; RRS § 5561-2.]

Chapter 36.49 RCW DOG LICENSE TAX

Sections

36.49.020	Treasurer to collect--Tags.
36.49.030	Application for license after assessor's list returned.
36.49.040	Delinquent tax, how collected.
36.49.050	"County dog license tax fund"--Created.
36.49.060	"County dog license tax fund"--Transfer of excess funds in.
36.49.070	Penalty.

Notes:

Indemnity for dogs doing damage, etc.: RCW 16.08.010 through 16.08.030.

Taxes for city and town purposes: State Constitution Art. 11 § 12.

RCW 36.49.020 Treasurer to collect--Tags.

The county assessor shall turn over the list of dog owners to the county treasurer for collection of the taxes. Upon the payment of the license tax upon any dog or kennel the county

treasurer shall deliver to the owner or keeper of such dog or kennel a license, and a metallic tag for each dog taxed and licensed or kept in such kennel. The license shall be dated and numbered and shall bear the name of the county issuing it, the name and address of the owner of the dog or kennel licensed; and if a dog license, a description of the dog including its breed, age, color, and markings; and if a kennel license, a description of the breed, number, and ages of the dogs kept in such kennel. The metallic tag shall bear the name of the county issuing it, a serial number corresponding with the number on the license, and the calendar year in which it is issued. Every owner or keeper of a dog shall keep a substantial collar on the dog and attached firmly thereto the license tag for the current year.

[1963 c 4 § 36.49.020. Prior: 1929 c 198 § 2; RRS § 8304-2; prior: 1919 c 6 § 2, part.]

RCW 36.49.030 Application for license after assessor's list returned.

Any person becoming the owner of a dog or kennel after the assessment has been returned by the assessor and any owner of a dog or kennel which for any reason the assessor has failed to assess, may at any time apply to the county treasurer, and upon the payment of the required fee procure a license and a metallic tag or tags.

[1963 c 4 § 36.49.030. Prior: 1929 c 198 § 3, part; RRS § 8304-3, part.]

RCW 36.49.040 Delinquent tax, how collected.

If any person whose name appears upon the list prepared by the county assessor fails to pay the license tax to the county treasurer on or before the first day of August of the year in which the list is made, the county treasurer shall proceed to collect the delinquent license taxes in the manner provided by law for collection of delinquent personal property taxes.

[1963 c 4 § 36.49.040. Prior: 1929 c 198 § 3, part; RRS § 8304-3, part.]

RCW 36.49.050 "County dog license tax fund"--Created.

All license taxes collected in accordance with the provisions of this chapter shall be placed in a separate fund in the office of the county treasurer to be known as the "county dog license tax fund."

[1963 c 4 § 36.49.050. Prior: 1929 c 198 § 4; RRS § 8304-4; prior: 1919 c 6 § 2, part.]

RCW 36.49.060 "County dog license tax fund"--Transfer of excess funds in.

On the first day of March of each year all moneys in the county dog license tax fund in excess of five hundred dollars shall be transferred and credited by the county treasurer to the current expense fund of the county.

[1963 c 4 § 36.49.060. Prior: 1929 c 198 § 8; RRS § 8304-5.]

RCW 36.49.070 Penalty.

Any person or officer who refuses to comply with or enforce any of the provisions of this chapter shall be guilty of a misdemeanor.

[1963 c 4 § 36.49.070. Prior: 1929 c 198 § 9; RRS § 8304-6.]

**Chapter 36.50 RCW
FARM AND HOME EXTENSION WORK**

Sections

36.50.010 Cooperative extension work in agriculture and home economics authorized.

RCW 36.50.010 Cooperative extension work in agriculture and home economics authorized.

The board of county commissioners of any county and the governing body of any municipality are authorized to establish and conduct extension work in agriculture and home economics in cooperation with Washington State University, upon such terms and conditions as may be agreed upon by any such board or governing body and the director of the extension service of Washington State University; and may employ such means and appropriate and expend such sums of money as may be necessary to effectively establish and carry on such work in agriculture and home economics in their respective counties and municipalities.

[1963 c 4 § 36.50.010. Prior: 1949 c 181 § 1; Rem. Supp. 1949 § 4589-1.]

**Chapter 36.53 RCW
FERRIES--PRIVATELY OWNED**

Sections

36.53.010 Grant of license--Term.
36.53.020 Licensing tax.
36.53.030 To whom license granted--Notice of intention if nonowner.
36.53.040 Notice of application to be posted.
36.53.050 Bond of licensee.
36.53.060 Duties of licensee.
36.53.070 Duties of licensee--Duties as to ferriage--Liability for nonperformance.
36.53.080 Rates of ferriage.
36.53.090 Commissioners may fix and alter rates.
36.53.100 Rates to be posted.
36.53.110 Order of ferriage--Liability for nonperformance.
36.53.120 Grant exclusive.
36.53.130 Revocation of license.

- 36.53.140 Penalty for maintaining unlicensed ferry.
36.53.150 Interstate ferry--County may contribute to--Grant of permit to operator.

RCW 36.53.010 Grant of license--Term.

The board of county commissioners may grant a license to keep a ferry across any lake or stream within its county, upon being satisfied that a ferry is necessary at the point applied for, which license shall continue in force for a term to be fixed by the commissioners not exceeding five years.

[1963 c 4 § 36.53.010. Prior: Code 1881 § 3002; 1879 p 61 § 38; 1869 p 280 § 40; 1863 p 521 § 1; 1854 p 354 § 1; RRS § 5462.]

RCW 36.53.020 Licensing tax.

The county legislative authority may charge such sum as may be fixed under the authority of RCW 36.32.120(3) for such license, and the person to whom the license is granted shall pay to the appropriate county official the tax for one year in advance.

[1985 c 91 § 2; 1963 c 4 § 36.53.020. Prior: Code 1881 § 3003; 1879 p 61 § 39; 1869 p 280 § 41; 1863 p 522 § 2; 1854 p 354 § 2; RRS § 5463.]

RCW 36.53.030 To whom license granted--Notice of intention if nonowner.

No license shall be granted to any person other than the owner of the land embracing or adjoining the lake or stream where the ferry is proposed to be kept, unless the owner neglects to apply therefor. Whenever application for a license is made by any person other than the owner, the board of county commissioners shall not grant it, unless proof is made that the applicant caused notice, in writing, of his intention to make such application to be given to such owner, if residing in the county, at least ten days before the session of the board of county commissioners at which application is made.

[1963 c 4 § 36.53.030. Prior: Code 1881 § 3004; 1879 p 61 § 40; 1869 p 280 § 42; 1863 p 522 § 3; 1854 p 354 § 3; RRS § 5464.]

RCW 36.53.040 Notice of application to be posted.

Every person intending to apply for a license to keep a ferry at any place shall give notice of his intention by posting up at least three notices in public places in the neighborhood where the ferry is proposed to be kept, twenty days prior to any regular session of the board of county commissioners at which the application is to be made.

[1963 c 4 § 36.53.040. Prior: Code 1881 § 3005; 1879 p 61 § 41; 1869 p 281 § 43; 1863 p 522 § 4; 1854 p 354 § 4; RRS § 5465.]

RCW 36.53.050 Bond of licensee.

Every person applying for a license to keep a ferry shall, before the same is issued, enter into a bond with one or more sureties, to be approved by the county auditor, in a sum not less than one hundred nor more than five hundred dollars, conditioned that such person will keep the ferry according to law and that if default at any time is made in the condition of the bond, damages, not exceeding the penalty, may be recovered by any person aggrieved, before any court having jurisdiction.

[1963 c 4 § 36.53.050. Prior: Code 1881 § 3006; 1879 p 62 § 42; 1869 p 281 § 44; 1863 p 522 § 5; 1854 p 354 § 5; RRS § 5466.]

RCW 36.53.060 Duties of licensee.

Every person obtaining a license to keep a ferry shall provide and keep in good and complete repair the necessary boat or boats for the safe conveyance of all persons and property, and furnish such boats at all times with suitable oars, setting poles, and other implements necessary for the service thereof, and shall keep a sufficient number of discreet and skillful men to attend and manage the same; and he shall also at all times keep the place of embarking and landing in good order and repair, by cutting away the bank of the stream so that persons and property may be embarked and landed without danger or unnecessary delay.

[1963 c 4 § 36.53.060. Prior: Code 1881 § 3007; 1879 p 62 § 43; 1869 p 281 § 45; 1863 p 522 § 6; 1854 p 354 § 6; RRS § 5467.]

RCW 36.53.070 Duties of licensee--Duties as to ferriage--Liability for nonperformance.

Every person obtaining a ferry license shall give constant and diligent attention to such ferry from daylight in the morning until dark in the evening of each day, and shall, moreover, at any hour in the night, if required, except in cases of imminent danger, give passage to all persons requiring the same on the payment of double rate of ferriage allowed to be taken in the daytime.

If the licensee at any time neglects or refuses to give passage to any person or property, the licensee shall forfeit and pay to the party aggrieved for every such offense the sum of five dollars, to be recovered before any district judge having jurisdiction; the licensee shall, moreover, be liable in an action at law for any special damage which such person may have sustained in consequence of such neglect or refusal.

No forfeiture or damages shall be recovered for a failure or refusal to convey any person or property across the stream when it is manifestly hazardous to do so, by reason of any storm, flood, or ice; nor shall any keeper of a ferry be compelled to give passage to any person or property until the fare or toll chargeable by law has been fully paid or tendered.

[1987 c 202 § 207; 1963 c 4 § 36.53.070. Prior: Code 1881 § 3008; 1879 p 62 § 44; 1869 p 281 § 46; 1863 p 523 § 7; 1854 p 355 § 7; RRS § 5468.]

Notes:

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

RCW 36.53.080 Rates of ferriage.

Whenever the board of county commissioners grants a license to keep a ferry across any lake or stream, it shall establish the rates of ferriage which may be lawfully demanded for the transportation of persons and property across the same, having due regard for the breadth and situation of the stream, and the dangers and difficulties incident thereto, and the publicity of the place at which the same is established, and every keeper of a ferry who at any time demands and receives more than the amount so designated for ferrying shall forfeit and pay to the party aggrieved, for every such offense, the sum of five dollars, over and above the amount which has been illegally received, to be recovered before any district judge having jurisdiction.

[1987 c 202 § 208; 1963 c 4 § 36.53.080. Prior: Code 1881 § 3009; 1879 p 63 § 45; 1869 p 282 § 47; 1863 p 523 § 8; 1854 p 355 § 8; RRS § 5469.]

Notes:

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

RCW 36.53.090 Commissioners may fix and alter rates.

The boards of county commissioners may fix, alter, and establish from time to time, the rates of ferriage to be levied and collected at all ferries established by law, within or bordering upon the county lines of any of the counties in this state.

[1963 c 4 § 36.53.090. Prior: Code 1881 § 3010; 1879 p 63 § 46; 1869 p 282 § 48; RRS § 5470.]

RCW 36.53.100 Rates to be posted.

Every person licensed to keep a ferry shall post up, in some conspicuous place near his ferry landing a list of the rates of ferriage which are chargeable by law at such ferry, which list of rates shall at all times be plain and legible and posted up so near the place where persons pass across the ferry that it may be easily read. If the keeper neglects or refuses to post and keep up such list, it shall not be lawful to charge or take any ferriage or compensation at the ferry, during the time of such delinquency.

[1963 c 4 § 36.53.100. Prior: Code 1881 § 3011; 1879 p 63 § 47; 1869 p 283 § 49; 1863 p 523 § 9; 1854 p 355 § 9; RRS § 5471.]

RCW 36.53.110 Order of ferriage--Liability for nonperformance.

All persons shall be received into the ferry boats and conveyed across the stream over which a ferry is established according to their arrival thereat, and if the keeper of a ferry acts contrary to this regulation, the keeper shall forfeit and pay to the party aggrieved the sum of ten dollars for every such offense, to be recovered before any district judge having jurisdiction:

PROVIDED, That public officers on urgent business, post riders, couriers, physicians, surgeons, and midwives shall in all cases be first carried over, when all cannot go at the same time.

[1987 c 202 § 209; 1963 c 4 § 36.53.110. Prior: Code 1881 § 3012; 1879 p 63 § 48; 1869 p 283 § 50; 1863 p 524 § 10; 1854 p 356 § 10; RRS § 5472.]

Notes:

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

RCW 36.53.120 Grant exclusive.

Every person licensed to keep a ferry under the provisions of RCW 36.53.010 through 36.53.140 shall have the exclusive privilege of transporting all persons and property over and across the stream where the ferry is established, and shall be entitled to all the fare arising by law therefrom: PROVIDED, That any person may cross such stream at the ferry location in his own boat, or take in and carry over his neighbor, when done without fee or charge, and not with intent to injure the person licensed to keep a ferry.

[1963 c 4 § 36.53.120. Prior: Code 1881 § 3013; 1879 p 63 § 49; 1869 p 283 § 51; 1863 p 524 § 11; 1854 p 356 § 11; RRS § 5473.]

RCW 36.53.130 Revocation of license.

If any person licensed to keep a ferry fails to pay the taxes assessed thereon when due, or to provide and keep in good and complete repair the necessary boat or boats, with the oars, setting poles, and other necessary implements for the service thereof, or to employ a sufficient number of skilled and discreet ferrymen within three months from the time license is granted, or if the ferry is not at any time kept in good condition and repair, or if it is abandoned, disused, or unfrequented for the space of six months at any one time, the board of county commissioners, on complaint being made in writing, may summon the person licensed to keep such ferry, to show cause why his license should not be revoked. The board may revoke or not according to the testimony adduced and the laws of this state, the decision subject to review by the superior court: PROVIDED, That if disuse resulted because the stream is fordable at certain seasons of the year, or because travel by that route is subject to periodical fluctuations, it shall not work a forfeiture within the meaning of this section.

[1963 c 4 § 36.53.130. Prior: Code 1881 § 3014; 1879 p 64 § 50; 1869 p 283 § 52; 1863 p 524 § 12; 1854 p 356 § 12; RRS § 5474.]

RCW 36.53.140 Penalty for maintaining unlicensed ferry.

Any person who maintains any ferry and receives ferriage without first obtaining a license therefor shall pay a fine of ten dollars for each offense, to be collected for the use of the county, by suit before any district judge having jurisdiction, and any person may bring such suit: PROVIDED, That it shall not be unlawful for any person to transport any other person or property over any stream for hire, when there is no ferry, or the ferry established at such place

was not in actual operation at the time, or in sufficient repair to have afforded to such person or property a safe and speedy passage.

[1987 c 202 § 210; 1963 c 4 § 36.53.140. Prior: Code 1881 § 3015; 1879 p 64 § 51; 1869 p 284 § 53; 1863 p 525 § 13; 1854 p 356 § 13; RRS § 5475.]

Notes:

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

RCW 36.53.150 Interstate ferry--County may contribute to--Grant of permit to operator.

Whenever the board of county commissioners of any county determines that the construction or maintenance of a ferry in a state adjoining such county or connecting such county with the adjoining state is of necessity or convenience to the citizens of the county, the board may enter into a contract for the construction or maintenance of such ferry, or make such contribution as may be deemed advisable toward the construction or maintenance thereof, and may lease, or grant exclusive permits to use, any wharf or landing owned or leased by the board to any person, firm or corporation furnishing, or agreeing to furnish, ferry service between such county and the adjoining state.

[1963 c 4 § 36.53.150. Prior: 1921 c 165 § 1; 1915 c 26 § 1; RRS § 5478.]

**Chapter 36.54 RCW
FERRIES--COUNTY OWNED**

Sections

36.54.010	County may acquire, construct, maintain, and operate ferry.
36.54.015	Ferries--Fourteen year long range improvement plan--Contents.
36.54.020	Joint ferries--Generally.
36.54.030	Joint ferries over water boundary between two counties.
36.54.040	Joint ferries over water boundary between two counties--Joint board of commissioners to administer--Records kept.
36.54.050	Joint ferries over water boundary between two counties--Commission authority--Expenses shared.
36.54.060	Joint ferries over water boundary between two counties--Audit and allowance of claims.
36.54.070	Joint ferries over water boundary between two counties--County commissioner duties enumerated--Omission as ground for impeachment.

RCW 36.54.010 County may acquire, construct, maintain, and operate ferry.

Any county may construct, condemn, or purchase, operate and maintain ferries or wharves at any unfordable stream, lake, estuary or bay within or bordering on said county, or between portions of the county, or between such county and other counties, together with all the necessary boats, grounds, roads, approaches, and landings appertaining thereto under the

direction and control of the board of county commissioners free or for toll and as the board shall by resolution determine.

[1963 c 4 § 36.54.010. Prior: 1919 c 115 § 1; 1899 c 29 § 1; 1895 c 130 § 2; RRS § 5477.]

RCW 36.54.015 Ferries--Fourteen year long range improvement plan--Contents.

The legislative authority of every county operating ferries shall prepare, with the advice and assistance of the county engineer, a fourteen year long range capital improvement plan embracing all major elements of the ferry system. Such plan shall include a listing of each major element of the system showing its estimated current value, its estimated replacement cost, and its amortization period.

[1975 1st ex.s. c 21 § 2.]

RCW 36.54.020 Joint ferries--Generally.

The board of county commissioners of any county may, severally or jointly with any other county, city or town, or the state of Washington, or any other state or any county, city or town of any other state, construct or acquire by purchase, gift, or condemnation, and operate any ferry necessary for continuation or connection of any county road across any navigable water. The procedure with respect to the exercise of the power herein granted shall be the same as provided for the joint erection or acquisition of bridges, trestles, or other structures. Any such ferries may be operated as free ferries or as toll ferries under the provisions of law of this state relating thereto.

[1963 c 4 § 36.54.020. Prior: 1937 c 187 § 31; RRS § 6450-31.]

RCW 36.54.030 Joint ferries over water boundary between two counties.

Whenever a river, lake, or other body of water is on the boundary line between two counties, the boards of county commissioners of the counties adjoining such stream or body of water may construct, purchase, equip, maintain, and operate a ferry across such river, lake, or other body of water, when such ferry connects the county roads or other public highways of their respective counties. All costs and expenses of constructing, purchasing, maintaining, and operating such ferry shall be paid by the two counties, each paying such proportion thereof as shall be agreed upon by the boards of county commissioners.

[1963 c 4 § 36.54.030. Prior: 1917 c 158 § 1; RRS § 5479.]

RCW 36.54.040 Joint ferries over water boundary between two counties--Joint board of commissioners to administer--Records kept.

The boards of county commissioners of the two counties, participating in a joint ferry, shall meet in joint session at the county seat of one of the counties interested, and shall elect one

of their members as chairman of the joint board of commissioners, who shall act as such chairman during the remainder of his term of office, and, at the expiration of his term of office, the two boards of county commissioners shall meet and elect a new chairman, who shall act as such chairman during his term of office as county commissioner, and they shall continue to elect a chairman in like manner thereafter. The county auditors of the counties shall be clerks of such joint commission, and the county auditor of the county where each meeting is held shall act as clerk of the commission at all meetings held in his county. Each county auditor, as soon as the joint commission is organized, shall procure a record book and enter therein a complete record of the proceedings of the commission, and immediately after each adjournment the county auditor of the county in which the meeting is held shall forward a complete copy of the minutes of the proceedings of the commission to the auditor of the other county to be entered by him in his record. Each county shall keep a complete record of the proceedings of the commission.

[1963 c 4 § 36.54.040. Prior: 1917 c 158 § 2; RRS § 5480.]

RCW 36.54.050 Joint ferries over water boundary between two counties--Commission authority--Expenses shared.

The joint commission is authorized to transact all business necessary in carrying out the purposes of RCW 36.54.030 through 36.54.070 and its acts shall be binding upon the two counties, and one-half of all bills and obligations created by the commission shall be binding and a legal charge against the road fund of each county and the claims therefor shall be allowed and paid out of the county road fund the same as other claims against said fund are allowed and paid.

[1963 c 4 § 36.54.050. Prior: 1917 c 158 § 3; RRS § 5481.]

RCW 36.54.060 Joint ferries over water boundary between two counties--Audit and allowance of claims.

All claims and accounts for the construction, operation and maintenance of a joint county ferry shall be presented to and audited by the joint commission: PROVIDED, That items of expense connected with the operation of such ferry which do not exceed the sum of thirty dollars may be presented to the chairman of the joint commission and allowed by him and when allowed shall be a joint charge against the road fund of each of the counties operating such ferry.

[1963 c 4 § 36.54.060. Prior: 1917 c 158 § 4; RRS § 5482.]

RCW 36.54.070 Joint ferries over water boundary between two counties--County commissioner duties enumerated--Omission as ground for impeachment.

The members of the board of county commissioners of each county shall be members of the joint commission and their refusal to act shall be ground for impeachment. They shall provide for the maintenance and operation of the ferry until it is discontinued by a majority vote of the joint commission.

[1963 c 4 § 36.54.070. Prior: 1917 c 158 § 5; RRS § 5483.]

Chapter 36.55 RCW
FRANCHISES ON ROADS AND BRIDGES

Sections

36.55.010	Pipe line and wire line franchises on county roads.
36.55.020	Cattleguards, tramroad, and railway rights.
36.55.030	Franchises on county bridges.
36.55.040	Application--Notice of hearing.
36.55.050	Hearing--Order.
36.55.060	Limitations upon grants.
36.55.070	Existing franchises validated.
36.55.080	Record of franchises.

RCW 36.55.010 Pipe line and wire line franchises on county roads.

Any board of county commissioners may grant franchises to persons or private or municipal corporations to use the right of way of county roads in their respective counties for the construction and maintenance of waterworks, gas pipes, telephone, telegraph, and electric light lines, sewers and any other such facilities.

[1963 c 4 § 36.55.010. Prior: 1961 c 55 § 2; prior: 1937 c 187 § 38, part; RRS § 6450-38, part.]

RCW 36.55.020 Cattleguards, tramroad, and railway rights.

Any board of county commissioners may grant to any person the right to build and maintain tramroads and railway roads upon county roads under such regulations and conditions as the board may prescribe, and may grant to any person the right to build and maintain cattleguards across the entire right of way on any county road, under such regulations and conditions as the board may prescribe: PROVIDED, That such tramroad or railway road shall not occupy more than eight feet of the county road upon which the same is built and shall not be built upon the roadway of such county road nor in such a way as to interfere with the public travel thereon.

[1963 c 4 § 36.55.020. Prior: 1941 c 138 § 1; 1937 c 187 § 39; Rem. Supp. 1941 § 6450-39.]

RCW 36.55.030 Franchises on county bridges.

Any board of county commissioners may grant franchises upon bridges, trestles, or other structures constructed and maintained by it, severally or jointly with any other county or city or town of this state, or jointly with any other state or any county, city or town of any other state, in the same manner and under the same provisions as govern the granting of franchises on county

roads.

[1963 c 4 § 36.55.030. Prior: 1937 c 187 § 40; RRS § 6450-40.]

RCW 36.55.040 Application--Notice of hearing.

On application being made to the county legislative authority for franchise, it shall fix a time and place for hearing the same, and shall cause the county auditor to give public notice thereof at the expense of the applicant, by posting notices in three public places in the county seat of the county at least fifteen days before the day fixed for the hearing. The county legislative authority shall also publish a like notice two times in the official newspaper of the county, the last publication to be not less than five days before the day fixed for the hearing. The notice shall state the name or names of the applicant or applicants, a description of the county roads by reference to section, township and range in which the county roads or portions thereof are physically located, to be included in the franchise for which the application is made, and the time and place fixed for the hearing.

[1985 c 469 § 49; 1963 c 4 § 36.55.040. Prior: 1961 c 55 § 3; prior: 1937 c 187 § 38, part; RRS § 6450-38, part.]

RCW 36.55.050 Hearing--Order.

The hearing may be adjourned from time to time by the order of the board of county commissioners. If, after the hearing, the board deems it to be for the public interest to grant the franchise in whole or in part, it may make and enter a resolution to that effect and may require the applicant to place his utility and its appurtenances in such location on or along the county road as the board finds will cause the least interference with other uses of the road.

[1963 c 4 § 36.55.050. Prior: 1961 c 55 § 4; prior: 1937 c 187 § 38, part; RRS § 6450-38, part.]

RCW 36.55.060 Limitations upon grants.

(1) Any person constructing or operating any utility on or along a county road shall be liable to the county for all necessary expense incurred in restoring the county road to a suitable condition for travel.

(2) No franchise shall be granted for a period of longer than fifty years.

(3) No exclusive franchise or privilege shall be granted.

(4) The facilities of the holder of any such franchise shall be removed at the expense of the holder thereof, to some other location on such county road in the event it is to be constructed, altered, or improved or becomes a primary state highway and such removal is reasonably necessary for the construction, alteration, or improvement thereof.

[1963 c 4 § 36.55.060. Prior: 1961 c 55 § 5; prior: 1937 c 187 § 38, part; RRS § 6450-38, part.]

RCW 36.55.070 Existing franchises validated.

All rights, privileges, or franchises granted or attempted to be granted by the board of county commissioners of any county prior to April 1, 1937, when such board of county commissioners was in regular or special session and when the action of such board is shown by its records, to any person to erect, construct, maintain, or operate any railway or poles, pole lines, wires, or any other thing for the furnishing, transmission, delivery, enjoyment, or use of electric energy, electric power, electric light, and telephone connection therewith, or any other matter relating thereto; or to lay or maintain pipes for the distribution of water, or gas, or to or for any other such facilities in, upon, along, through or over any county roads, are confirmed and declared to be valid to the extent that such rights, privileges, or franchises specifically refer or apply to any county road or county roads, or to the extent that any such county road has prior to April 1, 1937, been actually occupied by the bona fide construction and operation of such utility, and such rights, privileges, and franchises hereby confirmed shall have the same force and effect as if the board of county commissioners prior to the time of granting said rights, privileges, and franchises, had been specifically authorized to grant them.

[1963 c 4 § 36.55.070. Prior: 1937 c 187 § 41; RRS § 6450-41.]

RCW 36.55.080 Record of franchises.

The board of county commissioners shall cause to be recorded with the county auditor a complete record of all existing franchises upon the county roads of its county and the auditor shall keep and maintain a currently correct record of all franchises existing or granted with the information describing the holder of the franchise, the purpose thereof, the portion of county road over or along which granted, the date of granting, term for which granted, and date of expiration, and any other information with reference to any special provisions of such franchises.

[1963 c 4 § 36.55.080. Prior: 1937 c 187 § 42; RRS § 6450-42.]

Chapter 36.56 RCW

**METROPOLITAN MUNICIPAL CORPORATION FUNCTIONS, ETC.--ASSUMPTION
BY COUNTIES**

Sections

- | | |
|-----------|---|
| 36.56.010 | Assumption of rights, powers, functions, and obligations authorized. |
| 36.56.020 | Ordinance or resolution of intention to assume rights, powers, functions and obligations--Adoption--Publication--Hearing. |
| 36.56.030 | Hearing. |
| 36.56.040 | Declaration of intention to assume--Submission of ordinance or resolution to voters required--Extent of rights, powers, functions and obligations assumed and vested in county--Abolition of metropolitan council--Transfer of rights, powers, functions and obligations to county. |
| 36.56.050 | Employees and personnel. |
| 36.56.060 | Apportionment of budgeted funds--Transfer and adjustment of funds, accounts and records. |
| 36.56.070 | Existing rights, actions, proceedings, etc. not impaired or altered. |

36.56.080	Collective bargaining units or agreements.
36.56.090	Rules and regulations, pending business, contracts, obligations, validity of official acts.
36.56.100	Real and personal property--Reports, books, records, etc.--Funds, credits, assets--Appropriations or federal grants.
36.56.110	Debts and obligations.
36.56.900	Severability--Construction--1977 ex.s. c 277.
36.56.910	Effective date--1977 ex.s. c 277.

Notes:

Acquisition of interests in land for conservation, protection, preservation, or open space purposes by county or metropolitan municipal corporation: RCW 64.04.130.

RCW 36.56.010 Assumption of rights, powers, functions, and obligations authorized.

Any county with a population of two hundred ten thousand or more in which a metropolitan municipal corporation has been established pursuant to chapter 35.58 RCW with boundaries coterminous with the boundaries of the county may by ordinance or resolution, as the case may be, of the county legislative authority assume the rights, powers, functions, and obligations of such metropolitan municipal corporation in accordance with the provisions of *this 1977 amendatory act. The definitions contained in RCW 35.58.020 shall be applicable to this chapter.

[1991 c 363 § 72; 1977 ex.s. c 277 § 1.]

Notes:

***Reviser's note:** "this 1977 amendatory act" or "this act" [1977 ex.s. c 277] consists of chapter 36.56 RCW and the amendment to RCW 35.58.020 by 1977 ex.s. c 277.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.56.020 Ordinance or resolution of intention to assume rights, powers, functions and obligations--Adoption--Publication--Hearing.

The assumption of the rights, powers, functions, and obligations of a metropolitan municipal corporation may be initiated by the adoption of an ordinance or a resolution, as the case may be, by the county legislative authority indicating its intention to conduct a hearing concerning assumption of such rights, powers, functions, and obligations. In the event the county legislative authority adopts such an ordinance or a resolution of intention, such ordinance or resolution shall set a time and place at which it will consider the proposed assumption of the rights, powers, functions, and obligations of the metropolitan municipal corporation, and shall state that all persons interested may appear and be heard. Such ordinance or resolution of intention shall be published for at least four times during the four weeks next preceding the scheduled hearing in newspapers of daily general circulation printed or published in said county.

[1977 ex.s. c 277 § 2.]

RCW 36.56.030 Hearing.

At the time scheduled for the hearing in the ordinance or resolution of intention, the county legislative authority shall consider the assumption of the rights, powers, functions, and obligations of the metropolitan municipal corporation, and hear those appearing and all protests and objections to it. The county legislative authority may continue the hearing from time to time, not exceeding sixty days in all.

[1977 ex.s. c 277 § 3.]

RCW 36.56.040 Declaration of intention to assume--Submission of ordinance or resolution to voters required--Extent of rights, powers, functions and obligations assumed and vested in county--Abolition of metropolitan council--Transfer of rights, powers, functions and obligations to county.

If, from the testimony given before the county legislative authority, it appears that the public interest or welfare would be satisfied by the county assuming the rights, powers, functions, and obligations of the metropolitan municipal corporation, the county legislative authority may declare that to be its intent and assume such rights, powers, functions, and obligations by ordinance or resolution, as the case may be, providing that the county shall be vested with every right, power, function, and obligation currently granted to or possessed by the metropolitan municipal corporation pursuant to chapter 35.58 RCW (including RCW 35.58.273 relating to levy and use of the motor vehicle excise tax) or other provision of state law, including but not limited to, the power and authority to levy a sales and use tax pursuant to chapter 82.14 RCW or other provision of law: PROVIDED, That such ordinance or resolution shall be submitted to the voters of the county for their adoption and ratification or rejection, and if a majority of the persons voting on the proposition residing within the central city shall vote in favor thereof and a majority of the persons voting on the proposition residing in the metropolitan area outside of the central city shall vote in favor thereof, the ordinance or resolution shall be deemed adopted and ratified.

Upon assumption of the rights, powers, functions, and obligations of the metropolitan municipal corporation by the county, the metropolitan council established pursuant to the provisions of RCW 35.58.120 through 35.58.160 shall be abolished, said provisions shall be inapplicable to the county, and the county legislative authority shall thereafter be vested with all rights, powers, duties, and obligations otherwise vested by law in the metropolitan council: PROVIDED, That in any county with a home rule charter such rights, powers, functions, and obligations shall vest in accordance with the executive and legislative responsibilities defined in such charter.

[1977 ex.s. c 277 § 4.]

RCW 36.56.050 Employees and personnel.

All employees and personnel of the metropolitan municipal corporation who are under a

personnel system pursuant to RCW 35.58.370 shall be assigned to the county personnel system to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the county personnel system.

[1977 ex.s. c 277 § 5.]

RCW 36.56.060 Apportionment of budgeted funds--Transfer and adjustment of funds, accounts and records.

If apportionments of budgeted funds are required because of the transfers authorized by this chapter, the county budget office shall certify such apportionments to the agencies and local governmental units affected and to the state auditor. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification.

[1977 ex.s. c 277 § 6.]

RCW 36.56.070 Existing rights, actions, proceedings, etc. not impaired or altered.

No transfer of any function made pursuant to this chapter shall be construed to impair or alter any existing rights acquired under the provisions of chapter 35.58 RCW or any other provision of law relating to metropolitan municipal corporations, nor as impairing or altering any actions, activities, or proceedings validated thereunder, nor as impairing or altering any civil or criminal proceedings instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the assumption of control of any metropolitan municipal function by a county, nor any transfer of rights, powers, functions, and obligations as provided in this chapter, shall impair or alter the validity of any act performed by such metropolitan municipal corporation or division thereof or any officer thereof prior to the assumption of such rights, powers, functions, and obligations by any county as authorized by this chapter.

[1977 ex.s. c 277 § 7.]

RCW 36.56.080 Collective bargaining units or agreements.

Nothing contained in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified as provided by law.

[1977 ex.s. c 277 § 8.]

RCW 36.56.090 Rules and regulations, pending business, contracts, obligations, validity of official acts.

All rules and regulations, and all pending business before the committees, divisions, boards, and other agencies of any metropolitan municipal corporation transferred pursuant to the provisions of this chapter shall be continued and acted upon by the county.

All existing contracts and obligations of the transferred metropolitan municipal corporation shall remain in full force and effect, and shall be performed by the county. No transfer authorized in this chapter shall affect the validity of any official act performed by any official or employee prior to the transfer authorized pursuant to *this amendatory act.

[1977 ex.s. c 277 § 9.]

Notes:

***Reviser's note:** "this amendatory act," see note following RCW 36.56.010.

RCW 36.56.100 Real and personal property--Reports, books, records, etc.--Funds, credits, assets--Appropriations or federal grants.

When the rights, powers, functions, and obligations of a metropolitan municipal corporation are transferred pursuant to this chapter, all real and personal property owned by the metropolitan municipal corporation shall become that of the county.

All reports, documents, surveys, books, records, files, papers, or other writings relating to the administration of the powers, duties, and functions transferred pursuant to this chapter and available to the metropolitan municipal corporation shall be made available to the county.

All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the rights, powers, functions, and obligations transferred by this chapter and available to the metropolitan municipal corporation shall be made available to the county.

All funds, credits, or other assets held in connection with powers, duties, and functions herein transferred shall be assigned to the county.

Any appropriations or federal grant made to any committee, division, board, or other department of a metropolitan municipal corporation for the purpose of carrying out the rights, powers, functions, and obligations authorized to be assumed by a county pursuant to this chapter shall on the effective date of such transfer be credited to the county for the purpose of carrying out such transferred rights, powers, functions, and obligations.

[1977 ex.s. c 277 § 10.]

RCW 36.56.110 Debts and obligations.

The county shall assume and agree to provide for the payment of all of the indebtedness of the metropolitan municipal corporation including the payment and retirement of outstanding general obligation and revenue bonds issued by the metropolitan municipal corporation. Until the indebtedness of a metropolitan municipal corporation thus assumed by a county has been discharged, all property within the boundaries of the metropolitan municipal corporation and the owners and occupants of that property, shall continue to be liable for taxes, special assessments, and other charges legally pledged to pay the indebtedness of the metropolitan municipal

corporation. The county shall assume the obligation of causing the payment of such indebtedness, collecting such taxes, assessments, and charges and observing and performing the other contractual obligations of the metropolitan municipal corporation. The legislative authority of the county shall act in the same manner as the governing body of the metropolitan municipal corporation for the purpose of certifying the amount of any property tax to be levied and collected therein, and may cause service and other charges and assessments to be collected from such property or owners or occupants thereof, enforce such collection and perform all acts necessary to ensure performance of the contractual obligations of the metropolitan municipal corporation in the same manner and by the same means as if the property of the metropolitan municipal corporation had not been acquired by the county.

When a county assumes the obligation of paying indebtedness of a metropolitan municipal corporation and if property taxes or assessments have been levied and service and other charges have accrued for such purpose but have not been collected by the metropolitan municipal corporation prior to such assumption, the same when collected shall belong and be paid to the county and be used by such county so far as necessary for payment of the indebtedness of the metropolitan municipal corporation existing and unpaid on the date such county assumed that indebtedness. Any funds received by the county which have been collected for the purpose of paying any bonded or other indebtedness of the metropolitan municipal corporation shall be used for the purpose for which they were collected and for no other purpose until such indebtedness has been paid and retired or adequate provision has been made for such payment and retirement. No transfer of property as provided in *this act shall derogate from the claims or rights of the creditors of the metropolitan municipal corporation or impair the ability of the metropolitan municipal corporation to respond to its debts and obligations.

[1977 ex.s. c 277 § 11.]

Notes:

***Reviser's note:** "this act," see note following RCW 36.56.010.

RCW 36.56.900 Severability--Construction--1977 ex.s. c 277.

If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. In the event the provisions in RCW 36.56.040 requiring approval by both the voters of a central city and the county voters residing outside of the central city are held to be invalid, then such provisions shall be severable and the ballot proposition on the transfer of the metropolitan municipal corporation to the county shall be decided by the majority vote of the voters voting thereon in a county-wide election.

[1977 ex.s. c 277 § 14.]

RCW 36.56.910 Effective date--1977 ex.s. c 277.

This 1977 amendatory act shall take effect July 1, 1978.

[1977 ex.s. c 277 § 15.]

Chapter 36.57 RCW
COUNTY PUBLIC TRANSPORTATION AUTHORITY

Sections

36.57.010	Definitions.
36.57.020	Public transportation authority authorized.
36.57.030	Membership--Compensation.
36.57.040	Powers and duties.
36.57.050	Chairman--General manager.
36.57.060	Transportation fund--Contributions.
36.57.070	Public transportation plan.
36.57.080	Transfer of transportation powers and rights to authority--Funds--Contract indebtedness.
36.57.090	Acquisition of existing transportation system--Assumption of labor contracts--Transfer of employees--Preservation of benefits--Collective bargaining.
36.57.100	Counties authorized to perform public transportation function in unincorporated areas--Exceptions.
36.57.110	Boundaries of unincorporated transportation benefit areas.
36.57.120	Rail fixed guideway system--Safety and security program plan.
36.57.130	Public transportation for persons with special needs.

NOTES:

Financing of public transportation systems: Chapter 35.95 RCW and RCW 82.14.045.

Municipality defined for purposes of RCW 36.57.080, 36.57.100, and 36.57.110: RCW 35.58.272.

RCW 36.57.010 Definitions.

For the purposes of this chapter the following definitions shall apply:

(1) "Authority" means the county transportation authority created pursuant to this chapter.

(2) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made by the office of financial management.

(3) "Public transportation function" means the transportation of passengers and their incidental baggage by means other than by chartered bus, sightseeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people-moving systems, and may include contracting for the provision of ambulance services for the transportation of the sick and injured: PROVIDED, That such contracting for ambulance services shall not include the exercise of eminent domain powers: PROVIDED, FURTHER, That nothing shall prohibit an authority from leasing its buses to private certified carriers or prohibit the county from providing school bus service.

[1981 c 319 § 1; 1979 c 151 § 39; 1974 ex.s. c 167 § 1.]

Notes:

Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 36.57.020 Public transportation authority authorized.

Every county, except a county in which a metropolitan municipal corporation is performing the function of public transportation on May 5, 1974, is authorized to create a county transportation authority which shall perform the function of public transportation. Such authority shall embrace all the territory within a single county and all cities and towns therein.

[1974 ex.s. c 167 § 2.]

RCW 36.57.030 Membership--Compensation.

Every county which undertakes the transportation function pursuant to RCW 36.57.020 shall create by resolution of the county legislative body a county transportation authority which shall be composed as follows:

- (1) The elected officials of the county legislative body, not to exceed three such elected officials;
- (2) The mayor of the most populous city within the county;
- (3) The mayor of a city with a population less than five thousand, to be selected by the mayors of all such cities within the county;
- (4) The mayor of a city with a population greater than five thousand, excluding the most populous city, to be selected by the mayors of all such cities within the county: PROVIDED, HOWEVER, That if there is no city with a population greater than five thousand, excluding the most populous city, then the sixth member who shall be an elected official, shall be selected by the other two mayors selected pursuant to subsections (2) and (3) of this section.

The members of the authority shall be selected within sixty days after the date of the resolution creating such authority.

Any member of the authority who is a mayor or an elected official selected pursuant to subsection (4) above and whose office is not a full time position shall receive one hundred dollars for each day attending official meetings of the authority.

[1974 ex.s. c 167 § 3.]

RCW 36.57.040 Powers and duties.

Every county transportation authority created to perform the function of public transportation pursuant to RCW 36.57.020 shall have the following powers:

- (1) To prepare, adopt, carry out, and amend a general comprehensive plan for public transportation service.
- (2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of any transportation facilities and properties, including terminal and parking facilities, together with all lands, rights of way, property, equipment, and accessories necessary for such systems and facilities.
- (3) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service. Fares or charges may be adjusted or eliminated for any

distinguishable class of users including, but not limited to senior citizens, handicapped persons, and students.

(4) If a county transit authority extends its transportation function to any area in which service is already offered by any company holding a certificate of public convenience and necessity from the Washington utilities and transportation commission under RCW 81.68.040, to acquire by purchase or condemnation at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation, or to contract with such person or corporation to continue to operate such service or any part thereof for time and upon such terms and conditions as provided by contract.

(5)(a) To contract with the United States or any agency thereof, any state or agency thereof, any metropolitan municipal corporation, any other county, city, special district, or governmental agency and any private person, firm, or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction, operation, or maintenance of transportation facilities and ambulance services: PROVIDED, That before the authority enters into any such contract for the provision of ambulance service, it shall submit to the voters a proposition authorizing such contracting authority, and a majority of those voting thereon shall have approved the proposition; and

(b) To contract with any governmental agency or with any private person, firm, or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands, and rights of way of all kinds which are owned, leased, or held by the other party and for the purpose of planning, constructing, or operating any facility or performing any service related to transportation which the county is authorized to operate or perform, on such terms as may be agreed upon by the contracting parties: PROVIDED, That before any contract for the lease or operation of any transportation facilities shall be let to any private person, firm, or corporation, competitive bids shall first be called for and contracts awarded in accord with the procedures established in accord with RCW 36.32.240, 36.32.250, and 36.32.270.

(6) In addition to all other powers and duties, an authority shall have the power to own, construct, purchase, lease, add to, and maintain any real and personal property or property rights necessary for the conduct of the affairs of the authority. An authority may sell, lease, convey, or otherwise dispose of any authority real or personal property no longer necessary for the conduct of the affairs of the authority. An authority may enter into contracts to carry out the provisions of this section.

[1982 c 10 § 6. Prior: 1981 c 319 § 2; 1981 c 25 § 3; 1974 ex.s. c 167 § 4.]

Notes:

Severability--1982 c 10: See note following RCW 6.13.080.

RCW 36.57.050 Chairman--General manager.

The authority shall elect a chairman, and appoint a general manager who shall be

experienced in administration, and who shall act as executive secretary to, and administrative officer for the authority. He shall also be empowered to employ such technical and other personnel as approved by the authority. The general manager shall be paid such salary and allowed such expenses as shall be determined by the authority. The general manager shall hold office at the pleasure of the authority, and shall not be removed until after notice is given him, and an opportunity for a hearing before the authority as to the reason for his removal.

[1974 ex.s. c 167 § 5.]

RCW 36.57.060 Transportation fund--Contributions.

Each authority shall establish a fund to be designated as the "transportation fund", in which shall be placed all sums received by the authority from any source, and out of which shall be expended all sums disbursed by the authority. The county treasurer shall be the custodian of the fund, and the county auditor shall keep the record of the receipts and disbursements, and shall draw and the county treasurer shall honor and pay all warrants, which shall be approved before issuance and payment as directed by the authority.

The county and each city or town which is included in the authority shall contribute such sums towards the expense for maintaining and operating the authority as shall be agreed upon between them.

[1974 ex.s. c 167 § 6.]

RCW 36.57.070 Public transportation plan.

The authority shall adopt a public transportation plan. Such plan shall be a general comprehensive plan designed to best serve the residents of the entire county. Prior to adoption of the plan, the authority shall provide a minimum of sixty days during which sufficient hearings shall be held to provide interested persons an opportunity to participate in development of the plan.

[1974 ex.s. c 167 § 7.]

RCW 36.57.080 Transfer of transportation powers and rights to authority--Funds--Contract indebtedness.

On the effective date of the proposition approved by the voters in accord with RCW 35.95.040 or 82.14.045, as now or hereafter amended, the authority shall have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which the county or any city located within such county shall have been previously empowered to exercise and such powers shall not thereafter be exercised by the county or such cities without the consent of the authority. The county and all cities within such county upon demand of the authority shall transfer to the authority all unexpended funds earmarked or budgeted from any source for public transportation,

including funds receivable. The county in which an authority is located shall have the power to contract indebtedness and issue bonds pursuant to chapter 36.67 RCW to enable the authority to carry out the purposes of this chapter and RCW 35.95.040 or 82.14.045, as now or hereafter amended, and the purposes of this chapter and RCW 35.95.040 or 82.14.045, as now or hereafter amended, shall constitute a "county purpose" as that term is used in chapter 36.67 RCW.

[1975 1st ex.s. c 270 § 5; 1974 ex.s. c 167 § 8.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57.090 Acquisition of existing transportation system--Assumption of labor contracts--Transfer of employees--Preservation of benefits--Collective bargaining.

A county transportation authority may acquire any existing transportation system by conveyance, sale, or lease. In any purchase from a county or city, the authority shall receive credit from the county or city for any federal assistance and state matching assistance used by the county or city in acquiring any portion of such system. The authority shall assume and observe all existing labor contracts relating to such system and, to the extent necessary for operation of facilities, all of the employees of such acquired transportation system whose duties are necessary to operate efficiently the facilities acquired shall be appointed to comparable positions to those which they held at the time of such transfer, and no employee or retired or pensioned employee of such systems shall be placed in any worse position with respect to pension seniority, wages, sick leave, vacation or other benefits that he enjoyed as an employee of such system prior to such acquisition. The authority shall engage in collective bargaining with the duly appointed representatives of any employee labor organization having existing contracts with the acquired transportation system and may enter into labor contracts with such employee labor organization.

[1974 ex.s. c 167 § 9.]

RCW 36.57.100 Counties authorized to perform public transportation function in unincorporated areas--Exceptions.

Every county, except a county in which a metropolitan municipal corporation is performing the public transportation function as of July 1, 1975, is authorized to perform such function in such portions of the unincorporated areas of the county, except within the boundaries of a public transportation benefit area established pursuant to chapter 36.57A RCW, as the county legislative body shall determine and the county shall have those powers as are specified in RCW 36.57.040 with respect to the provision of public transportation as is authorized pursuant to RCW 36.57.040.

[1975 1st ex.s. c 270 § 9.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57.110 Boundaries of unincorporated transportation benefit areas.

The legislative body of any county is hereby authorized to create and define the boundaries of unincorporated transportation benefit areas within the unincorporated areas of the county, following school district or election precinct lines, as far as practicable. Such areas shall include only those portions of the unincorporated area of the county which could reasonably assume to benefit from the provision of public transportation services.

[1975 1st ex.s. c 270 § 10.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57.120 Rail fixed guideway system--Safety and security program plan.

(1) Each county transportation authority that owns or operates a rail fixed guideway system as defined in RCW 81.104.015 shall submit a system safety and security program plan for that guideway to the state department of transportation by September 1, 1999, or at least three months before beginning operations or instituting revisions to its plan. This plan must describe the county transportation authority's procedures for (a) reporting and investigating reportable accidents, unacceptable hazardous conditions, and security breaches, (b) submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation, and (d) addressing passenger and employee security. The plan must, at a minimum, conform to the standards adopted by the state department of transportation. If required by the department, the county transportation authority shall revise its plan to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plan for review.

(2) Each county transportation authority shall implement and comply with its system safety and security program plan. The county transportation authority shall perform internal safety and security audits to evaluate its compliance with the plan, and submit its audit schedule to the department of transportation no later than December 15th each year. The county transportation authority shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. This annual report must include the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plan.

(3) Each county transportation authority shall notify the department of transportation within twenty-four hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach. The department may adopt rules further defining a reportable accident, unacceptable hazardous condition, or security breach. The county transportation authority shall investigate all reportable accidents, unacceptable hazardous conditions, or

security breaches and provide a written investigation report to the department within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach.

(4) The security section of the safety and security plan required in subsection (1)(d) of this section is exempt from public disclosure under chapter 42.17 RCW. However, the activities and plans as described in subsections (1)(a), (b), and (c), (2), and (3) of this section are not subject to this exemption.

[1999 c 202 § 4.]

Notes:

Effective date--1999 c 202: See note following RCW 35.21.228.

RCW 36.57.130 Public transportation for persons with special needs.

(1) Effective January 1, 2001, in addition to any other authority granted under this chapter, a county transportation authority may be created to purchase, acquire, maintain, operate, or lease transportation services, equipment, and facilities for public transportation limited only to persons with special needs by any method or combination of methods provided by the authority.

(2) As used in this section, "persons with special needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or purchase transportation.

(3) The county transportation authority may fix, regulate, and control fares and rates to be charged for these transportation services.

[2001 c 89 § 1.]

**Chapter 36.57A RCW
PUBLIC TRANSPORTATION BENEFIT AREAS**

Sections

36.57A.010	Definitions.
36.57A.011	Municipality defined.
36.57A.020	Public transportation improvement conference--Convening--Purpose--Multi-county conferences.
36.57A.030	Establishment or change in boundaries of public transportation benefit area--Hearing--Notice--Procedure--Authority of county to terminate public transportation benefit area.
36.57A.040	Cities included or excluded--Boundaries--Only benefited areas included--One area per county, exception.
36.57A.050	Governing body--Selection, qualification, number of members--Travel expenses, compensation.
36.57A.055	Governing body--Periodic review of composition.
36.57A.060	Comprehensive plan--Development--Elements.
36.57A.070	Comprehensive plan--Review--Approval or disapproval--Resubmission.
36.57A.080	General powers.
36.57A.090	Additional powers--Acquisition of existing system.
36.57A.100	Agreements with operators of local public transportation services--Operation without agreement prohibited--Purchase or condemnation of assets.
36.57A.110	Powers of component city concerning passenger transportation transferred to benefit area--Operation of system by city until acquired by benefit area--Consent.

- 36.57A.120 Acquisition of existing system--Labor contracts, employee rights preserved--Collective bargaining.
- 36.57A.130 Treasurer and auditor--Powers and duties--Transportation fund--Contribution of sums for expenses.
- 36.57A.140 Annexation of additional area.
- 36.57A.150 Advanced financial support payments.
- 36.57A.160 Dissolution and liquidation.
- 36.57A.170 Rail fixed guideway system--Safety and security program plan.
- 36.57A.180 Public transportation for persons with special needs.

NOTES:

*Financing of public transportation systems: Chapter 35.95 RCW and RCW 82.14.045.
Transportation centers authorized: Chapter 81.75 RCW.*

RCW 36.57A.010 Definitions.

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Public transportation benefit area" means a municipal corporation of the state of Washington created pursuant to this chapter.

(2) "Public transportation benefit area authority" or "authority" means the legislative body of a public transportation benefit area.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a public transportation benefit area.

(5) "City council" means the legislative body of any city or town.

(6) "County legislative authority" means the board of county commissioners or the county council.

(7) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made by the office of financial management.

(8) "Public transportation service" means the transportation of packages, passengers, and their incidental baggage by means other than by chartered bus, sight-seeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems: PROVIDED, That nothing shall prohibit an authority from leasing its buses to private certified carriers or prohibit the authority from providing school bus service.

(9) "Public transportation improvement conference" or "conference" means the body established pursuant to RCW 36.57A.020 which shall be authorized to establish, subject to the provisions of RCW 36.57A.030, a public transportation benefit area pursuant to the provisions of this chapter.

[1983 c 65 § 1; 1979 c 151 § 40; 1975 1st ex.s. c 270 § 11.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 36.57A.011 Municipality defined.

See RCW 35.58.272.

RCW 36.57A.020 Public transportation improvement conference--Convening--Purpose--Multi-county conferences.

The county legislative authority of every county with a population of forty thousand or more shall, and the legislative authority of every other county may, within ninety days of July 1, 1975, and as often thereafter as it deems necessary, and upon thirty days prior written notice addressed to the legislative body of each city within the county and with thirty days public notice, convene a public transportation improvement conference to be attended by an elected representative selected by the legislative body of each city, within such county, and by the county legislative authority. Such conference shall be for the purpose of evaluating the need for and the desirability of the creation of a public transportation benefit area within certain incorporated and unincorporated portions of the county to provide public transportation services within such area. In those counties where county officials believe the need for public transportation service extends across county boundaries so as to provide public transportation service in a metropolitan area, the county legislative bodies of two or more neighboring counties may elect to convene a multi-county conference. In addition, county-wide conferences may be convened by resolution of the legislative bodies of two or more cities within the county, not to exceed one in any twelve month period, or a petition signed by at least ten percent of the registered voters in the last general election of the city, county or city/county areas of a proposed benefit area. The chair of the conference shall be elected from the members at large.

[1991 c 363 § 73; 1975 1st ex.s. c 270 § 12.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.030 Establishment or change in boundaries of public transportation benefit area--Hearing--Notice--Procedure--Authority of county to terminate public transportation benefit area.

Any conference which finds it desirable to establish a public transportation benefit area or change the boundaries of any existing public transportation benefit area shall fix a date for a public hearing thereon, or the legislative bodies of any two or more component cities or the county legislative body by resolution may require the public transportation improvement conference to fix a date for a public hearing thereon. Prior to the convening of the public hearing, the county governing body shall delineate the area of the county proposed to be included within the transportation benefit area, and shall furnish a copy of such delineation to each incorporated city within such area. Each city shall advise the county governing body, on a

preliminary basis, of its desire to be included or excluded from the transportation benefit area. The county governing body shall cause the delineations to be revised to reflect the wishes of such incorporated cities. This delineation shall be considered by the conference at the public hearing for inclusion in the public transportation benefit area.

Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the area. The notice shall contain a description and map of the boundaries of the proposed public transportation benefit area and shall state the time and place of the hearing and the fact that any changes in the boundaries of the public transportation benefit area will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the effect of the formation of the proposed public transportation benefit area.

The conference may make such changes in the boundaries of the public transportation benefit area as they shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands, and may not delete a portion of any city. If the conference shall determine that any additional territory should be included in the public transportation benefit area, a second hearing shall be held and notice given in the same manner as for the original hearing. The conference may adjourn the hearing on the formation of a public transportation benefit area from time to time not exceeding thirty days in all.

Following the conclusion of such hearing the conference shall adopt a resolution fixing the boundaries of the proposed public transportation benefit area, declaring that the formation of the proposed public transportation benefit area will be conducive to the welfare and benefit of the persons and property therein.

Within thirty days of the adoption of such conference resolution, the county legislative authority of each county wherein a conference has established proposed boundaries of a public transportation benefit area, may by resolution, upon making a legislative finding that the proposed benefit area includes portions of the county which could not be reasonably expected to benefit from such benefit area or excludes portions of the county which could be reasonably expected to benefit from its creation, disapprove and terminate the establishment of such public transportation benefit area within such county.

[1977 ex.s. c 44 § 1; 1975 1st ex.s. c 270 § 13.]

Notes:

Severability--1977 ex.s. c 44: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 44 § 7.]

Effective date--1977 ex.s. c 44: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 44 § 8.]

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.040 Cities included or excluded--Boundaries--Only benefited areas

included--One area per county, exception.

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

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

[1992 c 16 § 1; 1991 c 318 § 15; 1983 c 65 § 2; 1975 1st ex.s. c 270 § 14.]

Notes:

Intent--1991 c 318: "The legislature recognizes that certain communities have important cultural, economic, or transportation linkages to communities in other counties. Many public services can most efficiently be delivered from public agencies located in counties other than the county within which the community is located. It is the intent of the legislature by enacting sections 15 through 17 of this act to further more effective public transportation linkages between communities, regardless of county association, in order to better serve state citizen needs." [1991 c 318 § 14.]

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.050 Governing body--Selection, qualification, number of members--Travel expenses, compensation.

Within sixty days of the establishment of the boundaries of the public transportation benefit area the members of the county legislative authority and the elected representative of each city within the area shall provide for the selection of the governing body of such area, the public transportation benefit area authority, which shall consist of elected officials selected by

and serving at the pleasure of the governing bodies of component cities within the area and the county legislative authority of each county within the area. If at the time a public transportation benefit area authority assumes the public transportation functions previously provided under the Interlocal Cooperation Act (chapter 39.34 RCW) there are citizen positions on the governing board of the transit system, those positions may be retained as positions on the governing board of the public transportation benefit area authority.

Within such sixty-day period, any city may by resolution of its legislative body withdraw from participation in the public transportation benefit area. The county legislative authority and each city remaining in the public transportation benefit area may disapprove and prevent the establishment of any governing body of a public transportation benefit area if the composition thereof does not meet its approval.

In no case shall the governing body of a single county public transportation benefit area be greater than nine members and in the case of a multicounty area, fifteen members. Those cities within the transportation benefit area and excluded from direct membership on the authority are hereby authorized to designate a member of the authority who shall be entitled to represent the interests of such city which is excluded from direct membership on the authority. The legislative body of such city shall notify the authority as to the determination of its authorized representative on the authority.

Each member of the authority is eligible to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and to receive compensation, as set by the authority, in an amount not to exceed forty-four dollars for each day during which the member attends official meetings of the authority or performs prescribed duties approved by the chairman of the authority. Except that the authority may, by resolution, increase the payment of per diem compensation to each member from forty-four dollars up to seventy dollars per day or portion of a day for attendance at board meetings and for performance of other services on behalf of the authority. In no event may a member be compensated in any year for more than seventy-five days, except the chairman who may be paid compensation for not more than one hundred days: PROVIDED, That compensation shall not be paid to an elected official or employee of federal, state, or local government who is receiving regular full-time compensation from such government for attending meetings and performing prescribed duties of the authority.

[1998 c 121 § 15; 1983 c 65 § 3; 1977 ex.s. c 44 § 2; 1975 1st ex.s. c 270 § 15.]

Notes:

Severability--Effective date--1977 ex.s. c 44: See notes following RCW 36.57A.030.

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.055 Governing body--Periodic review of composition.

After a public transportation benefit area has been in existence for four years, members of the county legislative authority and the elected representative of each city within the boundaries of the public transportation benefit area shall review the composition of the governing body of the benefit area and change the composition of the governing body if the change is deemed

appropriate. The review shall be at a meeting of the designated representatives of the component county and cities, and the majority of those present shall constitute a quorum at such meeting. Twenty days notice of the meeting shall be given by the chief administrative officer of the public transportation benefit area authority. After the initial review, a review shall be held every four years.

If an area having a population greater than fifteen percent, or areas with a combined population of greater than twenty-five percent of the population of the existing public transportation benefit area as constituted at the last review meeting, annex to the public transportation benefit area, or if an area is added under RCW 36.57A.140(2), the representatives of the component county and cities shall meet within ninety days to review and change the composition of the governing body, if the change is deemed appropriate. This meeting is in addition to the regular four-year review meeting and shall be conducted pursuant to the same notice requirement and quorum provisions of the regular review.

[1991 c 318 § 16; 1983 c 65 § 4.]

Notes:

Intent--1991 c 318: See note following RCW 36.57A.040.

RCW 36.57A.060 Comprehensive plan--Development--Elements.

The public transportation benefit area authority authorized pursuant to RCW 36.57A.050 shall develop a comprehensive transit plan for the area. Such plan shall include, but not be limited to the following elements:

(1) The levels of transit service that can be reasonably provided for various portions of the benefit area.

(2) The funding requirements, including local tax sources, state and federal funds, necessary to provide various levels of service within the area.

(3) The impact of such a transportation program on other transit systems operating within that county or adjacent counties.

(4) The future enlargement of the benefit area or the consolidation of such benefit area with other transit systems.

[1975 1st ex.s. c 270 § 16.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.070 Comprehensive plan--Review--Approval or disapproval--Resubmission.

The comprehensive transit plan adopted by the authority shall be reviewed by the state transportation commission to determine:

(1) The completeness of service to be offered and the economic viability of the transit system proposed in such comprehensive transit plan;

(2) Whether such plan integrates the proposed transportation system with existing transportation modes and systems that serve the benefit area;

(3) Whether such plan coordinates that area's system and service with nearby public transportation systems;

(4) Whether such plan is eligible for matching state or federal funds;

After reviewing the comprehensive transit plan, the state transportation commission shall have sixty days in which to approve such plan and to certify to the state treasurer that such public transportation benefit area shall be eligible to receive the motor vehicle excise tax proceeds authorized pursuant to RCW 35.58.273, as now or hereafter amended in the manner prescribed by chapter 82.44 RCW, as now or hereafter amended. To be approved a plan shall provide for coordinated transportation planning, the integration of such proposed transportation program with other transportation systems operating in areas adjacent to, or in the vicinity of the proposed public transportation benefit area, and be consistent with the public transportation coordination criteria adopted pursuant to the urban mass transportation act of 1964 as amended as of July 1, 1975. In the event such comprehensive plan is disapproved and ruled ineligible to receive motor vehicle tax proceeds, the state transportation commission shall provide written notice to the authority within thirty days as to the reasons for such plan's disapproval and such ineligibility. The authority may resubmit such plan upon reconsideration and correction of such deficiencies in the plan cited in such notice of disapproval.

[1985 c 6 § 5; 1975 1st ex.s. c 270 § 17.]

NOTES:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.080 General powers.

In addition to the powers specifically granted by this chapter a public transportation benefit area shall have all powers which are necessary to carry out the purposes of the public transportation benefit area. A public transportation benefit area may contract with the United States or any agency thereof, any state or agency thereof, any other public transportation benefit area, any county, city, metropolitan municipal corporation, special district, or governmental agency, within or without the state, and any private person, firm or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction or operation of transportation facilities. In addition a public transportation benefit area may contract with any governmental agency or with any private person, firm or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands and rights of way of all kinds which are owned, leased or held by the other party and for the purpose of planning, constructing or operating any facility or performing any service which the public transportation benefit area may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties. Before any contract for the lease or operation of any public transportation benefit area facilities shall be let to any private person, firm or corporation, a general schedule of rental rates for bus equipment with or without drivers shall be publicly posted applicable to all

private certificated carriers, and for other facilities competitive bids shall first be called upon such notice, bidder qualifications and bid conditions as the public transportation benefit area authority shall determine.

A public transportation benefit area may sue and be sued in its corporate capacity in all courts and in all proceedings.

[1975 1st ex.s. c 270 § 18.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.090 Additional powers--Acquisition of existing system.

A public transportation benefit area authority shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare, adopt, and carry out a general comprehensive plan for public transportation service which will best serve the residents of the public transportation benefit area and to amend said plan from time to time to meet changed conditions and requirements.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of transportation facilities and properties within or without the public transportation benefit area or the state, including systems of surface, underground, or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including escalators, moving sidewalks, or other people-moving systems, passenger terminal and parking facilities and properties, and such other facilities and properties as may be necessary for passenger and vehicular access to and from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment, and accessories necessary for such systems and facilities. Public transportation facilities and properties which are owned by any city may be acquired or used by the public transportation benefit area authority only with the consent of the city council of the city owning such facilities. Cities are hereby authorized to convey or lease such facilities to a public transportation benefit area authority or to contract for their joint use on such terms as may be fixed by agreement between the city council of such city and the public transportation benefit area authority, without submitting the matter to the voters of such city.

The facilities and properties of a public transportation benefit area system whose vehicles will operate primarily within the rights of way of public streets, roads, or highways, may be acquired, developed, and operated without the corridor and design hearings which are required by RCW 35.58.273, as now or hereafter amended, for mass transit facilities operating on a separate right of way.

(3) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service. Fares or charges may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, handicapped persons, and students.

In the event any person holding a certificate of public convenience and necessity from the

Washington utilities and transportation commission under RCW 81.68.040 has operated under such certificate for a continuous period of one year prior to the date of certification and is offering service within the public transportation benefit area on the date of the certification by the county canvassing board that a majority of votes cast authorize a tax to be levied and collected by the public transportation benefit area authority, such authority may by purchase or condemnation acquire at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation. The person holding such existing certificate may require the public transportation benefit area authority to initiate such purchase of those assets of such person, existing as of the date of the county canvassing board certification, within sixty days after the date of such certification.

[1981 c 25 § 4; 1977 ex.s. c 44 § 3; 1975 1st ex.s. c 270 § 19.]

Notes:

Severability--Effective date--1977 ex.s. c 44: See notes following RCW 36.57A.030.

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.100 Agreements with operators of local public transportation services--Operation without agreement prohibited--Purchase or condemnation of assets.

Except in accordance with an agreement made as provided in this section or in accordance with the provisions of RCW 36.57A.090(3) as now or hereafter amended, upon the effective date on which the public transportation benefit area commences to perform the public transportation service, no person or private corporation shall operate a local public passenger transportation service within the public transportation benefit area with the exception of taxis, buses owned or operated by a school district or private school, and buses owned or operated by any corporation or organization solely for the purposes of the corporation or organization and for the use of which no fee or fare is charged.

An agreement may be entered into between the public transportation benefit area authority and any person or corporation legally operating a local public passenger transportation service wholly within or partly within and partly without the public transportation benefit area and on said effective date under which such person or corporation may continue to operate such service or any part thereof for such time and upon such terms and conditions as provided in such agreement. Such agreement shall provide for a periodic review of the terms and conditions contained therein. Where any such local public passenger transportation service will be required to cease to operate within the public transportation benefit area, the public transportation benefit area authority may agree with the owner of such service to purchase the assets used in providing such service, or if no agreement can be reached, the public transportation benefit area authority shall condemn such assets in the manner and by the same procedure as is or may be provided by law for the condemnation of other properties for cities of the first class, except insofar as such laws may be inconsistent with the provisions of this chapter.

Wherever a privately owned public carrier operates wholly or partly within a public

transportation benefit area, the Washington utilities and transportation commission shall continue to exercise jurisdiction over such operation as provided by law.

[1977 ex.s. c 44 § 4; 1975 1st ex.s. c 270 § 20.]

Notes:

Severability--Effective date--1977 ex.s. c 44: See notes following RCW 36.57A.030.

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.110 Powers of component city concerning passenger transportation transferred to benefit area--Operation of system by city until acquired by benefit area--Consent.

The public transportation benefit area shall have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which any component city shall have been previously empowered to exercise and such powers shall not thereafter be exercised by such component cities without the consent of the public transportation benefit area: PROVIDED, That any city owning and operating a public transportation system on July 1, 1975 may continue to operate such system within such city until such system shall have been acquired by the public transportation benefit area and a public transportation benefit area may not acquire such system without the consent of the city council of such city.

[1975 1st ex.s. c 270 § 21.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.120 Acquisition of existing system--Labor contracts, employee rights preserved--Collective bargaining.

If a public transportation benefit area shall acquire any existing transportation system, it shall assume and observe all existing labor contracts relating to such system and, to the extent necessary for operation of facilities, all of the employees of such acquired transportation system whose duties are necessary to operate efficiently the facilities acquired shall be appointed to comparable positions to those which they held at the time of such transfer, and no employee or retired or pensioned employee of such systems shall be placed in any worse position with respect to pension seniority, wages, sick leave, vacation or other benefits that he enjoyed as an employee of such system prior to such acquisition. The public transportation benefit area authority shall engage in collective bargaining with the duly appointed representatives of any employee labor organization having existing contracts with the acquired transportation system and may enter into labor contracts with such employee labor organization.

[1975 1st ex.s. c 270 § 22.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.130 Treasurer and auditor--Powers and duties--Transportation fund--Contribution of sums for expenses.

The treasurer of the county in which a public transportation benefit area authority is located shall be ex officio treasurer of the authority. In the case of a multicounty public transportation benefit area the county treasurer of the largest component county, by population, shall be the treasurer of the authority. However, the authority, by resolution, and upon the approval of the county treasurer, may designate some other person having experience in financial or fiscal matters as treasurer of the authority. Such a treasurer shall possess all of the powers, responsibilities, and duties the county treasurer possesses for a public transportation benefit area authority related to investing surplus authority funds. The authority may (and if the treasurer is not a county treasurer, it shall) require a bond with a surety company authorized to do business in the state of Washington in an amount and under the terms and conditions the authority, by resolution, from time to time finds will protect the authority against loss. The premium on any such bond shall be paid by the authority.

All authority funds shall be paid to the treasurer and shall be disbursed by the treasurer only on warrants issued by the county auditor, upon orders or vouchers approved by the authority. However, the authority may, by resolution, designate some person having experience in financial or fiscal matters, other than the county auditor, as the auditor of the authority. Such an auditor shall possess all of the powers, responsibilities, and duties that the county auditor possesses for a public transportation benefit area authority related to creating and maintaining funds, issuing warrants, and maintaining a record of receipts and disbursements.

The treasurer shall establish a "transportation fund," into which shall be paid all authority funds, and the treasurer shall maintain such special accounts as may be created by the authority into which shall be placed all money as the authority may, by resolution, direct.

If the treasurer of the authority is a treasurer of the county, all authority funds shall be deposited with the county depository under the same restrictions, contracts, and security as provided for county depositories. If the treasurer of the authority is some other person, all funds shall be deposited in such bank or banks authorized to do business in this state that have qualified for insured deposits under any federal deposit insurance act as the authority, by resolution, shall designate.

An authority may provide and require a reasonable bond of any other person handling moneys or securities of the authority, but the authority shall pay the premium on the bond.

The county or counties and each city or town which is included in the authority shall contribute such sums towards the expense for maintaining and operating the public transportation system as shall be agreed upon between them.

[1983 c 151 § 1; 1975 1st ex.s. c 270 § 23.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.140 Annexation of additional area.

(1) An election to authorize the annexation of territory contiguous to a public transportation benefit area may be called within the area to be annexed pursuant to resolution or petition in the following manner:

(a) By resolution of a public transportation benefit area authority when it determines that the best interests and general welfare of the public transportation benefit area would be served. The authority shall consider the question of areas to be annexed to the public transportation benefit area at least once every two years.

(b) By petition calling for such an election signed by at least four percent of the qualified voters residing within the area to be annexed and filed with the auditor of the county wherein the largest portion of the public transportation benefit area is located, and notice thereof shall be given to the authority. Upon receipt of such a petition, the auditor shall examine it and certify to the sufficiency of the signatures thereon.

(c) By resolution of a public transportation benefit area authority upon request of any city for annexation thereto.

(2) If the area proposed to be annexed is located within another county, the petition or resolution for annexation as set forth in subsection (1) of this section must be approved by the legislative authority of the county if the area is unincorporated or by the legislative authority of the city or town if the area is incorporated. Any annexation under this subsection must involve contiguous areas.

(3) The resolution or petition shall describe the boundaries of the area to be annexed. It shall require that there also be submitted to the electorate of the territory sought to be annexed a proposition authorizing the inclusion of the area within the public transportation benefit area and authorizing the imposition of such taxes authorized by law to be collected by the authority.

[1991 c 318 § 17; 1983 c 65 § 5; 1975 1st ex.s. c 270 § 24.]

Notes:

Intent--1991 c 318: See note following RCW 36.57A.040.

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.150 Advanced financial support payments.

Counties that have established a county transportation authority pursuant to chapter 36.57 RCW and public transportation benefit areas that have been established pursuant to this chapter are eligible to receive a one-time advanced financial support payment from the state to assist in the development of the initial comprehensive transit plan required by RCW 36.57.070 and 36.57A.060. The amount of this support payment is established at one dollar per person residing within each county or public transportation benefit area, as determined by the office of financial management, but no single payment shall exceed fifty thousand dollars. Repayment of an advanced financial support payment shall be made to the public transportation account in the general fund or, if such account does not exist, to the general fund by each agency within two

years of the date such advanced payment was received. Such repayment shall be waived within two years of the date such advanced payment was received if the voters in the appropriate counties or public transportation benefit areas do not elect to levy and collect taxes enabled under authority of this chapter and RCW 35.95.040 and 82.14.045. The state department of transportation shall provide technical assistance in the preparation of local transit plans, and administer the advanced financial support payments authorized by this section.

[1985 c 6 § 6; 1979 c 151 § 41; 1975 1st ex.s. c 270 § 25.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.160 Dissolution and liquidation.

A public transportation benefit area established pursuant to this chapter may be dissolved and its affairs liquidated when so directed by a majority of persons in the benefit area voting on such question. An election placing such question before the voters may be called in the following manner:

- (1) By resolution of the public transportation benefit area authority;
- (2) By resolution of the county legislative body or bodies with the concurrence therein by resolution of the city council of a component city; or
- (3) By petition calling for such election signed by at least ten percent of the qualified voters residing within the area filed with the auditor of the county wherein the largest portion of the public transportation benefit area is located. The auditor shall examine the same and certify to the sufficiency of the signatures thereon: PROVIDED, That to be validated, signatures must have been collected within a ninety day period as designated by the petition sponsors.

Any dissolution of a public transportation benefit area authority shall be carried out in accordance with the procedures in chapter 53.48 RCW. Any remaining deficit of the authority determined pursuant to RCW 53.48.080 shall be paid from the moneys collected from the tax source under which the authority operated.

[1977 ex.s. c 44 § 5; 1975 1st ex.s. c 270 § 26.]

Notes:

Severability--Effective date--1977 ex.s. c 44: See notes following RCW 36.57A.030.

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 36.57A.170 Rail fixed guideway system--Safety and security program plan.

(1) Each public transportation benefit area that owns or operates a rail fixed guideway system as defined in RCW 81.104.015 shall submit a system safety and security program plan for that guideway to the state department of transportation by September 1, 1999, or at least three months before beginning operations or instituting revisions to its plan. This plan must describe the public transportation benefit area's procedures for (a) reporting and investigating reportable accidents, unacceptable hazardous conditions, and security breaches, (b) submitting corrective

action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation, and (d) addressing passenger and employee security. The plan must, at a minimum, conform to the standards adopted by the state department of transportation. If required by the department, the public transportation benefit area shall revise its plan to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plan for review.

(2) Each public transportation benefit area shall implement and comply with its system safety and security program plan. The public transportation benefit area shall perform internal safety and security audits to evaluate its compliance with the plan, and submit its audit schedule to the department of transportation no later than December 15th each year. The public transportation benefit area shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. This annual report must include the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plan.

(3) Each public transportation benefit area shall notify the department of transportation within twenty-four hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach. The department may adopt rules further defining a reportable accident, unacceptable hazardous condition, or security breach. The public transportation benefit area shall investigate all reportable accidents, unacceptable hazardous conditions, or security breaches and provide a written investigation report to the department within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach.

(4) The security section of the safety and security plan required in subsection (1)(d) of this section is exempt from public disclosure under chapter 42.17 RCW. However, the activities and plans as described in subsections (1)(a), (b), and (c), (2), and (3) of this section are not subject to this exemption.

[1999 c 202 § 5.]

Notes:

Effective date--1999 c 202: See note following RCW 35.21.228.

RCW 36.57A.180 Public transportation for persons with special needs.

(1) Effective January 1, 2001, in addition to any other authority granted under this chapter, a newly formed public transportation benefit area, or an existing public transportation benefit area that has not yet successfully submitted an authorizing proposition to the voters under RCW 82.14.045, may purchase, acquire, maintain, operate, or lease transportation services, equipment, and facilities for public transportation limited only to persons with special needs by any method or combination of methods provided by the area authority.

(2) As used in this section, "persons with special needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or purchase transportation.

(3) The public transportation benefit area may fix, regulate, and control fares and rates to be charged for these transportation services.

[2001 c 89 § 2.]

Chapter 36.58 RCW SOLID WASTE DISPOSAL

Sections

36.58.010	Acquisition of solid waste or recyclable materials sites authorized.
36.58.020	Rules and regulations as to use--Penalty.
36.58.030	"Transfer station" defined.
36.58.040	Solid waste handling systems authorized--Disposal sites--Contracts for solid waste handling and collection of source separated recyclable material--Waste reduction and recycling.
36.58.045	County may impose fee upon solid waste collection services--Revenue to fund compliance with comprehensive solid waste management plan.
36.58.050	Solid waste disposal--Transfer stations.
36.58.060	Solid waste disposal--Ownership of solid wastes--Responsibility for handling.
36.58.080	County solid waste facilities--Exempt from municipal taxes--Charges to mitigate impacts--Negotiation and arbitration.
36.58.090	Contracts with vendors for solid waste handling systems, plants, sites, or facilities--Requirements--Vendor selection procedures.
36.58.100	Solid waste disposal district--Authorized--Boundaries--Powers--Governing body.
36.58.110	Solid waste disposal district--Establishment, modification, or dissolution--Hearing--Notice.
36.58.120	Solid waste disposal district--Establishment--Ordinance.
36.58.130	Solid waste disposal district--Powers--Restrictions--Fees.
36.58.140	Solid waste disposal district--Excise tax--Lien for delinquent taxes and penalties.
36.58.150	Solid waste disposal district--Excess levies authorized--General obligation and revenue bonds.
36.58.160	Collection and transportation of recyclable materials by recycling companies or nonprofit entities--Reuse or reclamation--Application of chapter.

Notes:

Solid waste collection companies: Chapter 81.77 RCW.

RCW 36.58.010 Acquisition of solid waste or recyclable materials sites authorized.

Any county legislative authority may acquire by purchase or by gift, dedication, or donation, sites for the use of the public in disposing of solid waste or recyclable materials. However, no county legislative authority shall be authorized to require any retail enterprise engaged in the sale of consumer-packaged products to locate or place a public solid waste collection site or buy-back center upon or within a certain distance of the retail establishment as a condition of engaging in the sale of consumer-packaged products.

[1989 c 431 § 52; 1963 c 4 § 36.58.010. Prior: 1943 c 87 § 1; Rem. Supp. 1943 § 6294-150.]

Notes:

Severability--1989 c 431: See RCW 70.95.901.

RCW 36.58.020 Rules and regulations as to use--Penalty.

Any board of county commissioners may make such rules and regulations as may be deemed necessary for the use and occupation of such sites, and may provide for the maintenance and care thereof. Any person violating any of the rules and regulations made by the board relating to the use or occupation of any site owned or occupied by the county for garbage disposal purposes shall be guilty of a misdemeanor.

[1963 c 4 § 36.58.020. Prior: 1943 c 87 § 2; Rem. Supp. 1943 § 6294-151.]

RCW 36.58.030 "Transfer station" defined.

As used in RCW 36.58.030 through 36.58.060, the term "transfer station" means a staffed, fixed supplemental facility used by persons and route collection vehicles to deposit solid wastes into transfer trailers for transportation to a disposal site. This does not include detachable containers, except in counties with a population of less than seventy thousand, and in any county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand that is located east of the crest of the Cascade mountain range, where detachable containers shall be securely fenced, staffed by an attendant during all hours when the detachable container is open to the public, charge a tipping fee that shall cover the cost of providing and for use of the service, and shall be operated as a transfer station.

[1991 c 363 § 74; 1989 c 431 § 27; 1975-'76 2nd ex.s. c 58 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1989 c 431: See RCW 70.95.901.

RCW 36.58.040 Solid waste handling systems authorized--Disposal sites--Contracts for solid waste handling and collection of source separated recyclable material--Waste reduction and recycling.

The legislative authority of a county may by ordinance provide for the establishment of a system or systems of solid waste handling for all unincorporated areas of the county or for portions thereof. A county may designate a disposal site or sites for all solid waste collected in the unincorporated areas pursuant to the provisions of a comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW. However for any solid waste collected by a private hauler operating under a certificate granted by the Washington utilities and transportation commission under the provisions of chapter 81.77 RCW and which certificate is for collection in a geographic area lying in more than one county, such designation of disposal sites shall be pursuant to an interlocal agreement between the involved counties.

A county may construct, lease, purchase, acquire, add to, alter, or extend solid waste handling systems, plants, sites, or other facilities and shall have full jurisdiction and authority to manage, regulate, maintain, utilize, operate, control, and establish the rates and charges for those

solid waste handling systems, plants, sites, or other facilities. A county may enter into agreements with public or private parties to: (1) Construct, purchase, acquire, lease, add to, alter, extend, maintain, manage, utilize, or operate publicly or privately owned or operated solid waste handling systems, plants, sites, or other facilities; (2) establish rates and charges for those systems, plants, sites, or other facilities; (3) designate particular publicly or privately owned or operated systems, plants, sites, or other facilities as disposal sites; (4) process, treat, or convert solid waste into other valuable or useful materials or products; and (5) sell the material or products of those systems, plants, or other facilities.

The legislative authority of a county may award contracts for solid waste handling that provide that a county provide for a minimum periodic fee or other method of compensation in consideration of the operational availability of those solid waste handling systems, plants, sites, or other facilities at a specified minimum level, without regard to the ownership of the systems, plants, sites or other facilities, or the amount of solid waste actually handled during all or any part of the contract. When a minimum level of solid waste is specified in a contract entered into under this section, there shall be a specific allocation of financial responsibility in the event the amount of solid waste handled falls below the minimum level provided in the contract. Solid waste handling systems, plants, sites, or other facilities constructed, purchased, acquired, leased, added to, altered, extended, maintained, managed, utilized, or operated pursuant to this section, whether publicly or privately owned, shall be in substantial compliance with the solid waste management plan applicable to the county adopted pursuant to chapter 70.95 RCW. Agreements relating to such solid waste handling systems, plans, sites, or other facilities may be for such term and may contain such covenants, conditions, and remedies as the legislative authority of the county may deem necessary or appropriate.

As used in this chapter, the terms "solid waste" and "solid waste handling" shall be as defined in RCW 70.95.030.

The legislative authority of a county may:

(1) By ordinance award a contract to collect source separated recyclable materials from residences within unincorporated areas. The legislative authority has complete authority to manage, regulate, and fix the price of the source separated recyclable collection service. The contracts may provide that the county pay minimum periodic fees to a municipal entity or permit holder; or

(2) Notify the commission in writing to carry out and implement the provisions of the waste reduction and recycling element of the comprehensive solid waste management plan.

This election may be made by counties at any time after July 23, 1989. An initial election must be made no later than ninety days following approval of the local comprehensive waste management plan required by RCW 70.95.090.

Nothing in this section shall be construed to authorize the operation of a solid waste collection system by counties or to authorize counties to affect the authority of the utilities and transportation commission under RCW 81.77.020.

[1992 c 131 § 3. Prior: 1989 c 431 § 28; 1989 c 399 § 9; 1986 c 282 § 20; 1975-'76 2nd ex.s. c 58 § 2.]

Notes:

Severability--1989 c 431: See RCW 70.95.901.

Severability--Legislative findings--Construction--Liberal construction--Supplemental powers--1986 c 282: See notes following RCW 35.21.156.

RCW 36.58.045 County may impose fee upon solid waste collection services--Revenue to fund compliance with comprehensive solid waste management plan.

(1) The legislative authority of any county may impose a fee upon the solid waste collection services of a solid waste collection company operating within the unincorporated areas of the county, to fund the administration and planning expenses that may be incurred by the county in complying with the requirements in RCW 70.95.090. The fee may be in addition to any other solid waste services fees and charges a county may legally impose.

(2) Each county imposing the fee authorized by this section shall notify the Washington utilities and transportation commission and the affected solid waste collection companies of the amount of the fee ninety days prior to its implementation.

[1989 c 431 § 15.]

Notes:

Severability--Sections captions not law--1989 c 431: See RCW 70.95.901 and 70.95.902.

RCW 36.58.050 Solid waste disposal--Transfer stations.

When a comprehensive solid waste plan, as provided in RCW 70.95.080, incorporates the use of transfer stations, such stations shall be considered part of the disposal site and as such, along with the transportation of solid wastes between disposal sites, shall be exempt from regulation by the Washington utilities and transportation commission as provided in chapter 81.77 RCW.

Each county may enter into contracts for the hauling of trailers of solid wastes from these transfer stations to disposal sites and return either by (1) the normal bidding process, or (2) negotiation with the qualified collection company servicing the area under authority of chapter 81.77 RCW.

[1975-'76 2nd ex.s. c 58 § 3.]

RCW 36.58.060 Solid waste disposal--Ownership of solid wastes--Responsibility for handling.

Ownership of solid wastes shall be vested in the person or local jurisdiction managing disposal and/or resource recovery facilities upon the arrival of said solid wastes at said facility: PROVIDED, That the original owner retains ownership of the solid wastes until they arrive at the disposal site or transfer station or detachable container, and the original owner has the right of recovery to any valuable items inadvertently discarded: PROVIDED FURTHER, That the person or agency providing the collection service shall be responsible for the proper handling of the solid wastes from the point of collection to the disposal or recovery facility.

[1975-'76 2nd ex.s. c 58 § 4.]

RCW 36.58.080 County solid waste facilities--Exempt from municipal taxes--Charges to mitigate impacts--Negotiation and arbitration.

County-owned solid waste facilities shall not be subject to any tax or excise imposed by any city or town. Cities or towns may charge counties to mitigate impacts directly attributable to the solid waste facility: PROVIDED, That any city or town establishes that such charges are reasonably necessary to mitigate such impacts and that revenue generated from such charges is expended only to mitigate such impacts. Impacts resulting from commercial and residential solid waste collection within any city or town shall not be considered to be directly attributable to the solid waste facility. In the event that no agreement can be reached between the city or town and the county following a reasonable period of good faith negotiations, including mediation where appropriate, the matter shall be resolved by a board of arbitrators, to be convened at the request of either party, such board of arbitrators to consist of a representative from the city or town involved, a representative of the county, and a third representative to be appointed by the other two representatives. If no agreement can be reached with regard to said third representative, the third representative shall be appointed by a judge of the superior court of the county of the jurisdiction owning the solid waste facility. The determination by the board of arbitrators of the sum to be paid by the county shall be binding on all parties. Each party shall pay the costs of their individual representatives on the board of arbitrators and they shall pay one-half of the cost of the third representative.

[1983 c 171 § 1; 1982 c 175 § 8.]

Notes:

Severability--1982 c 175: See note following RCW 36.58.100.

RCW 36.58.090 Contracts with vendors for solid waste handling systems, plants, sites, or facilities--Requirements--Vendor selection procedures.

(1) Notwithstanding the provisions of any county charter or any law to the contrary, and in addition to any other authority provided by law, the legislative authority of a county may contract with one or more vendors for one or more of the design, construction, or operation of, or other service related to, the solid waste handling systems, plants, sites, or other facilities in accordance with the procedures set forth in this section. When a contract for design services is entered into separately from other services permitted under this section, procurement shall be in accord with chapter 39.80 RCW. For the purpose of this chapter, the term "legislative authority" shall mean the board of county commissioners or, in the case of a home rule charter county, the official, officials, or public body designated by the charter to perform the functions authorized therein.

(2) If the legislative authority of the county decides to proceed with the consideration of qualifications or proposals for services from vendors, the county shall publish notice of its

requirements and request submission of qualifications statements or proposals. The notice shall be published in the official newspaper of the county at least once a week for two weeks not less than sixty days before the final date for the submission of qualifications statements or proposals. The notice shall state in summary form (a) the general scope and nature of the design, construction, operation, or other service, (b) the name and address of a representative of the county who can provide further details, (c) the final date for the submission of qualifications statements or proposals, (d) an estimated schedule for the consideration of qualifications, the selection of vendors, and the negotiation of a contract or contracts for services, (e) the location at which a copy of any request for qualifications or request for proposals will be made available, and (f) the criteria established by the legislative authority to select a vendor or vendors, which may include but shall not be limited to the vendor's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability and financial resources; cost of the services, nature of facility design proposed by the vendor; system reliability; performance standards required for the facilities; compatibility with existing service facilities operated by the public body or other providers of service to the public; project performance guarantees; penalty and other enforcement provisions; environmental protection measures to be used; consistency with the applicable comprehensive solid waste management plan; and allocation of project risks.

(3) If the legislative authority of the county decides to proceed with the consideration of qualifications or proposals, it may designate a representative to evaluate the vendors who submitted qualifications statements or proposals and conduct discussions regarding qualifications or proposals with one or more vendors. The legislative authority or representative may request submission of qualifications statements and may later request more detailed proposals from one or more vendors who have submitted qualifications statements, or the representative may request detailed proposals without having first received and evaluated qualifications statements. The representative shall evaluate the qualifications or proposals, as applicable. If two or more vendors submit qualifications or proposals that meet the criteria established by the legislative authority of the county, discussions and interviews shall be held with at least two vendors. Any revisions to a request for qualifications or request for proposals shall be made available to all vendors then under consideration by the city or town and shall be made available to any other person who has requested receipt of that information.

(4) Based on criteria established by the legislative authority of the county, the representative shall recommend to the legislative authority a vendor or vendors that are initially determined to be the best qualified to provide one or more of the design, construction, or operation of, or other service related to, the proposed project or services. The legislative authority may select one or more qualified vendors for one or more of the design, construction, or operation of, or other service related to, the proposed project or services.

(5) The legislative authority or its representative may attempt to negotiate a contract with the vendor or vendors selected for one or more of the design, construction, or operation of, or other service related to, the proposed project or services on terms that the legislative authority determines to be fair and reasonable and in the best interest of the county. If the legislative authority or its representative is unable to negotiate such a contract with any one or more of the

vendors first selected on terms that it determines to be fair and reasonable and in the best interest of the county, negotiations with any one or more of the vendors shall be terminated or suspended and another qualified vendor or vendors may be selected in accordance with the procedures set forth in this section. If the legislative authority decides to continue the process of selection, negotiations shall continue with a qualified vendor or vendors in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more qualified vendors, or the process is terminated by the legislative authority. The process may be repeated until an agreement is reached.

(6) Prior to entering into a contract with a vendor, the legislative authority of the county shall make written findings, after holding a public hearing on the proposal, that it is in the public interest to enter into the contract, that the contract is financially sound, and that it is advantageous for the county to use this method for awarding contracts compared to other methods.

(7) Each contract shall include a project performance bond or bonds or other security by the vendor that in the judgment of the legislative authority of the county is sufficient to secure adequate performance by the vendor.

(8) The provisions of chapters 39.12, 39.19, and *39.25 RCW shall apply to a contract entered into under this section to the same extent as if the systems and plants were owned by a public body.

(9) The vendor selection process permitted by this section shall be supplemental to and shall not be construed as a repeal of or limitation on any other authority granted by law.

(10) The alternative selection process provided by this section may not be used in the selection of a person or entity to construct a publicly owned facility for the storage or transfer of solid waste or solid waste handling equipment unless the facility is either (a) privately operated pursuant to a contract greater than five years, or (b) an integral part of a solid waste processing facility located on the same site. Instead, the applicable provisions of RCW 36.32.250 and chapters 39.04 and 39.30 RCW shall be followed.

[1992 c 131 § 4; 1989 c 399 § 10; 1986 c 282 § 19.]

Notes:

***Reviser's note:** Chapter 39.25 RCW was repealed by 1994 c 138 § 2.

Construction of 1986 c 282 § 19--1990 c 279: "Section 19, chapter 282, Laws of 1986, codified as RCW 36.58.090, established an alternate procedure by which a county was authorized to procure systems and plants for solid waste handling and to contract with private vendors for the design, construction, or operation thereof. Any county with a population of over one hundred thousand that, prior to the effective date of chapter 399, Laws of 1989 [July 23, 1989], complied with the requirements of either (1) section 10 (3), (4), and (5), chapter 399, Laws of 1989, or (2) section 19(3), chapter 282, Laws of 1986, shall be deemed to have complied with the requirements of section 19(3), chapter 282, Laws of 1986." [1990 c 279 § 1.]

Severability--Legislative findings--Construction--Liberal construction--Supplemental powers--1986 c 282: See notes following RCW 35.21.156.

**RCW 36.58.100 Solid waste disposal
district--Authorized--Boundaries--Powers--Governing body.**

The legislative authority of any county with a population of less than one million is authorized to establish one or more solid waste disposal districts within the county for the purpose of providing and funding solid waste disposal services. No solid waste disposal district may include any area within the corporate limits of a city or town unless the city or town governing body adopts a resolution approving inclusion of the area within its limits. The county legislative authority may modify the boundaries of the solid waste disposal district by the same procedure used to establish the district. A solid waste disposal district may be dissolved by the county legislative authority after holding a hearing as provided in RCW 36.58.110.

As used in RCW 36.58.100 through 36.58.150 the term "county" includes all counties other than a county with a population of one million or more.

A solid waste disposal district is a quasi-municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

A solid waste disposal district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute: PROVIDED, That a solid waste disposal district shall not have the power of eminent domain.

The county legislative authority shall be the governing body of a solid waste disposal district. The electors of a solid waste disposal district shall be all registered voters residing within the district.

[1991 c 363 § 75; 1982 c 175 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1982 c 175: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 175 § 9.]

RCW 36.58.110 Solid waste disposal district--Establishment, modification, or dissolution--Hearing--Notice.

A county legislative authority proposing to establish a solid waste disposal district or to modify or dissolve an existing solid waste disposal district shall conduct a hearing at the time and place specified in a notice published at least once not less than ten days prior to the hearing in a newspaper of general circulation within the proposed solid waste disposal district. This notice shall be in addition to any other notice required by law to be published. Additional notice of such hearing may be given by mail, posting within the proposed solid waste disposal district, or in any manner local authorities deem necessary to notify affected persons. All hearings shall be public and the county legislative authority shall hear objections from any person affected by the formation, modification, or dissolution of the solid waste disposal district and make such changes in the boundaries of the district or any other modifications that the county legislative authority deems necessary.

[1982 c 175 § 2.]

Notes:

Severability--1982 c 175: See note following RCW 36.58.100.

RCW 36.58.120 Solid waste disposal district--Establishment--Ordinance.

No solid waste disposal district shall be established within a county unless the county legislative authority determines, following a hearing held pursuant to RCW 36.58.110, that it is in the public interest to form the district and the county legislative authority adopts an ordinance creating the solid waste disposal district and establishing its boundaries.

[1982 c 175 § 3.]

Notes:

Severability--1982 c 175: See note following RCW 36.58.100.

RCW 36.58.130 Solid waste disposal district--Powers--Restrictions--Fees.

A solid waste disposal district may provide for all aspects of disposing of solid wastes. All moneys received by a solid waste disposal district shall be used exclusively for district purposes. Nothing in this chapter shall permit waste disposal districts to engage in the collection of residential or commercial garbage.

A solid waste disposal district shall perform all construction in excess of twenty-five thousand dollars by contract let pursuant to RCW 36.32.250.

A solid waste disposal district may collect disposal fees based exclusively upon utilization by weight or volume for accepting solid wastes at a disposal site or transfer station. The county may transfer moneys to a solid waste disposal district to be used for district purposes.

[1982 c 175 § 4.]

Notes:

Severability--1982 c 175: See note following RCW 36.58.100.

RCW 36.58.140 Solid waste disposal district--Excise tax--Lien for delinquent taxes and penalties.

A solid waste disposal district may levy and collect an excise tax on the privilege of living in or operating a business in a solid waste disposal taxing district sufficient to fund its solid waste disposal activities: PROVIDED, That any property which is producing commercial garbage shall be exempt if the owner is providing regular collection and disposal. The excise tax shall be billed and collected at times and in the manner fixed and determined by the solid waste disposal district. Penalties for failure to pay the tax on time may be provided for. A solid waste disposal district shall have a lien for delinquent taxes and penalties, plus an interest rate equal to

the interest rate for delinquent property taxes. The lien shall be attached to each parcel of property in the district that is occupied by the person so taxed and shall be superior to all other liens and encumbrances except liens for property taxes.

The solid waste disposal district shall periodically certify the delinquencies to the county treasurer at which time the lien shall be attached. The lien shall be foreclosed in the same manner as the foreclosure of real property taxes.

[1982 c 175 § 5.]

Notes:

Severability--1982 c 175: See note following RCW 36.58.100.

RCW 36.58.150 Solid waste disposal district--Excess levies authorized--General obligation and revenue bonds.

(1) A solid waste disposal district shall not have the power to levy an annual levy without voter approval, but it shall have the power to levy a tax, in excess of the one percent limitation, upon the property within the district for a one year period to be used for operating or capital purposes whenever authorized by the electors of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

A solid waste disposal district may issue general obligation bonds for capital purposes only, subject to the limitations prescribed in RCW 39.36.020(1), and may provide for the retirement of the bonds by voter-approved bond retirement tax levies pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056. Such general obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW.

A solid waste disposal district may issue revenue bonds to fund its activities. Such revenue bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such revenue bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1984 c 186 § 25; 1983 c 167 § 71; 1982 c 175 § 6.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--1982 c 175: See note following RCW 36.58.100.

RCW 36.58.160 Collection and transportation of recyclable materials by recycling companies or nonprofit entities--Reuse or reclamation--Application of chapter.

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

[1989 c 431 § 34.]

Notes:

Severability--1989 c 431: See RCW 70.95.901.

**Chapter 36.58A RCW
SOLID WASTE COLLECTION DISTRICTS**

Sections

- | | |
|------------|--|
| 36.58A.010 | Authorized--Conditions--Modification or dissolution of district. |
| 36.58A.020 | Hearings upon establishing, modification or dissolution of district--Notice--Scope. |
| 36.58A.030 | County legislative authority determination required to establish district--Commission findings as to present services. |
| 36.58A.040 | County may collect fees of garbage and refuse collection company--Disposition of fees--Subrogation--Lien. |

Notes:

Dissolution of inactive special purpose districts: Chapter 36.96 RCW.

RCW 36.58A.010 Authorized--Conditions--Modification or dissolution of district.

Any county legislative authority may establish solid waste collection districts within the county boundaries for the mandatory collection of solid waste: PROVIDED, That no such district shall include any area within the corporate limits of any city or town without the consent of the legislative authority of the city or town. Such districts may be established only after approval of a coordinated, comprehensive solid waste management plan adopted pursuant to chapter 134, Laws of 1969 ex. sess. and chapter 70.95 RCW or pursuant to another solid waste management plan adopted prior to May 21, 1971 or within one year thereafter. The legislative authority of the county may modify or dissolve such district after a hearing as provided for in RCW 36.58A.020.

[1971 ex.s. c 293 § 2.]

Notes:

Certain provisions not to detract from commission powers, duties, and functions: RCW 80.01.300.

RCW 36.58A.020 Hearings upon establishing, modification or dissolution of district--Notice--Scope.

The county legislative authority proposing to establish a solid waste collection district or to modify or dissolve an existing solid waste collection district shall conduct a hearing at the

time and place specified in a notice published at least once not less than ten days prior to the hearing in a newspaper of general circulation within the county. Additional notice of such hearing may be given by mail, posting on the property, or in any manner local authorities deem necessary to notify adjacent landowners and the public. All hearings shall be public and the legislative authority shall hear objections from any person affected by the formation of the solid waste collection district and make such changes in the boundaries of the district or any other modifications of plans that the legislative authority deems necessary.

[1971 ex.s. c 293 § 3.]

Notes:

Certain provisions not to detract from commission powers, duties, and functions: RCW 80.01.300.

RCW 36.58A.030 County legislative authority determination required to establish district--Commission findings as to present services.

No solid waste collection district shall be established in an area within the county boundaries unless the county legislative authority, after the hearing regarding formation of such district, determines from that hearing that mandatory solid waste collection is in the public interest and necessary for the preservation of public health. Such determination by the county legislative authority shall require the utilities and transportation commission to investigate and make a finding as to the ability and willingness of the existing garbage and refuse collection companies servicing the area to provide the required service.

If the utilities and transportation commission finds that the existing garbage and refuse collection company or companies are unable or unwilling to provide the required service it shall proceed to issue a certificate of public need and necessity to any qualified person or corporation in accordance with the provisions of RCW 81.77.040.

The utilities and transportation commission shall notify the county legislative authority within sixty days of its findings and actions and if no qualified garbage and refuse collection company or companies are available in the proposed solid waste collection district, the county legislative authority may provide county garbage and refuse collection services in the area and charge and collect reasonable fees therefor. The county shall not provide service in any portion of the area found by the utilities and transportation commission to be receiving adequate service from an existing certificated carrier unless the county shall acquire the rights of such existing certificated carrier by purchase or condemnation.

[1971 ex.s. c 293 § 4.]

Notes:

Certain provisions not to detract from commission powers, duties, and functions: RCW 80.01.300.

RCW 36.58A.040 County may collect fees of garbage and refuse collection company--Disposition of fees--Subrogation--Lien.

If any garbage and refuse collection company certified by the utilities and transportation

commission which operates in any solid waste collection district fails to collect any fees due and payable to it for garbage and refuse collection services, such company may request the county to collect such fees. Upon the collection of such fees, the county shall pay one-half of the fees actually collected to the garbage and refuse collection company entitled to receive such and shall deposit the remaining one-half in the county general fund.

When the county undertakes to collect such fees as requested by the garbage and refuse collection companies, the county shall be subrogated to all of the rights of such companies. Any such fees which the county fails to collect shall become liens on the real or personal property of the persons owing such fees and the county may take all appropriate legal action to enforce such liens.

[1971 ex.s. c 293 § 6.]

Notes:

Certain provisions not to detract from commission powers, duties, and functions: RCW 80.01.300.

Chapter 36.60 RCW COUNTY RAIL DISTRICTS

Sections

36.60.010	Establishment of district--Boundaries--Powers.
36.60.020	Establishment, modification, or dissolution of district--Public notice and hearing--Election.
36.60.030	Authority of district to provide rail service.
36.60.040	Excess property tax levies authorized.
36.60.050	General obligation bonds authorized--Limitations--Terms.
36.60.060	Revenue bonds authorized--Limitations--Terms.
36.60.070	Power of eminent domain.
36.60.100	Establishment, modification, or dissolution of district--Alternate method.
36.60.110	Establishment, modification, or dissolution of district--Alternate method--Petition.
36.60.120	Establishment, modification, or dissolution of district--Alternate method--Public hearing.
36.60.130	Establishment, modification, or dissolution of district--Alternate method--Determination by county legislative authority.
36.60.140	Annexation by boundary modification--Assumption of outstanding indebtedness.
36.60.900	Liberal construction.
36.60.905	Severability--1983 c 303.

RCW 36.60.010 Establishment of district--Boundaries--Powers.

Subject to RCW 36.60.020, the legislative authority of a county may establish one or more county rail districts within the county for the purpose of providing and funding improved rail freight or passenger service, or both. The boundaries of county rail districts shall be drawn to include contiguous property in an area from which agricultural or other goods could be shipped by the rail service provided. The district shall not include property outside this area which does not, or, in the judgment of the county legislative authority, is not expected to produce

goods which can be shipped by rail, or property substantially devoted to fruit crops or producing goods that are shipped in a direction away from the district. A county rail district is a quasi municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

A county rail district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to accept and expend or use gifts, grants, and donations, and to sue and be sued.

The county legislative authority shall be the governing body of a county rail district. The county treasurer shall act as the ex officio treasurer of the county rail district. The electors of a district are all registered voters residing within the district.

This authority and that provided in RCW 36.60.030 may only be exercised outside the boundaries of the county rail district if such extraterritorial rail services, equipment, or facilities are found, by resolution of the county legislative authority exercising such authority, to be reasonably necessary to link the rail services, equipment, and facilities within the rail district to an interstate railroad system; however, if such extraterritorial rail services, equipment, or facilities are in or are to be located in one or more other counties, the legislative authority of such other county must consent by resolution to the proposed plan of the originating county which consent shall not be unreasonably withheld.

[2001 c 58 § 1; 1985 c 187 § 1; 1983 c 303 § 8.]

RCW 36.60.020 Establishment, modification, or dissolution of district--Public notice and hearing--Election.

(1) A county legislative authority proposing to establish a county rail district, or to modify the boundaries of an existing county rail district, or to dissolve an existing county rail district, shall conduct a hearing at the time and place specified in a notice published at least once, not less than ten days prior to the hearing, in a newspaper of general circulation within the proposed county rail district. This notice shall be in addition to any other notice required by law to be published. Additional notice of the hearing may be given by mail, posting within the proposed county rail district, or in any manner the county legislative authority deems necessary to notify affected persons. All hearings shall be public and the county legislative authority shall hear objections from any person affected by the formation, modification of the boundaries, or dissolution of the county rail district.

(2) Following the hearing held under subsection (1) of this section, the county legislative authority may adopt a resolution providing for the submission of a proposal to establish a county rail district, modify the boundaries of an existing county rail district, or dissolve an existing county rail district, if the county legislative authority finds the proposal to be in the public interest. The resolution shall contain the boundaries of the district if applicable.

A proposition to create a county rail district, modify the boundaries of an existing county rail district, or dissolve an existing rail district shall be submitted to the affected voters at the

next general election held sixty or more days after the adoption of the resolution providing for the submittal by the county legislative authority. The resolution shall establish the boundaries of the district and include a finding that the creation of the district is in the public interest and that the area included within the district can reasonably be expected to benefit from its creation. No portion of a city may be included in such a district unless the entire city is included.

The district shall be created upon approval of the proposition by simple majority vote. The ballot proposition submitted to the voters shall be in substantially the following form:

FORMATION OF COUNTY RAIL DISTRICT

Shall a county rail district be established for the area described in a resolution of the legislative authority of county, adopted on the day of, 19. . . ?

[1983 c 303 § 9.]

NOTES:

Dissolution of inactive special purpose districts: Chapter 36.96 RCW.

RCW 36.60.030 Authority of district to provide rail service.

A county rail district is authorized to contract with a person, partnership, or corporation to provide rail service along a light-density essential-service rail line for the purpose of carrying commodities. The district shall also have the power to acquire, maintain, improve, or extend rail facilities within the district that are necessary for the safe and efficient operation of the contracted rail service. A county rail district may receive state rail assistance under chapter 47.76 RCW. Two or more county rail districts may enter into interlocal cooperation agreements under chapter 39.34 RCW to carry out the purposes of this chapter.

[1983 c 303 § 10.]

RCW 36.60.040 Excess property tax levies authorized.

A county rail district is not authorized to impose a regular ad valorem property tax levy but may:

(1) Levy an ad valorem property tax, in excess of the one percent limitation, upon the property within the district for a one-year period to be used for operating or capital purposes whenever authorized by the voters of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

(2) Provide for the retirement of voter approved general obligation bonds, issued for capital purposes only, by levying bond retirement ad valorem property tax levies, in excess of the one percent limitation, whenever authorized by the voters of the district pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056.

[1983 c 303 § 11.]

RCW 36.60.050 General obligation bonds authorized--Limitations--Terms.

(1) To carry out the purpose of this chapter, a county rail district may issue general obligation bonds, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to three-eighths of one percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A county rail district may additionally issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, as prescribed in Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in RCW 36.60.040(2). The county rail district may submit a single proposition to the voters which, if approved, authorizes both the issuance of the bonds and the bond retirement property tax levies.

(2) General obligation bonds with a maturity in excess of forty years shall not be issued. The governing body of the county rail district shall by resolution determine for each general obligation bond issue the amount, date or dates, terms, conditions, denominations, interest rate or rates, which may be fixed or variable, maturity or maturities, redemption rights, registration privileges, manner of execution, price, manner of sale, and covenants. The bonds may be in any form, including bearer bonds or registered bonds. Facsimile signatures may be used on the bonds and any coupons. Refunding general obligation bonds may be issued in the same manner as general obligation bonds are issued.

(3) Whenever general obligation bonds are issued to fund specific projects or enterprises that generate revenues, charges, user fees, or special assessments, the county rail district which issues the bonds may specifically pledge all or a portion of the revenues, charges, user fees, or special assessments to refund the general obligation bonds.

[1983 c 303 § 12.]

RCW 36.60.060 Revenue bonds authorized--Limitations--Terms.

(1) A county rail district may issue revenue bonds to fund revenue generating facilities which it is authorized to provide or operate. Whenever revenue bonds are to be issued, the governing body of the district shall create or have created a special fund or funds for the sole purpose of paying the principal of and interest on the bonds of each such issue, into which fund or funds the governing body may obligate the district to pay such amounts of the gross revenue of all or any part of the facilities constructed, acquired, improved, repaired, or replaced pursuant to this chapter as the governing body determines.

(2) The governing body of a county rail district issuing revenue bonds shall create a special fund or funds from which, along with any reserves created under RCW 39.44.140, the principal and interest on the revenue bonds shall exclusively be payable. The governing body may obligate the county rail district to set aside and pay into the special fund or funds a fixed proportion or a fixed amount of the revenues from the public improvements, projects, facilities,

and all related additions funded by the revenue bonds. This amount or proportion shall be a lien and charge against these revenues, subject only to operating and maintenance expenses. The governing body shall consider the cost of operation and maintenance of the public improvement, project, facility, or additions funded by the revenue bonds and shall not place into the special fund or funds a greater amount or proportion of the revenues than it thinks will be available after maintenance and operation expenses have been paid and after the payment of revenue previously pledged. The governing body may also provide that revenue bonds payable from the same source or sources of revenue may later be issued on parity with any revenue bonds issued and sold.

(3) Revenue bonds issued pursuant to this section shall not be an indebtedness of the county rail district issuing the bonds, and the interest and principal on the bonds shall only be payable from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The owner of a revenue bond or any interest coupon issued pursuant to this section shall not have any claim against the county rail district arising from the bond or coupon except for payment from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each bond issued pursuant to this section.

(4) Revenue bonds with a maturity in excess of thirty years shall not be issued. The governing body of the county rail district shall by resolution determine for each revenue bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, and covenants including the refunding of existing revenue bonds. The bonds may be in any form, including bearer bonds or registered bonds. Facsimile signatures may be used on the bonds and any coupons. Refunding revenue bonds may be issued in the same manner as revenue bonds are issued.

[1983 c 303 § 13.]

RCW 36.60.070 Power of eminent domain.

A county rail district may exercise the power of eminent domain to obtain property for its authorized purposes in the manner counties exercise the powers of eminent domain.

[1983 c 303 § 14.]

Notes:

Eminent domain by counties: Chapter 8.08 RCW.

RCW 36.60.100 Establishment, modification, or dissolution of district--Alternate method.

The method of establishing, modifying, or dissolving a county rail district in RCW 36.60.110 through 36.60.130 is an alternate method to that specified in RCW 36.60.020.

[1986 c 26 § 1.]

RCW 36.60.110 Establishment, modification, or dissolution of district--Alternate method--Petition.

A petition to establish, modify the boundaries, or dissolve a county rail district shall be filed with the county legislative authority. The petition shall be signed by the owners of property valued at not less than seventy-five percent according to the assessed valuation for general taxation of the property for which establishment, modification or dissolution is petitioned. The petition shall set forth a legal description of the property and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed.

[1986 c 26 § 2.]

RCW 36.60.120 Establishment, modification, or dissolution of district--Alternate method--Public hearing.

If a petition to establish, modify the boundaries, or dissolve a county rail district is filed with the county legislative authority that complies with the requirements specified in RCW 36.60.110, the legislative authority may accept the petition, fix a date for a public hearing, and publish notice of the hearing in one issue of the official county newspaper. The notice shall also be posted in three public places within the area proposed for establishment, modification, or dissolution, and shall specify the time and place of hearing. The expense of publication and posting of the notice shall be paid by the signers of the petition.

[1986 c 26 § 3.]

RCW 36.60.130 Establishment, modification, or dissolution of district--Alternate method--Determination by county legislative authority.

Following the hearing, the county legislative authority shall determine by resolution whether the area proposed shall establish, modify the boundaries, or dissolve the county rail district. They may include all or any portion of the proposed area but may not include any property not described in the petition.

[1986 c 26 § 4.]

RCW 36.60.140 Annexation by boundary modification--Assumption of outstanding indebtedness.

All property annexed to a county rail district by a boundary modification under RCW 36.60.110 through 36.60.130 shall assume all or any portion of the outstanding indebtedness of the county rail district existing at the date of modification.

[1986 c 26 § 5.]

RCW 36.60.900 Liberal construction.

The rule of strict construction does not apply to this chapter, and this chapter shall be liberally construed to permit the accomplishment of its purposes.

[1983 c 303 § 15.]

RCW 36.60.905 Severability--1983 c 303.

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

[1983 c 303 § 23.]

**Chapter 36.61 RCW
LAKE MANAGEMENT DISTRICTS**

Sections

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Notes:

Assessments and charges against state lands: Chapter 79.44 RCW.

Boat trailer fee: RCW 46.16.670.

RCW 36.61.010 Purpose.

The legislature finds that the environmental, recreational, and aesthetic values of many of the state's lakes are threatened by eutrophication and other deterioration and that existing governmental authorities are unable to adequately improve and maintain the quality of the state's lakes.

It is the purpose of this chapter to establish a governmental mechanism by which property owners can embark on a program of lake improvement and maintenance for their and the general public's benefit, health, and welfare. Public property, including state property, shall be considered the same as private property in this chapter, except liens for special assessments and liens for rates and charges shall not extend to public property. Lake bottom property shall not be considered to be benefited, shall not be subject to special assessments or rates and charges, and shall not receive voting rights under this chapter.

[1987 c 432 § 1; 1985 c 398 § 1.]

RCW 36.61.020 Creation of district--Special assessments or rates and charges.

Any county may create lake management districts to finance the improvement and maintenance of lakes located within or partially within the boundaries of the county. All or a portion of a lake and the adjacent land areas may be included within one or more lake management districts. More than one lake, or portions of lakes, and the adjacent land areas may be included in a single lake management district.

Special assessments or rates and charges may be imposed on the property included within a lake management district to finance lake improvement and maintenance activities, including: (1) The control or removal of aquatic plants and vegetation; (2) water quality; (3) the control of water levels; (4) storm water diversion and treatment; (5) agricultural waste control; (6) studying lake water quality problems and solutions; (7) cleaning and maintaining ditches and streams entering or leaving the lake; and (8) the related administrative, engineering, legal, and operational costs, including the costs of creating the lake management district.

Special assessments or rates and charges may be imposed annually on all the land in a lake management district for the duration of the lake management district without a related issuance of lake management district bonds or revenue bonds. Special assessments also may be imposed in the manner of special assessments in a local improvement district with each landowner being given the choice of paying the entire special assessment in one payment, or to

paying installments, with lake management district bonds being issued to obtain moneys not derived by the initial full payment of the special assessments, and the installments covering all of the costs related to issuing, selling, and redeeming the lake management district bonds.

[2000 c 184 § 5; 1987 c 432 § 2; 1985 c 398 § 2.]

Notes:

Effective date--2000 c 184: See note following RCW 39.96.010.

Cities and towns authorized to establish lake management districts: RCW 35.21.403.

Flood control districts authorized to engage in activities under RCW 36.61.020: RCW 86.09.151.

RCW 36.61.025 Creation of district--Duration.

To improve the ability of counties to finance long-term lake management objectives, lake management districts may be created for any needed period of time.

[2000 c 184 § 4.]

Notes:

Effective date--2000 c 184: See note following RCW 39.96.010.

RCW 36.61.030 Creation of district--Resolution or petition--Contents.

A lake management district may be initiated upon either the adoption of a resolution of intention by a county legislative authority or the filing of a petition signed by ten landowners or the owners of at least fifteen percent of the acreage contained within the proposed lake management district, whichever is greater. A petition or resolution of intention shall set forth: (1) The nature of the lake improvement or maintenance activities proposed to be financed; (2) the amount of money proposed to be raised by special assessments or rates and charges; (3) if special assessments are to be imposed, whether the special assessments will be imposed annually for the duration of the lake management district, or the full special assessments will be imposed at one time, with the possibility of installments being made to finance the issuance of lake management district bonds, or both methods; (4) if rates and charges are to be imposed, the annual amount of revenue proposed to be collected and whether revenue bonds payable from the rates and charges are proposed to be issued; (5) the number of years proposed for the duration of the lake management district; and (6) the proposed boundaries of the lake management district.

The county legislative authority may require the posting of a bond of up to five thousand dollars before the county considers the proposed creation of a lake management district initiated by petition. The bond may only be used by the county to finance its costs in studying, holding hearings, making notices, preparing special assessment rolls or rolls showing the rates and charges on each parcel, and conducting elections related to the lake management district if the proposed lake management district is not created.

A resolution of intention shall also designate the number of the proposed lake management district, and fix a date, time, and place for a public hearing on the formation of the proposed lake management district. The date for the public hearing shall be at least thirty days and no more than ninety days after the adoption of the resolution of intention unless an

emergency exists.

Petitions shall be filed with the county legislative authority. The county legislative authority shall determine the sufficiency of the signatures, which shall be conclusive upon all persons. No person may withdraw his or her name from a petition after it is filed. If the county legislative authority determines a petition to be sufficient and the proposed lake management district appears to be in the public interest and the financing of the lake improvement or maintenance activities is feasible, it shall adopt a resolution of intention, setting forth all of the details required to be included when a resolution of intention is initiated by the county legislative authority.

[1987 c 432 § 3; 1985 c 398 § 3.]

RCW 36.61.040 Creation of district--Public hearing--Notice--Contents.

Notice of the public hearing shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed lake management district, the date of the first publication to be at least fifteen days prior to the date fixed for the public hearing by the resolution of intention. Notice of the public hearing shall also be given to the owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed lake management district by mailing the notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county assessor at the address shown thereon. Notice of the public hearing shall also be mailed to the departments of fish and wildlife and ecology at least fifteen days before the date fixed for the public hearing.

Notices of the public hearing shall: (1) Refer to the resolution of intention; (2) designate the proposed lake management district by number; (3) set forth a proposed plan describing: (a) The nature of the proposed lake improvement or maintenance activities; (b) the amount of special assessments or rates and charges proposed to be raised by the lake management district; (c) if special assessments are proposed to be imposed, whether the special assessments will be imposed annually for the duration of the lake management district, or the full special assessments will be payable at one time, with the possibility of periodic installments being paid and lake management bonds being issued, or both; (d) if rates and charges are proposed to be imposed, the annual amount of revenue proposed to be collected and whether revenue bonds payable from the rates and charges are proposed to be issued; and (e) the proposed duration of the lake management district; and (4) indicate the date, time, and place of the public hearing designated in the resolution of intention.

In the case of the notice sent to each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost of the lake improvement or maintenance activities to be borne by special assessment, or annual special assessments, or rates and charges on the lot, tract, parcel of land, or other property owned by the owner or reputed owner.

If the county legislative authority has designated a committee of itself or an officer to hear complaints and make recommendations to the full county legislative authority, as provided in RCW 36.61.060, the notice shall also describe this additional step before the full county legislative authority may adopt a resolution creating the lake management district.

[1994 c 264 § 9; 1988 c 36 § 9; 1987 c 432 § 4; 1985 c 398 § 4.]

RCW 36.61.050 Creation of district--Public hearing--Amendments to original plan.

The county legislative authority shall hold a public hearing on the proposed lake management district at the date, time, and place designated in the resolution of intention.

At this hearing the county legislative authority shall hear objections from any person affected by the formation of the lake management district. Representatives of the departments of fish and wildlife and ecology shall be afforded opportunities to make presentations on and comment on the proposal. Members of the public shall be afforded an opportunity to comment on the proposal. The county legislative authority must consider recommendations provided to it by the departments of fish and wildlife and ecology. The public hearing may be extended to other times and dates declared at the public hearing. The county legislative authority may make such changes in the boundaries of the lake management district or such modification in plans for the proposed lake improvement or maintenance activities as it deems necessary. The county legislative authority may not change boundaries of the lake management district to include property that was not included previously without first passing an amended resolution of intention and giving new notice to the owners or reputed owners of property newly included in the proposed lake management district in the manner and form and within the time provided for the original notice. The county legislative authority shall not alter the plans for the proposed lake improvement or maintenance activities to result in an increase in the amount of money proposed to be raised, and shall not increase the amount of money proposed to be raised, without first passing an amended resolution of intention and giving new notice to property owners in the manner and form and within the time provided for the original notice.

[1994 c 264 § 10; 1988 c 36 § 10; 1985 c 398 § 5.]

RCW 36.61.060 Creation of district--Public hearing--Legislative authority may delegate responsibility.

A county legislative authority may adopt an ordinance providing for a committee of itself, or an officer, to hold public hearings on the proposed formation of a lake management district and hear objections to the proposed formation as provided in RCW 36.61.050. The committee or officer shall make a recommendation to the full legislative authority, which need not hold a public hearing on the proposed creation of the lake management district. The full county legislative authority by resolution may approve or disapprove the recommendation and submit the question of creating the lake management district to the property owners as provided in RCW 36.61.070 through 36.61.100.

[1985 c 398 § 10.]

RCW 36.61.070 Creation of district--Submittal of question to landowners.

After the public hearing, the county legislative authority may adopt a resolution submitting the question of creating the lake management district to the owners of land within the proposed lake management district, including publicly owned land, if the county legislative authority finds that it is in the public interest to create the lake management district and the financing of the lake improvement and maintenance activities is feasible. The resolution shall also include: (1) A plan describing the proposed lake improvement and maintenance activities which avoid adverse impacts on fish and wildlife and provide for appropriate measures to protect and enhance fish and wildlife; (2) the number of years the lake management district will exist; (3) the amount to be raised by special assessments or rates and charges; (4) if special assessments are to be imposed, whether the special assessments shall be imposed annually for the duration of the lake management district or only once with the possibility of installments being imposed and lake management bonds being issued, or both, and, if both types of special assessments are proposed to be imposed, the lake improvement or maintenance activities proposed to be financed by each type of special assessment; (5) if rates and charges are to be imposed, a description of the rates and charges and the possibility of revenue bonds being issued that are payable from the rates and charges; and (6) the estimated special assessment or rate and charge proposed to be imposed on each parcel included in the proposed lake management district.

No lake management district may be created by a county that includes territory located in another county without the approval of the legislative authority of the other county.

[1987 c 432 § 5; 1985 c 398 § 6.]

RCW 36.61.080 Creation of district--Submittal of question to landowners--Mail ballot.

A ballot shall be mailed to each owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed lake management district, including publicly owned land, which ballot shall contain the following proposition:

"Shall lake management district No. . . . be formed?
Yes
No"

In addition, the ballot shall contain appropriate spaces for the signatures of the landowner or landowners, or officer authorized to cast such a ballot. Each ballot shall include a description of the property owner's property and the estimated special assessment, or rate and charge, proposed to be imposed upon the property. A copy of the instructions and the resolution submitting the question to the landowners shall also be included.

[1987 c 432 § 6; 1985 c 398 § 7.]

RCW 36.61.090 Creation of district--Submittal of question to landowners--Balloting--Conditions.

The balloting shall be subject to the following conditions, which shall be included in the instructions mailed with each ballot, as provided in RCW 36.61.080: (1) All ballots must be signed by the owner or reputed owner of property according to the assessor's tax rolls; (2) each ballot must be returned to the county legislative authority not later than five o'clock p.m. of a specified day, which shall be at least twenty but not more than thirty days after the ballots are mailed; (3) each property owner shall mark his or her ballot for or against the creation of the proposed lake management district, with the ballot weighted so that the property owner has one vote for each dollar of estimated special assessment or rate and charge proposed to be imposed on his or her property; and (4) the valid ballots shall be tabulated and a simple majority of the votes cast shall determine whether the proposed lake management district shall be approved or rejected.

[1987 c 432 § 7; 1985 c 398 § 8.]

RCW 36.61.100 Creation of district--Submittal of question to landowners--Majority vote required--Adoption of ordinance.

If the proposal receives a simple majority vote in favor of creating the lake management district, the county legislative authority shall adopt an ordinance creating the lake management district and may proceed with establishing the special assessments or rates and charges, collecting the special assessments or rates and charges, and performing the lake improvement or maintenance activities. If a proposed lake management district includes more than one lake and its adjacent areas, the lake management district may only be established if the proposal receives a simple majority vote in favor of creating it by the voters on each lake and its adjacent areas. The county legislative authority shall publish a notice in a newspaper of general circulation in a lake management district indicating that such an ordinance has been adopted within ten days of the adoption of the ordinance.

The ballots shall be available for public inspection after they are counted.

[1987 c 432 § 8; 1985 c 398 § 9.]

RCW 36.61.110 Creation of district--Limitations on appeals.

No lawsuit may be maintained challenging the jurisdiction or authority of the county legislative authority to proceed with the lake improvement and maintenance activities and creating the lake management district or in any way challenging the validity of the actions or decisions or any proceedings relating to the actions or decisions unless the lawsuit is served and filed no later than forty days after publication of a notice that the ordinance has been adopted ordering the lake improvement and maintenance activities and creating the lake management district. Written notice of the appeal shall be filed with the county legislative authority and clerk of the superior court in the county in which the property is situated.

[1985 c 398 § 11.]

RCW 36.61.115 Limitation on special assessments, rates and charges.

A special assessment, or rate and charge, on any lot, tract, parcel of land, or other property shall not be increased beyond one hundred ten percent of the estimated special assessment, or rate and charge, proposed to be imposed as provided in the resolution adopted in RCW 36.61.070, unless the creation of a lake management district is approved under another mailed ballot election that reflects the weighted voting arising from such increases.

[1987 c 432 § 9.]

RCW 36.61.120 Special assessment roll--Adoption--Public hearing.

After a lake management district is created, the county shall prepare a proposed special assessment roll. A separate special assessment roll shall be prepared for annual special assessments if both annual special assessments and special assessments paid at one time are imposed. The proposed special assessment roll shall list: (1) Each separate lot, tract, parcel of land, or other property in the lake management district; (2) the acreage of such property, and the number of feet of lake frontage, if any; (3) the name and address of the owner or reputed owner of each lot, tract, parcel of land, or other property as shown on the tax rolls of the county assessor; and (4) the special assessment proposed to be imposed on each lot, tract, parcel of land, or other property, or the annual special assessments proposed to be imposed on each lot, tract, parcel of land, or other property.

At the time, date, and place fixed for a public hearing, the county legislative authority shall act as a board of equalization and hear objections to the special assessment roll, and at the times to which the public hearing may be adjourned, the county legislative authority may correct, revise, raise, lower, change, or modify the special assessment roll or any part thereof, or set the proposed special assessment roll aside and order a new proposed special assessment roll to be prepared. The county legislative authority shall confirm and approve a special assessment roll by adoption of a resolution.

If a proposed special assessment roll is amended to raise any special assessment appearing thereon or to include omitted property, a new public hearing shall be held. The new public hearing shall be limited to considering the increased special assessments or omitted property. Notices shall be sent to the owners or reputed owners of the affected property in the same manner and form and within the time provided for the original notice.

Objections to a proposed special assessment roll must be made in writing, shall clearly state the grounds for objections, and shall be filed with the governing body prior to the public hearing. Objections to a special assessment or annual special assessments that are not made as provided in this section shall be deemed waived and shall not be considered by the governing body or a court on appeal.

[1985 c 398 § 12.]

RCW 36.61.130 Special assessment roll--Public hearing--Legislative authority may

delegate responsibility--Appeals.

A county legislative authority may adopt an ordinance providing for a committee of itself, or an officer, to hear objections to the special assessment roll, act as a board of equalization, and make recommendations to the full county legislative authority, which need not hold a public hearing on the special assessment roll. The ordinance shall provide a process by which an appeal may be made in writing to the full county legislative authority by a person protesting his or her special assessment or annual special assessments as confirmed by the committee or officer. The full county legislative authority by resolution shall approve the special assessment roll, modify and approve the special assessment roll as a result of hearing objections, or reject the special assessment roll and return it to the committee or officer for further work and recommendations. No objection to the decision of the full county legislative authority approving the special assessment roll may be considered by a court unless an objection to the decision has been timely filed with the county legislative authority as provided in this section.

[1985 c 398 § 13.]

RCW 36.61.140 Special assessment roll--Public hearing--Notice--Contents.

Notice of the original public hearing on the proposed special assessment roll, and any public hearing held as a result of raising special assessments or including omitted property, shall be published and mailed to the owner or reputed owner of the property as provided in RCW 36.61.040 for the public hearing on the formation of the lake management district. However, the notice need only provide the total amount to be collected by the special assessment roll and shall state that: (1) A public hearing on the proposed special assessment roll will be held, giving the time, date, and place of the public hearing; (2) the proposed special assessment roll is available for public perusal, giving the times and location where the proposed special assessment roll is available for public perusal; (3) objections to the proposed special assessment must be in writing, include clear grounds for objections, and must be filed prior to the public hearing; and (4) failure to so object shall be deemed to waive an objection.

Notices mailed to the owners or reputed owners shall additionally indicate the amount of special assessment ascribed to the particular lot, tract, parcel of land, or other property owned by the person so notified.

[1985 c 398 § 14.]

RCW 36.61.150 Special assessment roll--Appeal to superior and appellate courts--Procedure.

The decision of a county legislative authority upon any objection to the special assessment roll may be appealed to the superior court only if the objection had been timely made in the manner prescribed in this chapter. The appeal shall be made within ten days after publication of a notice that the resolution confirming the special assessment roll has been adopted by filing written notice of the appeal with the county legislative authority and the clerk of the superior court in the county in which the real property is situated. The notice of appeal

shall describe the property and set forth the objections of the appellant to the special assessment. Within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of the court a transcript consisting of the special assessment roll and his or her objections thereto, together with the resolution confirming such special assessment roll and the record of the county legislative authority with reference to the special assessment or annual special assessments, which transcript, upon payment of the necessary fees therefor, shall be furnished by an officer of the county and by him or her certified to contain full, true, and correct copies of all matters and proceedings required to be included in the transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions.

At the time of the filing of the notice of appeal with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with a surety or sureties thereon as provided by law for appeals in civil cases, shall be filed conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs incurred by the county because of the appeal. The court may order the appellant, upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require.

Within three days after such transcript is filed in the superior court, the appellant shall give written notice to the county legislative authority that such transcript is filed. The notice shall state a time, not less than three days from the service thereof, when the appellant will call up the cause for hearing.

The superior court shall, at this time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury, and such cause shall have preference over all civil causes pending in the court, except proceedings under an act relating to eminent domain in such county and actions of forcible entry and detainer. The judgment of the court shall confirm, correct, modify, or annul the special assessment or annual special assessments insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer having custody of the special assessment roll, and he or she shall modify and correct such special assessment roll in accordance with the decision.

An appeal shall lie to the supreme court or the court of appeals from the judgment of the superior court, as in other cases, however, such appeal must be taken within fifteen days after the date of the entry of the judgment of the superior court, and the record and opening brief of the appellant in the cause shall be filed in the supreme court or the court of appeals within sixty days after the appeal is taken by notice as provided in this section. The time for filing the record and serving and filing of briefs may be extended by order of the superior court, or by stipulation of the parties concerned. The supreme court or the court of appeals on such appeal may correct, modify, confirm, or annul the special assessment or annual special assessments insofar as the same affects the property of the appellant. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such special assessment roll, who shall thereupon modify and correct such special assessment roll in accordance with such decision.

[1985 c 398 § 15.]

RCW 36.61.160 Special assessments--Calculation.

Whenever special assessments are imposed, all property included within a lake management district shall be considered to be the property specially benefited by the lake improvement or maintenance activities and shall be the property upon which special assessments are imposed to pay the costs and expenses of the lake improvement or maintenance activities, or such part of the costs and expenses as may be chargeable against the property specially benefited. The special assessments shall be imposed on property in accordance with the special benefits conferred on the property up to but not in excess of the total costs and expenses of the lake improvement or maintenance activities as provided in the special assessment roll.

Special assessments may be measured by front footage, acreage, the extent of improvements on the property, or any other factors that are deemed to fairly reflect special benefits, including those authorized under RCW 35.51.030. Special assessments may be calculated by using more than one factor. Zones around the public improvement may be used that reflect different levels of benefit in each zone that are measured by a front footage, acreage, the extent of improvements, or other factors.

Public property, including property owned by the state of Washington, shall be subject to special assessments to the same extent that private property is subject to the special assessments, except no lien shall extend to public property.

[1987 c 432 § 10; 1985 c 398 § 16.]

RCW 36.61.170 Special assessments--Limitations.

The total annual special assessments may not exceed the estimated cost of the lake improvement or maintenance activities proposed to be financed by such special assessments, as specified in the resolution of intention. The total of special assessments imposed in a lake management district that are of the nature of special assessments imposed in a local improvement district shall not exceed one hundred fifty percent of the estimated total cost of the lake improvement or maintenance activities that are proposed to be financed by the lake management district as specified in the resolution of intention. After a lake management district has been created, the resolution of intention may be amended to increase the amount to be financed by the lake management district by using the same procedure in which a lake management district is created.

[1985 c 398 § 17.]

RCW 36.61.180 Special assessments--Modification.

Whenever annual special assessments are being imposed, the county legislative authority may modify the level of annual special assessments imposed by conforming with the procedures and subject to the limitations included in RCW 36.61.120 through 36.61.170.

[1985 c 398 § 18.]

RCW 36.61.190 Special assessments--Collection--Notice.

Special assessments and installments on any special assessment shall be collected by the county treasurer.

The county treasurer shall publish a notice indicating that the special assessment roll has been confirmed and that the special assessments are to be collected. The notice shall indicate the duration of the lake management district and shall describe whether the special assessments will be paid in annual payments for the duration of the lake management district, or whether the full special assessments will be payable at one time, with the possibility of periodic installments being paid and lake management bonds being issued, or both.

If the special assessments are to be payable at one time, the notice additionally shall indicate that all or any portion of the special assessments may be paid within thirty days from the date of publication of the first notice without penalty or interest. This notice shall be published in a newspaper of general circulation in the lake management district.

Within ten days of the first newspaper publication, the county treasurer shall notify each owner or reputed owner of property whose name appears on the special assessment roll, at the address shown on the special assessment roll, for each item of property described on the list: (1) Whether one special assessment payable at one time or special assessments payable annually have been imposed; (2) the amount of the property subject to the special assessment or annual special assessments; and (3) the total amount of the special assessment due at one time, or annual amount of special assessments due. If the special assessment is due at one time, the notice shall also describe the thirty-day period during which the special assessment may be paid without penalty, interest, or cost.

[1985 c 398 § 19.]

RCW 36.61.200 Special assessments--Payment period--Interest and penalty.

If the special assessments are to be payable at one time, all or any portion of any special assessment may be paid without interest, penalty, or costs during this thirty-day period and placed into a special fund to defray the costs of the lake improvement or maintenance activities. The remainder shall be paid in installments as provided in a resolution adopted by the county legislative authority, but the last installment shall be due at least two years before the maximum term of the bonds issued to pay for the improvements or maintenance. The installments shall include amounts sufficient to redeem the bonds issued to pay for the lake improvement and maintenance activities. A twenty-day period shall be allowed after the due date of any installment within which no interest, penalty, or costs on the installment may be imposed.

The county shall establish by ordinance an amount of interest that will be imposed on late special assessments imposed annually or at once, and on installments of a special assessment. The ordinance shall also specify the penalty, in addition to the interest, that will be imposed on a late annual special assessment, special assessment, or installment which shall not be less than

five percent of the delinquent special assessment or installment.

The owner of any lot, tract, parcel of land, or other property charged with a special assessment may redeem it from all liability for the unpaid amount of the installments by paying, to the county treasurer, the remaining portion of the installments that is attributable to principal on the lake management district bonds.

[1985 c 398 § 20.]

RCW 36.61.210 Special assessments--Subdivision of land--Segregation of assessment.

Whenever any land against which there has been levied any special assessment or annual special assessments by any county has been sold in part, subdivided, or short subdivided, the county legislative authority may order a segregation of the special assessment or annual special assessments. If an installment has been made, the segregation shall apportion the remaining installments on the parts or lots created.

Any person desiring to have such a special assessment or annual special assessments against a tract of land segregated to apply to smaller parts thereof shall apply to the county legislative authority which levied the special assessment or annual special assessments. If the county legislative authority determines that a segregation should be made, it shall by resolution order the county treasurer to segregate the special assessment or annual special assessments on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original special assessment or annual special assessments were levied, and the total of the segregated parts of the special assessment or annual special assessments shall equal the amount of the special assessment or annual special assessments unpaid before segregation. The resolution shall describe the original tract and the amount and date of the original special assessment or annual special assessments and shall define the boundaries of the divided parts and the amount of the special assessment or annual special assessments chargeable to each part. A certified copy of the resolution shall be delivered to the county treasurer who shall proceed to segregate the special assessment or annual special assessments upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made. In addition to such charge the county legislative authority may require as a condition to the order of segregation that the person seeking it pay the local government the reasonable engineering and clerical costs incident to making the segregation.

[1985 c 398 § 21.]

RCW 36.61.220 Special assessments--Filing with county treasurer.

Within fifteen days after a county creates a lake management district, the county shall cause to be filed with the county treasurer, a description of the lake improvement and maintenance activities proposed that the lake management district finances, the lake management district number, and a copy of the diagram or print showing the boundaries of the lake management district and preliminary special assessment roll or abstract of same showing thereon the lots, tracts, parcels of land, and other property that will be specially benefited thereby and the

estimated cost and expense of such lake improvement and maintenance activities to be borne by each lot, tract, parcel of land, or other property. The treasurer shall immediately post the proposed special assessment roll upon his or her index of special assessments against the properties affected by the lake improvement or maintenance activities.

[1985 c 398 § 22.]

RCW 36.61.230 Special assessments--Lien created.

The special assessment or annual special assessments imposed upon the respective lots, tracts, parcels of land, and other property in the special assessment roll or annual special assessment roll confirmed by resolution of the county legislative authority for the purpose of paying the cost and expense in whole or in part of any lake improvement or maintenance activities shall be a lien upon the property assessed from the time the special assessment roll is placed in the hands of the county treasurer for collection, but as between the grantor and grantee, or vendor and vendee of any real property, when there is no express agreement as to payment of the special assessments against the real property, the lien of such special assessments shall attach thirty days after the filing of the diagram or print and the estimated cost and expense of such lake improvement or maintenance activities to be borne by each lot, tract, parcel of land, or other property, as provided in RCW 36.61.220. Interest and penalty shall be included in and shall be a part of the special assessment lien. No lien shall extend to public property subjected to special assessments.

The special assessment lien shall be paramount and superior to any other lien or encumbrance theretofore or thereafter created except a lien for general taxes.

[1985 c 398 § 23.]

RCW 36.61.240 Special assessments--Lien--Validity--Foreclosure.

Special assessments shall be valid and enforceable as such and the lien thereof on the property assessed shall be valid if the county legislative authority in making the special assessments acted in good faith and without fraud. Delinquent special assessments or installments shall be foreclosed in the same manner as special assessments are foreclosed under chapter 36.94 RCW. Public property subject to special assessments shall not be subject to liens.

[1985 c 398 § 24.]

RCW 36.61.250 Special assessments--Legislative authority may stop.

The county legislative authority may stop the imposition of annual special assessments if, in its opinion, the public interest will be served by such action.

[1985 c 398 § 25.]

RCW 36.61.260 Bonds.

(1) Counties may issue lake management district bonds in accordance with this section. Lake management district bonds may be issued to obtain money sufficient to cover that portion of the special assessments that are not paid within the thirty-day period provided in RCW 36.61.190.

Whenever lake management district bonds are proposed to be issued, the county legislative authority shall create a special fund or funds for the lake management district from which all or a portion of the costs of the lake improvement and maintenance activities shall be paid. Lake management district bonds shall not be issued in excess of the costs and expenses of the lake improvement and maintenance activities and shall not be issued prior to twenty days after the thirty days allowed for the payment of special assessments without interest or penalties.

Lake management district bonds shall be exclusively payable from the special fund or funds and from a guaranty fund that the county may have created out of a portion of proceeds from the sale of the lake management district bonds.

(2) Lake management district bonds shall not constitute a general indebtedness of the county issuing the bond nor an obligation, general or special, of the state. The owner of any lake management district bond shall not have any claim for the payment thereof against the county that issues the bonds except for payment from the special assessments made for the lake improvement or maintenance activities for which the lake management district bond was issued and from a lake management district guaranty fund that may have been created. The county shall not be liable to the owner of any lake management district bond for any loss to the lake management district guaranty fund occurring in the lawful operation of the fund. The owner of a lake management district bond shall not have any claim against the state arising from the lake management district bond, special assessments, or guaranty fund. Tax revenues shall not be used to secure or guarantee the payment of the principal of or interest on lake management district bonds.

The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a) Each lake management district bond that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the lake management district bonds.

(3) If the county fails to make any principal or interest payments on any lake management district bond or to promptly collect any special assessment securing the bonds when due, the owner of the lake management district bond may obtain a writ of mandamus from any court of competent jurisdiction requiring the county to collect the special assessments, foreclose on the related lien, and make payments out of the special fund or guaranty fund if one exists. Any number of owners of lake management districts may join as plaintiffs.

(4) A county may create a lake management district bond guaranty fund for each issue of lake management district bonds. The guaranty fund shall only exist for the life of the lake management district bonds with which it is associated. A portion of the bond proceeds may be placed into a guaranty fund. Unused moneys remaining in the guaranty fund during the last two years of the installments shall be used to proportionally reduce the required level of installments

and shall be transferred into the special fund into which installment payments are placed.

(5) Lake management district bonds shall be issued and sold in accordance with chapter 39.46 RCW. The authority to create a special fund or funds shall include the authority to create accounts within a fund.

[2000 c 184 § 6; 1985 c 398 § 26.]

Notes:

Effective date--2000 c 184: See note following RCW 39.96.010.

RCW 36.61.270 Imposition of rates and charges.

Whenever rates and charges are to be imposed in a lake management district, the county legislative authority shall prepare a roll of rates and charges that includes those matters required to be included in a special assessment roll and shall hold a public hearing on the proposed roll of rates and charges as provided under RCW 36.61.120 through 36.61.150 for a special assessment roll. The county legislative authority shall have full jurisdiction and authority to fix, alter, regulate, and control the rates and charges imposed by a lake management district and may classify the rates or charges by any reasonable factor or factors, including benefit, use, front footage, acreage, the extent of improvements on the property, the type of improvements on the property, uses to which the property is put, service to be provided, and any other reasonable factor or factors. The flexibility to establish rates and charges includes the authority to reduce rates and charges on property owned by low-income persons.

Except as provided in this section, the collection of rates and charges, lien status of unpaid rates and charges, and method of foreclosing on such liens shall be subject to the provisions of chapter 36.94 RCW. Public property, including state property, shall be subject to the rates and charges to the same extent that private property is subject to them, except that liens may not be foreclosed on the public property, and the procedure for imposing such rates and charges on state property shall conform with the procedure provided for in chapter 79.44 RCW concerning the imposition of special assessments upon state property. The total amount of rates and charges cannot exceed the cost of lake improvement or maintenance activities proposed to be financed by such rates and charges, as specified in the resolution of intention. Revenue bonds exclusively payable from the rates and charges may be issued by the county under chapter 39.46 RCW.

[1987 c 432 § 11.]

**Chapter 36.62 RCW
HOSPITALS**

Sections

36.62.010	Authority to establish.
36.62.030	Hospital may be jointly owned and operated.
36.62.040	Contract for joint hospital.
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36.62.252	County hospital fund--Established--Purpose--Monthly report.
36.62.270	Supplementary budget.
36.62.290	Contracts between board of regents of state universities and hospital board of trustees for medical services and teaching and research activities.
36.62.300	Work ordered and materials purchased.

Notes:

Combined city and county health department: Chapter 70.08 RCW.

County and city tuberculosis hospitals: Chapter 70.30 RCW.

County health boards and officers: Chapter 70.05 RCW.

Public hospital districts, county participation: Chapter 70.44 RCW.

Sexually transmitted diseases, control and treatment of: Chapter 70.24 RCW.

Utilization of, for state medical care: Chapter 74.09 RCW.

RCW 36.62.010 Authority to establish.

The legislative authority of any county may establish, provide, and maintain hospitals for the care and treatment of the indigent, sick, injured, or infirm, and for this purpose the county legislative authority may:

- (1) Purchase or lease real property or use lands already owned by the county;
- (2) Erect all necessary buildings, make all necessary improvements and repairs and alter any existing building for the use of said hospitals;
- (3) Use county moneys, levy taxes, and issue bonds as authorized by law, to raise a sufficient amount of money to cover the cost of procuring the site, constructing and operating hospitals, and for the maintenance thereof and all other necessary and proper expenses; and
- (4) Accept and hold in trust for the county any grant of land, gift or bequest of money, or any donation for the benefit of the purposes of this chapter, and apply the same in accordance with the terms of the gift.

[1984 c 26 § 1; 1963 c 4 § 36.62.010. Prior: 1947 c 228 § 1, part; 1925 ex.s. c 174 § 1, part; Rem. Supp. 1947 § 6090-1, part.]

RCW 36.62.030 Hospital may be jointly owned and operated.

Any number of counties or any county and any city in which the county seat of the county is situated may contract one with the other for the joint purchase, acquisition, ownership, control, and disposition of land and other property suitable as a site for a county hospital.

[1963 c 4 § 36.62.030. Prior: 1947 c 228 § 1, part; 1925 ex.s. c 174 § 1, part; Rem. Supp. 1947 § 6090-1, part.]

RCW 36.62.040 Contract for joint hospital.

All contracts made in pursuance hereof shall be for such period of time and upon such terms and conditions as shall be agreed upon. The contract shall fully set forth the amount of money to be contributed by the county and city towards the acquisition of such site and the improvement thereof and the manner in which the property shall be improved and the character of the building or buildings to be erected thereon. It may provide for the amount of money to be contributed annually by the county and city for the upkeep and maintenance of the property and the building or buildings thereon, or it may provide for the relative proportion of such expense, which the county and city shall annually pay. The contract may specify the parts of such building or buildings which shall be set apart for the exclusive use and occupation of the county and city. The money to be contributed by the county or city may be raised by a sale of bonds of such county or city or by general taxation. Any such county or city now possessing funds or having funds available for a county or city hospital from a sale of bonds or otherwise may contract for the expenditure of such funds, as herein provided. Such contract shall be made only after a proper resolution or ordinance of the county legislative authority and ordinance of the city have been passed specifically authorizing it. The contract when made shall be binding upon the county and city during its existence or until it is modified or abrogated by mutual consent evidenced by appropriate legislation. A site with or without buildings may be contributed in lieu of money at a valuation to be agreed upon.

[1984 c 26 § 2; 1963 c 4 § 36.62.040. Prior: (i) 1925 ex.s. c 174 § 2; RRS § 6090-2. (ii) 1947 c 228 § 1, part; 1925 ex.s. c 174 § 1, part; Rem. Supp. 1947 § 6090-1, part.]

RCW 36.62.050 Petition to establish--Beds limited.

When it is proposed to establish such hospital, a petition shall be presented to the county legislative authority, signed by three hundred or more resident taxpayers of the county, requesting the county legislative authority to submit to the electors the proposition to issue bonds for the purpose of procuring a site, and erecting, equipping, and maintaining such hospital, and specifying the amount of bonds proposed to be issued for that purpose and the number of hospital beds.

[1984 c 26 § 3; 1963 c 4 § 36.62.050. Prior: 1925 ex.s. c 174 § 3; RRS § 6090-3.]

RCW 36.62.060 Bond election.

Upon presentation of the petition, the county legislative authority may submit to the voters of the county at the next general election the question of issuing bonds and levying a tax for such hospital.

[1984 c 26 § 4; 1963 c 4 § 36.62.060. Prior: 1925 ex.s. c 174 § 4; RRS § 6090-4.]

RCW 36.62.070 Issuance of bonds--Terms.

The bonds issued for such hospital shall not have maturities in excess of twenty years. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW.

[1984 c 186 § 26; 1984 c 26 § 5; 1983 c 167 § 72; 1970 ex.s. c 56 § 49; 1969 ex.s. c 232 § 26; 1963 c 4 § 36.62.070. Prior: 1925 ex.s. c 174 § 5; RRS § 6090-5.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 36.62.090 Tax levy for maintenance.

If the hospital is established, the county legislative authority, at the time of levying general taxes, may levy a tax, not to exceed fifty cents per thousand dollars of assessed value in any one year, for the maintenance of the hospital.

[1984 c 26 § 6; 1973 1st ex.s. c 195 § 37; 1963 c 4 § 36.62.090. Prior: 1925 ex.s. c 174 § 6; RRS § 6090-6.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 36.62.100 Admission of patients--Liability for support.

Patients shall be admitted to such hospitals in accordance with policies to be proposed by the board of trustees and approved by the county legislative authority. The policies shall provide, within the resources available to the hospital, that admission of patients shall not be dependent upon their ability to pay. Whenever a patient has been admitted to the hospital and in accordance with rules established by the board of trustees, the hospital may determine the person's ability to pay for the care provided by the hospital, render billings for the care, and take necessary steps to obtain payment for the costs of the care from the person, from the person's estate, or from any persons or organizations legally liable for the person's support.

[1984 c 26 § 7; 1963 c 4 § 36.62.100. Prior: 1945 c 62 § 1; 1925 ex.s. c 174 § 8; Rem. Supp. 1945 § 6090-8.]

RCW 36.62.110 Board of trustees--Membership.

Whenever any county, or any county and city jointly, or two or more counties jointly, establish a hospital for the care and treatment of the indigent, sick, injured, or infirm, under the provisions of this chapter, and such hospital is completed and ready for operation, the county legislative authority of the county in which the institution is located shall appoint thirteen persons as trustees for the institution. The thirteen trustees, together with the additional trustees required by RCW 36.62.130, if any, shall constitute a board of trustees for such hospital.

[1984 c 26 § 8; 1967 ex.s. c 36 § 2; 1963 c 4 § 36.62.110. Prior: 1931 c 139 § 1, part; RRS § 6090-9, part.]

Notes:

Effective date--1967 ex.s. c 36: See note following RCW 36.62.290.

RCW 36.62.120 Board of trustees--Initial appointment--Terms of office.

The first members of the board of trustees of such institution shall be appointed by the county legislative authority within thirty days after the institution has been completed and is ready for operation. The county legislative authority appointing the initial members shall appoint three members for one-year terms, three members for two-year terms, three members for three-year terms, and four members for four-year terms, and until their successors are appointed and qualified, and thereafter their successors shall be appointed for terms of four years and until their successors are appointed and qualified: PROVIDED, That the continuation of a member past the expiration date of the term shall not change the commencement date of the term of the succeeding member. Each term of the initial trustees shall be deemed to commence on the first day of August following the appointment but shall also include the period intervening between the appointment and the first day of August following the appointment.

For an institution which is already in existence on June 7, 1984, the county legislative authority shall appoint within thirty days of June 7, 1984, three additional members for one-year terms, two additional members for two-year terms, and two additional members for three-year terms, and until their successors are appointed and qualified, and thereafter their successors shall be appointed for terms of four years and until their successors are appointed and qualified: PROVIDED FURTHER, That the continuation of an additional member past the expiration date of the term shall not change the commencement date of the term of the succeeding member. Each term of the initial additional members shall be deemed to commence on the first day of August of the year of appointment but shall also include the period intervening between the appointment and the first day of August of the year of the appointment.

Upon expiration of the terms of current members, the successors to current members shall be appointed for four-year terms and until their successors are appointed and qualified: AND PROVIDED FURTHER, That the continuation of a successor to a current member past the expiration date of the term shall not change the commencement date of the term of the succeeding member. Each term of the initial successors to current members shall be deemed to commence on the first day of August following the expiration of a current term but shall also include the period intervening between the appointment and the first day of August of the year of the appointment.

[1984 c 26 § 9; 1963 c 4 § 36.62.120. Prior: (i) 1931 c 139 § 1, part; RRS § 6090-9, part. (ii) 1931 c 139 § 4, part; RRS § 6090-12, part.]

RCW 36.62.130 Board of trustees--Additional trustees for joint hospital.

In case two or more counties establish a hospital jointly, the thirteen members of the board of trustees shall be chosen as provided from the county in which the institution is located and each county legislative authority of the other county or counties which contributed to the establishment of the hospital shall appoint two additional members of the board of trustees. The regular term of each of the two additional members shall be four years and until their successors are appointed and qualified. Such additional members shall be residents of the respective counties from which they are appointed and shall otherwise possess the same qualifications as other trustees. The first term of office of the persons first appointed as additional members shall be fixed by the county legislative authority of the county in which said hospital or institution is located, but shall not be for more than four years.

[1984 c 26 § 10; 1963 c 4 § 36.62.130. Prior: 1931 c 139 § 1, part; RRS § 6090-9, part.]

RCW 36.62.140 Board of trustees--Qualifications of trustees.

No person shall be eligible for appointment as a trustee who holds or has held during the period of two years immediately prior to appointment any salaried office or position in any office, department, or branch of the government which established or maintained the hospital.

[1984 c 26 § 11; 1963 c 4 § 36.62.140. Prior: 1931 c 139 § 2; RRS § 6090-10.]

RCW 36.62.150 Board of trustees--Removal of trustee--Procedure.

The county legislative authority which appointed a member of the board of trustees may remove the member for cause and in the manner provided in this section. Notice shall be provided by the county appointing authority to the trustee and the board of trustees generally. The notice shall set forth reasons which justify removal. The trustee shall be provided opportunity for a hearing before the county appointing authority: PROVIDED, That three consecutive unexcused absences from regular meetings of the board of trustees shall be deemed cause for removal of a trustee without hearing. Any trustee removed for a cause other than three consecutive unexcused absences may appeal the removal within twenty days of the order of removal by seeking a writ of review before the superior court pursuant to chapter 7.16 RCW. Removal shall disqualify the trustee from subsequent reappointment.

[1984 c 26 § 12; 1963 c 4 § 36.62.150. Prior: 1933 c 174 § 1, part; 1931 c 139 § 3, part; RRS § 6090-11, part.]

RCW 36.62.160 Board of trustees--Vacancies.

Any vacancy in the board of trustees shall be filled by appointment by the county legislative authority making the original appointment, and such appointee shall hold office for

the remainder of the term of the trustee replaced.

[1984 c 26 § 13; 1963 c 4 § 36.62.160. Prior: 1933 c 174 § 1, part; 1931 c 139 § 3, part; RRS § 6090-11, part.]

RCW 36.62.170 Board of trustees--Quorum.

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

[1984 c 26 § 14; 1963 c 4 § 36.62.170. Prior: 1931 c 139 § 4, part; RRS § 6090-12, part.]

RCW 36.62.180 Board of trustees--Powers and duties.

The board of trustees shall:

(1) Have general supervision and care of such hospitals and institutions and the buildings and grounds thereof and power to do everything necessary to the proper maintenance and operation thereof within the limits of approved budgets and the appropriations authorized;

(2) Elect from among its members a president and vice president;

(3) Adopt bylaws and rules for its own guidance and for the government of the hospital;

(4) Prepare annually a budget covering both hospital operations and capital projects, in accordance with the provisions of applicable law, and file such budgets with the county treasurer or if the hospital has been established by more than one county, with the county treasurer of each county, and if a city has contributed to the establishment of the hospital, with the official of the city charged by law with the preparation of the city budget; and

(5) File with the legislative authority of each county and city contributing to the establishment of such hospital, at a time to be determined by the county legislative authority of the county in which the hospital is located, a report covering the proceedings of the board with reference to the hospital during the preceding twelve months and an annual financial report and statement.

[1984 c 26 § 15; 1963 c 4 § 36.62.180. Prior: 1945 c 118 § 1, part; 1931 c 139 § 7, part; Rem. Supp. 1945 § 6090-15, part.]

RCW 36.62.190 Board of trustees--Authority to accept gifts and bequests.

The board of trustees may accept property by gift, devise, bequest, or otherwise for the use of such institution, except that acceptance of any interest in real property shall be by prior authorization by the county.

[1984 c 26 § 16; 1963 c 4 § 36.62.190. Prior: (i) 1945 c 118 § 1, part; 1931 c 139 § 7, part; Rem. Supp. 1945 § 6090-15, part. (ii) 1931 c 139 § 8; RRS § 6090-16.]

RCW 36.62.200 Board of trustees--Trustees not compensated--Contract interest barred--Reimbursement for travel expenses.

No trustee shall receive any compensation or emolument whatever for services as trustee; nor shall any trustee have or acquire any personal interest in any lease or contract whatsoever,

made by the county or board of trustees with respect to such hospital or institution: PROVIDED, That each member of a board of trustees of a county hospital may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended: PROVIDED FURTHER, That, in addition, trustees of a county hospital shall be reimbursed for travel expenses for traveling from their home to a trustee meeting at a rate provided for in RCW 43.03.060 as now existing or hereafter amended.

[1984 c 26 § 17; 1979 ex.s. c 17 § 1; 1963 c 4 § 36.62.200. Prior: 1931 c 139 § 5; RRS § 6090-13.]

RCW 36.62.210 Superintendent--Appointment--Salary.

The board of trustees shall appoint a superintendent who shall be appointed for an indefinite time and be removable at the will of the board of trustees. Appointments and removals shall be by resolution, introduced at a regular meeting and adopted at a subsequent regular meeting by a majority vote. The superintendent shall receive such salary as the board of trustees shall fix by resolution.

[1984 c 26 § 18; 1963 c 4 § 36.62.210. Prior: 1945 c 118 § 1, part; 1931 c 139 § 7, part; Rem. Supp. 1945 § 6090-15, part.]

RCW 36.62.230 Superintendent--Duties.

The superintendent shall be the chief executive officer of the hospital or institution and shall perform all administrative services necessary to the efficient and economical conduct of the hospital or institution and the admission and proper care of persons properly entitled to the services thereof as provided by law or by the rules and regulations of the board of trustees.

[1984 c 26 § 19; 1963 c 4 § 36.62.230. Prior: 1931 c 139 § 9; RRS § 6090-17.]

RCW 36.62.252 County hospital fund--Established--Purpose--Monthly report.

Every county which maintains a county hospital or infirmary shall establish a "county hospital fund" into which fund shall be deposited all unrestricted moneys received from any source for hospital or infirmary services including money received for services to recipients of public assistance and other persons without income and resources sufficient to secure such services. The county may maintain other funds for restricted moneys. Obligations incurred by the hospital shall be paid from such funds by the county treasurer in the same manner as general county obligations are paid. The county treasurer shall furnish to the county legislative authority a monthly report of receipts and disbursements in the county hospital funds which report shall also show the balance of cash on hand.

[1984 c 26 § 20; 1971 ex.s. c 277 § 1; 1967 ex.s. c 36 § 3; 1963 c 4 § 36.62.252. Prior: 1961 c 144 § 1; 1951 c 256 § 1.]

Notes:

Effective date--1967 ex.s. c 36: See note following RCW 36.62.290.

RCW 36.62.270 Supplementary budget.

In the event that additional funds are needed for the operation of a county hospital or infirmary, the county legislative authority shall have authority to adopt a supplemental budget. Such supplemental budget shall set forth the amount and sources of funds and the items of expenditure involved.

[1984 c 26 § 21; 1971 ex.s. c 277 § 2; 1963 c 4 § 36.62.270. Prior: 1951 c 256 § 3.]

RCW 36.62.290 Contracts between board of regents of state universities and hospital board of trustees for medical services and teaching and research activities.

Whenever any county, or any county and city jointly, or two or more counties jointly, establish a hospital under the provisions of this chapter, the board of trustees of the hospital is empowered, with the approval of the county legislative authority, to enter into a contract with the board of regents of a state university to provide hospital services, including management under the direction of a hospital administrator for the hospital, to provide for the rendering of medical services in connection with the hospital and to provide for the conduct of teaching and research activities by the university in connection with the hospital. Any such board of regents is empowered to enter into such a contract, to provide such hospital services, and to provide for the rendition of such medical services and for the carrying on of teaching and research in connection with such a hospital. If such a contract is entered into, the provisions of RCW 36.62.210 and 36.62.230 shall not be applicable during the term of the contract and all of the powers, duties and functions vested in the superintendent in this chapter shall be vested in the board of trustees. The board of trustees shall provide for such conditions and controls in the contract as it shall deem to be in the community interest.

[1984 c 26 § 22; 1967 ex.s. c 36 § 1.]

Notes:

Effective date--1967 ex.s. c 36: "This act shall take effect on July 1, 1967." [1967 ex.s. c 36 § 4.]

RCW 36.62.300 Work ordered and materials purchased.

All work ordered and materials purchased by a hospital shall be subject to the requirements established in RCW 70.44.140 for public hospital districts.

[1991 c 363 § 76.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

**Chapter 36.63 RCW
JAILS**

Sections

36.63.255 Transfer of convicted felon to state institution pending appeal.

Notes:

City and county jails act--Bond issue: Chapters 70.48 and 70.48A RCW.

Use of strip and body cavity searches in correctional facilities: RCW 10.79.060 through 10.79.110.

RCW 36.63.255 Transfer of convicted felon to state institution pending appeal.

Any person imprisoned in a county jail pending the appeal of his conviction of a felony and who has not obtained bail bond pending his appeal shall be transferred after thirty days but within forty days from the date judgment was entered against him to a state institution for felons designated by the secretary of corrections: PROVIDED, That when good cause is shown, a superior court judge may order the prisoner detained in the county jail beyond said forty days for an additional period not to exceed ten days.

[1981 c 136 § 60; 1969 ex.s. c 4 § 2; 1969 c 103 § 2.]

Notes:

Effective date--1981 c 136: See RCW 72.09.900.

**Chapter 36.64 RCW
JOINT GOVERNMENTAL ACTIVITIES**

Sections

- 36.64.010 Joint courthouse and city hall.
- 36.64.020 Joint courthouse and city hall--Terms of contract.
- 36.64.030 Joint courthouse and city hall--Approval of contract.
- 36.64.040 Joint courthouse and city hall--Funds, how provided.
- 36.64.050 Joint armory sites.
- 36.64.060 Joint canal construction.
- 36.64.070 Counties with populations of two hundred ten thousand or more--Contracts with cities concerning buildings and related improvements.
- 36.64.080 Conferences to study regional and governmental problems--Counties and cities may establish--Subjects--Recommendations.
- 36.64.090 Conferences to study regional and governmental problems--Articles--Officers--Agents and employees.
- 36.64.100 Conferences to study regional and governmental problems--Contracts with other governmental agencies--Grants and gifts--Consultants.
- 36.64.110 Conferences to study regional and governmental problems--Public purpose--Contributions to support by municipal corporations.

Notes:

Care, support, and relief of needy persons: RCW 74.04.040.

Cemetery facilities as: RCW 68.52.192, 68.52.193.

Cities and towns

*agreements with county for planning, establishing, construction, and maintenance of streets: Chapter 35.77
RCW.*

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city may contribute to support of county in which city owned utility plant located: RCW 35.21.420.
urban renewal: RCW 35.21.660, 35.81.130.

Combined city-county health departments: Chapter 70.08 RCW.

County and city tuberculosis hospitals: Chapter 70.30 RCW.

County public works project, department of transportation cooperation: RCW 47.08.070.

County roads: RCW 47.04.080.

County superintendent of schools, consolidation of office into joint county district: Chapter 28A.310 RCW.

Diking and drainage, intercounty districts: Chapter 85.24 RCW.

Elevators, escalators, like conveyances, municipal governing over: RCW 70.87.050.

Executory conditional sales contracts for purchase of property for park and library purposes: RCW 39.30.010.

Fire protection districts, county contracts with: RCW 52.12.031.

Flood control

by counties jointly: Chapter 86.13 RCW.

county participation with flood control district: RCW 86.24.040.

county participation with state and federal governments: Chapter 86.24 RCW.

districts (1937 act): Chapter 86.09 RCW.

maintenance, county participation with state: Chapter 86.26 RCW.

Franchises across joint bridges: RCW 47.56.256.

Health districts as: Chapter 70.46 RCW.

Highways, construction, benefit of, cooperative agreements, prevention or minimization of flood damages: RCW 47.28.140.

Housing authorities, cooperation between: RCW 35.82.100.

Housing cooperation law: Chapter 35.83 RCW.

Intercounty rural library districts: Chapter 27.12 RCW.

Intercounty weed districts: Chapter 17.06 RCW.

Intergovernmental disposition of property: RCW 39.33.010.

Interlocal cooperation act: Chapter 39.34 RCW.

Joint aid river and harbor improvements: RCW 88.32.230, 88.32.235.

Joint county teachers' institutes: Chapter 28A.415 RCW.

Joint hospitals: RCW 36.62.030.

Joint operations by political subdivisions, deposit and control of funds: RCW 43.09.285.

Joint planning for improvement of navigable stream: RCW 88.32.240, 88.32.250.

Limited access facilities, cooperative agreements: RCW 47.52.090.

Metropolitan municipal corporations: Chapter 35.58 RCW.

Mosquito control

districts: Chapter 17.28 RCW.

generally: Chapter 70.22 RCW.

Motor vehicles, removal of when disabled and impounding: RCW 46.55.113.

Municipal airports: Chapters 14.07 and 14.08 RCW.

Operating agencies (electricity, water resources): Chapter 43.52 RCW.

Pesticide application, agreements authorized: RCW 17.21.300.

Port districts

contracts with: RCW 53.08.240.

ownership of improvements by with county: RCW 53.20.030.

Public assistance, joint county administration: RCW 74.04.180.

Public health pooling fund: RCW 70.12.030 through 70.12.070.

Reclamation districts of one million acres: Chapter 89.30 RCW.

Regional libraries: Chapter 27.12 RCW.

Regional planning commission: RCW 35.63.070.

River and harbor improvements by counties jointly: RCW 88.32.180 through 88.32.220.

Roads and bridges, limited access facilities: Chapter 47.52 RCW.

Soil and water conservation districts, county cooperation with: RCW 89.08.341.

Taxes, property

collection of: Chapter 84.56 RCW.

reevaluation program: Chapter 84.41 RCW.

Toll bridges

state boundary, county participation: RCW 47.56.042.

tunnels and ferries: Chapter 47.56 RCW.

Traffic schools: Chapter 46.83 RCW.

Transfer of real property or contract for use for park and recreational purposes: RCW 39.33.060.

Washington clean air act: Chapter 70.94 RCW.

World fair or exposition participation: Chapter 35.60 RCW.

RCW 36.64.010 Joint courthouse and city hall.

If the county seat of a county is in an incorporated city, the county and city may contract, one with the other, for the joint purchase, acquisition, leasing, ownership, control, and disposition of land and other property suitable as a site for a county courthouse and city hall and for the joint construction, ownership, control, and disposition of a building or buildings thereon for the use by such county and city as a county courthouse and city hall. Any county or city owning a site or any interest therein, or a site with buildings thereon, may, upon such terms as appear fair and just to the board of county commissioners of such county and to the legislative body of such city, contract with reference to the joint ownership, acquisition, leasing, control, improvement, and occupation of such property.

[1963 c 4 § 36.64.010. Prior: 1913 c 90 § 1; RRS § 3992.]

RCW 36.64.020 Joint courthouse and city hall--Terms of contract.

A contract made in pursuance of RCW 36.64.010 shall fully set forth the amount of money to be contributed by each towards acquisition of the site and the improvement thereof and the manner in which such property shall be improved and the character of the building or buildings to be erected thereon. The contract may provide for the amount of money to be contributed annually by each for the upkeep and maintenance of the property and the building or buildings thereon, or it may provide for the relative proportion of such expense which such county and city shall annually pay. The contract shall specify the parts of such building or buildings which shall be set apart for the exclusive use and occupation of each.

[1963 c 4 § 36.64.020. Prior: 1913 c 90 § 2; RRS § 3993.]

RCW 36.64.030 Joint courthouse and city hall--Approval of contract.

The contract between a county and a city shall be made only after a proper resolution of the board of county commissioners of the county and a proper ordinance of the city have been passed specifically authorizing it. The contract shall be binding upon the county and the city

during the term thereof, or until it is modified or abrogated by mutual consent evidenced by a proper resolution and ordinance of the county and city.

[1963 c 4 § 36.64.030. Prior: 1913 c 90 § 4; RRS § 3995.]

RCW 36.64.040 Joint courthouse and city hall--Funds, how provided.

The money to be contributed by a county or a city or both may be raised by a sale of its bonds, or by general taxation. Any county or city possessing funds or having funds available for a county courthouse or city hall from the sale of bonds or otherwise, may contract for the expenditure of such funds.

[1963 c 4 § 36.64.040. Prior: 1913 c 90 § 3; RRS § 3994.]

RCW 36.64.050 Joint armory sites.

Any city or county in the state may expend money from its current expense funds in payment in whole or in part for an armory site whenever the legislature has authorized the construction of an armory within such city or county.

[1963 c 4 § 36.64.050. Prior: 1913 c 91 § 1; RRS § 3996.]

RCW 36.64.060 Joint canal construction.

Whenever the county legislative authority of a county with a population of one hundred twenty-five thousand or more deems it for the interest of the county to construct or to aid the United States in constructing a canal to connect any bodies of water within the county, such county may construct such canal or aid the United States in constructing it and incur indebtedness for such purpose to an amount not exceeding five hundred thousand dollars and issue its negotiable bonds therefor in the manner and form provided in RCW 36.67.010. Such construction or aid in construction is a county purpose.

[1991 c 363 § 77; 1985 c 7 § 105; 1983 c 3 § 78; 1963 c 4 § 36.64.060. Prior: (i) 1907 c 158 § 1; RRS § 9664. (ii) 1907 c 158 § 2; RRS § 9665.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.64.070 Counties with populations of two hundred ten thousand or more--Contracts with cities concerning buildings and related improvements.

Any county with a population of two hundred ten thousand or more may contract with any city or cities within such county for the financing, erection, ownership, use, lease, operation, control or maintenance of any building or buildings, including open spaces, off-street parking facilities for the use of county and city employees and persons doing business with such county or city, plazas and other improvements incident thereto, for county or city, or combined

county-city, or other public use. Property for such buildings and related improvements may be acquired by either such county or city or by both by lease, purchase, donation, exchange, and/or gift or by eminent domain in the manner provided by law for the exercise of such power by counties and cities respectively and any property acquired hereunder, together with the improvements thereon, may be sold, exchanged or leased, as the interests of said county, city or cities may from time to time require.

[1991 c 363 § 78; 1965 c 24 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.64.080 Conferences to study regional and governmental problems--Counties and cities may establish--Subjects--Recommendations.

The boards of county commissioners of any county and any counties contiguous thereto and the governing body of any cities and/or towns within said counties may establish and organize a regional agency hereinafter referred to as a conference, for the purpose of studying regional and governmental problems of mutual interest and concern, including but not limited to, facility studies on highways, transit, airports, ports or harbor development, water supply and distribution, codes and ordinances, governmental finances, flood control, air and water pollution, recommendations of sites for schools and educational institutions, hospitals and health facilities, parks and recreation, public buildings, land use and drainage; and to formulate recommendations for review and action by the member counties and/or cities legislative body.

[1965 ex.s. c 84 § 1.]

Notes:

Youth agencies, joint establishment: RCW 35.21.630.

RCW 36.64.090 Conferences to study regional and governmental problems--Articles--Officers--Agents and employees.

The governing bodies of the counties and cities so associated in a conference shall adopt articles of association and bylaws, select a chairman and such other officers as they may determine, and may employ and discharge such agents and employees as the officers deem convenient to carry out the purposes of the conference.

[1965 ex.s. c 84 § 2.]

RCW 36.64.100 Conferences to study regional and governmental problems--Contracts with other governmental agencies--Grants and gifts--Consultants.

The conference is authorized to contract generally and to enter into any contract with the federal government, the state, any municipal corporation and/or other governmental agency for the purpose of conducting the study of regional problems of mutual concern, and shall have the

power to receive grants and gifts in furtherance of the program. The conference may retain consultants if deemed advisable.

[1965 ex.s. c 84 § 3.]

RCW 36.64.110 Conferences to study regional and governmental problems--Public purpose--Contributions to support by municipal corporations.

The formation of the conference is hereby declared to be a public purpose, and any municipal corporation may contribute to the expenses of such conference pursuant to the budgetary laws of the municipal corporations and such bylaws as may be adopted by the conference: PROVIDED, That services and facilities may be provided by a municipal corporation in lieu of assessment.

[1965 ex.s. c 84 § 4.]

**Chapter 36.65 RCW
COMBINED CITY AND COUNTY MUNICIPAL CORPORATIONS**

Sections

36.65.010	Intent.
36.65.020	School districts to be retained as separate political subdivisions.
36.65.030	Tax on net income prohibited.
36.65.040	Method of allocating state revenues.
36.65.050	Fire protection or law enforcement units--Binding arbitration in collective bargaining.
36.65.060	Public employee retirement or disability benefits not affected.

RCW 36.65.010 Intent.

It is the intent of the legislature in enacting this chapter to provide for the implementation and clarification of Article XI, section 16 of the state Constitution, which authorizes the formation of combined city and county municipal corporations.

"City-county," as used in this chapter, means a combined city and county municipal corporation under Article XI, section 16 of the state Constitution.

[1984 c 91 § 1.]

RCW 36.65.020 School districts to be retained as separate political subdivisions.

Recognizing the paramount duty of the state to provide for the common schools under Article IX, sections 1 and 2 of the state Constitution, school districts shall be retained as separate political subdivisions within the city-county.

[1984 c 91 § 2.]

RCW 36.65.030 Tax on net income prohibited.

A county, city, or city-county shall not levy a tax on net income.

[1984 c 91 § 3.]

RCW 36.65.040 Method of allocating state revenues.

The method of allocating state revenues shall not be modified for a period of one year from the date the initial officers of the city-county assume office. During the one-year period, state revenue shares shall be calculated as if the preexisting county, cities, and special purpose districts had continued as separate entities. However, distributions of the revenue to the consolidated entities shall be made to the city-county.

[1984 c 91 § 4.]

RCW 36.65.050 Fire protection or law enforcement units--Binding arbitration in collective bargaining.

If the city-county government includes a fire protection or law enforcement unit that was, prior to the formation of the city-county, governed by a state statute providing for binding arbitration in collective bargaining, then the entire fire protection or law enforcement unit of the city-county shall be governed by that statute.

[1984 c 91 § 5.]

RCW 36.65.060 Public employee retirement or disability benefits not affected.

The formation of a city-county shall not have the effect of reducing, restricting, or limiting retirement or disability benefits of any person employed by or retired from a municipal corporation, or who had a vested right in any state or local retirement system, prior to the formation of the city-county.

[1984 c 91 § 6.]

**Chapter 36.67 RCW
LIMITATION OF INDEBTEDNESS--COUNTY BONDS**

Sections	
36.67.010	Authority to contract indebtedness--Limitations.
36.67.060	Bond retirement.
36.67.070	Payment of interest.

REVENUE BONDS

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36.67.500	"This chapter" means RCW 36.67.510 through 36.67.570.
36.67.510	Revenue bonds authorized.
36.67.520	When issued--Amounts--Purposes--Costs and expenses.
36.67.530	Form--Terms--Interest--Execution and signatures.
36.67.540	Special funds, creation and use--Use of tax revenue prohibited--Bonds are negotiable instruments--Statement on face--Remedy for failure to set aside revenue.
36.67.550	Covenants--Law and resolutions constitute contract with holders--Remedies.
36.67.560	Funding and refunding.
36.67.570	Liberal construction--Effect of other acts.

Notes:

Airport purposes, bonds for: Chapter 14.08 RCW.

Alternative authority to issue revenue bonds: RCW 39.46.150, 39.46.160.

Bond elections, vote required: Chapter 39.40 RCW.

Bonds

as security for city depository: RCW 35.38.040.

form, sale, terms of sale, payment, etc.: Chapter 39.44 RCW.

sale to federal government at private sale: Chapter 39.48 RCW.

Funding indebtedness in counties: Chapter 39.52 RCW.

Funds for reserve purposes may be included in issue amount: RCW 39.44.140.

Housing authority act, bonds issued under: Chapter 35.82 RCW.

Industrial development revenue bonds: Chapter 39.84 RCW.

Juvenile detention facilities, bonds for: Chapter 13.16 RCW.

Limitation of indebtedness of taxing districts (counties): Chapter 39.36 RCW.

Public obligations as insurance investment: RCW 48.13.040.

State funds, investment in county bonds authorized: RCW 43.84.080.

Validation of bonds and financing proceedings: Chapter 39.90 RCW.

RCW 36.67.010 Authority to contract indebtedness--Limitations.

A county may contract indebtedness for general county purposes subject to the limitations on indebtedness provided for in RCW 39.36.020(2). Bonds evidencing such indebtedness shall be issued and sold in accordance with chapter 39.46 RCW.

[1984 c 186 § 27; 1971 c 76 § 1; 1970 ex.s. c 42 § 17; 1963 c 4 § 36.67.010. Prior: 1890 p 37 § 1; RRS § 5575.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Validation requirement: RCW 39.40.010.

RCW 36.67.060 Bond retirement.

Bonds issued under this chapter shall be retired by an annual tax levy and by any other moneys lawfully available and pledged therefor.

[1984 c 186 § 28; 1983 c 167 § 77; 1975 1st ex.s. c 188 § 1; 1963 c 4 § 36.67.060. Prior: (i) 1890 p 39 § 6; RRS § 5580. (ii) 1890 p 39 § 7; RRS § 5581.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.67.070 Payment of interest.

Any coupons for the payment of interest on the bonds shall be considered for all purposes as warrants drawn upon the current expense fund of the county issuing bonds, and if when presented to the treasurer of the county no funds are in the treasury to pay them, the treasurer shall indorse the coupons as presented for payment, in the same manner as county warrants are indorsed, and thereafter they shall bear interest at the same rate as county warrants presented and unpaid. If there are no funds in the treasury to make payment on a bond not having coupons, the interest payment shall continue bearing interest at the bond rate until it is paid, unless otherwise provided in the proceedings authorizing the sale of the bonds.

[1983 c 167 § 78; 1963 c 4 § 36.67.070. Prior: 1890 p 39 § 8; RRS § 5582.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

REVENUE BONDS

RCW 36.67.500 "This chapter" means RCW 36.67.510 through 36.67.570.

As used in RCW 36.67.500 through 36.67.570 "this chapter" means RCW 36.67.510 through 36.67.570.

[1965 c 142 § 8.]

RCW 36.67.510 Revenue bonds authorized.

The county legislative authority of any county is hereby authorized for the purpose of carrying out the lawful powers granted to the counties by the laws of the state to contract indebtedness and to issue revenue bonds evidencing such indebtedness in conformity with this chapter. Such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 79; 1965 c 142 § 1.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.67.520 When issued--Amounts--Purposes--Costs and expenses.

All such revenue bonds authorized under the terms of this chapter may be issued and sold by the counties from time to time and in such amounts as is deemed necessary by the legislative authority of each county to provide sufficient funds for the carrying out of all county powers, without limiting the generality thereof, including the following: Acquisition; construction;

reconstruction; maintenance; repair; additions; operations of parks and recreations; flood control facilities; pollution facilities; parking facilities as a part of a courthouse or combined county-city building facility; and any other county purpose from which revenues can be derived. Included in the costs thereof shall be any necessary engineering, inspection, accounting, fiscal, and legal expenses, the cost of issuance of bonds, including printing, engraving, and advertising and other similar expenses, payment of interest on such bonds during the construction of such facilities and a period no greater than one year after such construction is completed, and the proceeds of such bond issue are hereby made available for all such purposes. Revenue bonds may also be issued to refund revenue bonds or general obligation bonds which are issued for any of the purposes specified in this section.

[1981 c 313 § 12; 1969 ex.s. c 8 § 2; 1965 c 142 § 2.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.
Parking facilities as part of courthouse or county-city building: RCW 36.01.080.

RCW 36.67.530 Form--Terms--Interest--Execution and signatures.

(1) When revenue bonds are issued for authorized purposes, said bonds shall be either registered as to principal only or as to principal and interest as provided in RCW 39.46.030, or shall be bearer bonds; shall be in such denominations, shall be numbered, shall bear such date, shall be payable at such time or times up to a maximum period of not to exceed thirty years and payable at the office of the county treasurer, and such other places as determined by the county legislative authority of the county; shall bear interest payable and evidenced to maturity on bonds not registered as to interest by coupons attached to said bonds bearing a coupon interest rate or rates as authorized by the county legislative authority; shall be executed by the chairman of the county legislative authority, and attested by the clerk of the legislative authority, and the seal of such legislative authority shall be affixed to each bond, but not to any coupon; and may have facsimile signatures of the chairman and the clerk imprinted on each bond and any interest coupons in lieu of original signatures and the facsimile seal imprinted on each bond.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 80; 1981 c 313 § 13; 1970 ex.s. c 56 § 50; 1969 ex.s. c 232 § 27; 1965 c 142 § 3.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.
Severability--1981 c 313: See note following RCW 36.94.020.
Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.
Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 36.67.540 Special funds, creation and use--Use of tax revenue prohibited--Bonds are negotiable instruments--Statement on face--Remedy for failure to set aside revenue.

Bonds issued under the provisions of this chapter shall be payable solely out of the

operating revenues of the county. Such bonds shall be authorized by resolution adopted by the county legislative authority, which resolution shall create a special fund or funds into which the county legislative authority may obligate and bind the county to set aside and pay any part or parts of, or all of, or a fixed proportion of, or fixed amounts of gross revenue received by the county from moneys for services or activities as stated in the resolution, for the purpose of paying the principal of and interest on such bonds as the same shall become due, and if deemed necessary to maintain adequate reserves therefor. Such fund or funds shall be drawn upon solely for the purpose of paying the principal and interest upon the bonds issued pursuant to this chapter.

The bonds shall be negotiable instruments within the provision and intent of the negotiable instruments law of this state, even though they shall be payable solely from such special fund or funds, and the tax revenue of the county may not be used to pay, secure, or guarantee the payment of the principal of and interest on such bonds. The bonds and any coupons attached thereto shall state upon their face that they are payable solely from such special fund or funds. If the county fails to set aside and pay into such fund or funds, the payments provided for in such resolution, the owner of any such bonds may bring suit to compel compliance with the provisions of the resolution.

[1983 c 167 § 81; 1965 c 142 § 4.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.67.550 Covenants--Law and resolutions constitute contract with holders--Remedies.

The board of county commissioners may provide covenants as it may deem necessary to secure the payment of the principal of and interest on such bonds and may, but shall not be required to, include covenants to create a reserve fund or account and to authorize the payment or deposit of certain moneys therein for the purpose of securing the payment of such principal and interest; to establish, maintain, and collect rates, charges, fees, rentals, and the like on the facilities and service the income of which is pledged for the payment of such bonds, sufficient to pay or secure the payment of such principal and interest and to maintain an adequate coverage over annual debt service; and to make any and all other covenants not inconsistent with the provisions of this chapter which will increase the marketability of such bonds. The board may also provide that revenue bonds payable out of the same source or sources may later be sold on a parity with any revenue bonds being issued and sold. The provisions of this chapter and any resolution or resolutions providing for the authorization, issuance, and sale of such bonds shall constitute a contract with the holder of such bonds, and the provisions thereof shall be enforceable by any owner or holder of such bonds by mandamus or any appropriate suit, action or proceeding at law or in equity in any court of competent jurisdiction.

[1965 c 142 § 5.]

RCW 36.67.560 Funding and refunding.

(1) The county legislative authority of any county may by resolution, from time to time, provide for the issuance of funding or refunding revenue bonds to fund or refund any outstanding revenue bonds and any interest and premiums due thereon at or before the maturity of such bonds, and parts or all of various series and issues of outstanding revenue bonds in the amount thereof to be funded or refunded. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

The county legislative authority shall create a special fund for the sole purpose of paying the principal of and interest on such funding or refunding revenue bonds, into which fund the legislative authority shall obligate and bind the county to set aside and pay any part or parts of, or all of, or a fixed proportion of, or a fixed amount of the revenue of the facility of the county sufficient to pay such principal and interest as the same shall become due, and if deemed necessary to maintain adequate reserves therefor.

Such funding or refunding bonds shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state, and the tax revenue of the county may not be used to pay, secure, or guarantee the payment of the principal of and interest on such bonds.

The county may exchange such funding or refunding bonds for the bonds, and any coupons being funded or refunded, or it may sell such funding or refunding bonds in the manner, at such price and at such rate or rates of interest as the legislative authority shall deem to be for the best interest of the county and its inhabitants, either at public or private sale.

The provisions of this chapter relating to the terms, conditions, covenants, issuance, and sale of revenue bonds shall be applicable to such funding or refunding bonds except as may be otherwise specifically provided in this section.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 82; 1970 ex.s. c 56 § 51; 1969 ex.s. c 232 § 28; 1965 c 142 § 6.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 36.67.570 Liberal construction--Effect of other acts.

This chapter shall be complete authority for the issuance of the revenue bonds hereby authorized, and shall be liberally construed to accomplish its purposes. Any restrictions, limitations or regulations relative to the issuance of such revenue bonds contained in any other act shall not apply to the bonds issued under this chapter. Any act inconsistent herewith shall be deemed modified to conform with the provisions of this chapter for the purpose of this chapter only.

[1965 c 142 § 7.]

Chapter 36.68 RCW
PARKS AND RECREATIONAL FACILITIES

Sections

- 36.68.010 Counties may establish park and playground systems--Disposition of surplus park property.
- 36.68.020 Programs of public recreation.
- 36.68.030 Park and recreation board--Composition.
- 36.68.040 Park and recreation board--Terms of members.
- 36.68.050 Park and recreation board--Removal of members--Vacancies.
- 36.68.060 Park and recreation board--Powers and duties.
- 36.68.070 Park and recreation fund.
- 36.68.080 Penalty for violations of regulations.
- 36.68.090 Counties authorized to build, improve, operate and maintain, etc., parks, playgrounds, gymnasiums, swimming pools, beaches, stadiums, golf courses, etc., and other recreational facilities--Regulation--Charges for use.
- 36.68.100 Moorage facilities--Regulations authorized--Port charges, delinquency--Abandoned vessels, public sale.
- 36.68.110 Counties authorized to permit public libraries on land used for park and recreation purposes.

PARK AND RECREATION SERVICE AREAS

- 36.68.400 Creation authorized--Purposes--Taxing districts--Powers.
- 36.68.410 May be initiated by resolution or petition.
- 36.68.420 Resolution or petition--Contents.
- 36.68.430 Petitions--Verification of signatures.
- 36.68.440 Feasibility and cost studies--Public hearing--Notice.
- 36.68.450 Hearing procedure--Inclusion of property--Examination of reports--Recess.
- 36.68.460 Findings of county commissioners--Dismissal of proceedings, limitation on subsequent initiation.
- 36.68.470 Resolution ordering election--Election procedure--Formation.
- 36.68.480 Property tax levies or bond retirement levies--Election.
- 36.68.490 Annual excess levy or bond retirement levies--Election procedure--Vote required.
- 36.68.500 Resolution declaring formation--Treasurer--Disbursement procedure.
- 36.68.510 Local service area fund.
- 36.68.520 Annual excess property tax levy--General obligation bonds.
- 36.68.525 Six-year regular property tax levies--Limitations--Election.
- 36.68.527 Community revitalization financing--Public improvements.
- 36.68.530 Budgets--Appropriations--Accumulation of reserves.
- 36.68.541 Employees.
- 36.68.550 Use and admission fees and charges.
- 36.68.555 Eminent domain.
- 36.68.560 Concessions.
- 36.68.570 Use of funds--Purchases.
- 36.68.580 Ownership of parks and facilities--Expenditure of funds budgeted for park purposes.
- 36.68.590 Purpose--Level of services--General park programs.
- 36.68.600 Use of park and recreation service area funds in exercise of powers enumerated in chapter 67.20 RCW.
- 36.68.610 Area which may be included--Inclusion of area within city or town--Procedure.

36.68.620 Enlargement by inclusion of additional area--Procedure.

NOTES:

Acquisition of interests in land for conservation, protection, preservation, or open space purposes by counties: RCW 64.04.130.

Contracts with community service organizations for public improvements: RCW 35.21.278.

Executory conditional sales contracts for purchase of property for park and library purposes: RCW 39.30.010.

Outdoor recreation land acquisition or improvement under marine recreation land act: Chapter 79A.25 RCW.

Parks, bathing beaches, public camps, county may acquire and operate: Chapter 67.20 RCW.

RCW 39.33.060 to govern on sales by water-sewer district for park and recreational purposes: RCW 57.08.140.

State parks and recreation commission: Chapter 79A.05 RCW.

Transfer of real property or contract for use for park and recreational purposes: RCW 39.33.060.

RCW 36.68.010 Counties may establish park and playground systems--Disposition of surplus park property.

Counties may establish park and playground systems for public recreational purposes and for such purposes shall have the power to acquire lands, buildings and other facilities by gift, purchase, lease, devise, bequest and condemnation. A county may lease or sell any park property, buildings or facilities surplus to its needs, or no longer suitable for park purposes: PROVIDED, That such park property shall be subject to the requirements and provisions of notice, hearing, bid or intergovernmental transfer as provided in chapter 36.34 RCW: PROVIDED FURTHER, That nothing in this section shall be construed as authorizing any county to sell any property which such county acquired by condemnation for park or playground or other public recreational purposes on or after January 1, 1960, until held for five years or more after such acquisition: PROVIDED FURTHER, That funds acquired from the lease or sale of any park property, buildings or facilities shall be placed in the park and recreation fund to be used for capital purposes.

[1963 c 4 § 36.68.010. Prior: 1961 c 92 § 1; 1949 c 94 § 1; Rem. Supp. 1949 § 3991-14.]

RCW 36.68.020 Programs of public recreation.

Counties may conduct programs of public recreation, and in any such program property or facilities owned by any individual, group or organization, whether public or private, may be utilized by consent of the owner.

[1963 c 4 § 36.68.020. Prior: 1949 c 94 § 2; Rem. Supp. 1949 § 3991-15.]

RCW 36.68.030 Park and recreation board--Composition.

Each county may form a county park and recreation board composed of seven members, who shall be appointed by the board of county commissioners to serve without compensation.

[1969 ex.s. c 176 § 93; 1963 c 4 § 36.68.030. Prior: 1949 c 94 § 3; Rem. Supp. 1949 § 3991-16.]

RCW 36.68.040 Park and recreation board--Terms of members.

For the appointive positions on the county park and recreation board the initial terms shall be two years for two positions, four years for two positions, and six years for the remaining positions plus the period in each instance to the next following June 30th; thereafter the term for each appointive position shall be six years and shall end on June 30th.

[1969 ex.s. c 176 § 94; 1963 c 4 § 36.68.040. Prior: 1949 c 94 § 4; Rem. Supp. 1949 § 3991-17.]

RCW 36.68.050 Park and recreation board--Removal of members--Vacancies.

Any appointed county park and recreation board member may be removed by a majority vote of the board of county commissioners either for cause or upon the joint written recommendation of five members of the county park and recreation board. Vacancies on the county park and recreation board shall be filled by appointment, made by the board of county commissioners for the unexpired portions of the terms vacated.

[1963 c 4 § 36.68.050. Prior: 1949 c 94 § 5; Rem. Supp. 1949 § 3991-18.]

RCW 36.68.060 Park and recreation board--Powers and duties.

The county park and recreation board:

(1) Shall elect its officers, including a chairman, vice chairman and secretary, and such other officers as it may determine it requires.

(2) Shall hold regular public meetings at least monthly.

(3) Shall adopt rules for transaction of business and shall keep a written record of its meetings, resolutions, transactions, findings and determinations, which record shall be a public record.

(4) Shall initiate, direct, and administer county recreational activities, and shall select and employ a county park and recreation superintendent and such other properly qualified employees as it may deem desirable.

(5) Shall improve, operate, and maintain parks, playgrounds, and other recreational facilities, together with all structures and equipment useful in connection therewith, and may recommend to the board of county commissioners acquisition of real property.

(6) Shall promulgate and enforce reasonable rules and regulations deemed necessary in the operation of parks, playgrounds, and other recreational facilities, and may recommend to the board of county commissioners adoption of any rules or regulations requiring enforcement by legal process which relate to parks, playgrounds, or other recreational facilities.

(7) Shall each year submit to the board of county commissioners for approval a proposed budget for the following year in the manner provided by law for the preparation and submission of budgets by elective or appointive county officials.

(8) May, subject to the approval of the board of county commissioners, enter into contracts with any other municipal corporation, governmental or private agency for the conduct of park and recreational programs.

[1963 c 4 § 36.68.060. Prior: 1949 c 94 § 6; Rem. Supp. 1949 § 3991-19.]

RCW 36.68.070 Park and recreation fund.

In counties in which county park and recreation boards are formed, a county park and recreation fund shall be established. Into this fund shall be placed the allocation as the board of county commissioners annually appropriates thereto, together with miscellaneous revenues derived from the operation of parks, playgrounds, and other recreational facilities, as well as grants, gifts, and bequests for park or recreational purposes. All expenditures shall be disbursed from this fund by the county park and recreation board, and all balances remaining in this fund at the end of any year shall be carried over in such fund to the succeeding year.

[1963 c 4 § 36.68.070. Prior: 1949 c 94 § 7; Rem. Supp. 1949 § 3991-20.]

RCW 36.68.080 Penalty for violations of regulations.

Any person violating any rules or regulations adopted by the board of county commissioners relating to parks, playgrounds, or other recreational facilities shall be guilty of a misdemeanor: PROVIDED, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

[1979 ex.s. c 136 § 36; 1963 c 4 § 36.68.080. Prior: 1949 c 94 § 8; Rem. Supp. 1949 § 3991-21.]

Notes:

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 36.68.090 Counties authorized to build, improve, operate and maintain, etc., parks, playgrounds, gymnasiums, swimming pools, beaches, stadiums, golf courses, etc., and other recreational facilities--Regulation--Charges for use.

Any county, acting through its board of county commissioners, is empowered to build, construct, care for, control, supervise, improve, operate and maintain parks, playgrounds, gymnasiums, swimming pools, field houses, bathing beaches, stadiums, golf courses, automobile race tracks and drag strips, coliseums for the display of spectator sports, public campgrounds, boat ramps and launching sites, public hunting and fishing areas, arboretums, bicycle and bridle paths, and other recreational facilities, and to that end may make, promulgate and enforce such rules and regulations regarding the use thereof, and make such charges for the use thereof, as may be deemed by said board to be reasonable.

[1967 ex.s. c 144 § 11.]

Notes:

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

Authority to establish park and playground systems: RCW 36.68.010.

Stadiums, powers of cities and counties to acquire and operate: Chapter 67.28 RCW.

RCW 36.68.100 Moorage facilities--Regulations authorized--Port charges, delinquency--Abandoned vessels, public sale.

See RCW 53.08.310 and 53.08.320.

RCW 36.68.110 Counties authorized to permit public libraries on land used for park and recreation purposes.

A county, acting through its county legislative authority, is authorized to permit the location of public libraries on land owned by the county that is used for park and recreation purposes, unless a covenant or other binding restriction precludes such uses.

[1993 c 84 § 1.]

PARK AND RECREATION SERVICE AREAS

RCW 36.68.400 Creation authorized--Purposes--Taxing districts--Powers.

Any county shall have the power to create park and recreation service areas for the purpose of financing, acquiring, constructing, improving, maintaining, or operating any park, senior citizen activities centers, zoos, aquariums, and recreational facilities as defined in RCW 36.69.010 which shall be owned or leased by the county and administered as other county parks or shall be owned or leased and administered by a city or town or shall be owned or leased and administered by the park and recreation service area. A park and recreation service area may purchase athletic equipment and supplies, and provide for the upkeep of park buildings, grounds and facilities, and provide custodial, recreational and park program personnel at any park or recreational facility owned or leased by the service area or a county, city, or town. A park and recreation service area shall be a quasi-municipal corporation, an independent taxing "authority" within the meaning of section 1, Article 7 of the Constitution, and a "taxing district" within the meaning of section 2, Article 7 of the Constitution.

A park and recreation service area shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to accept and expend or use gifts, grants, and donations, and to sue and be sued as well as all other powers that may now or hereafter be specifically conferred by statute.

The members of the county legislative authority, acting ex officio and independently, shall compose the governing body of any park and recreation service area which is created within the county: PROVIDED, That where a park and recreation service area includes an incorporated city or town within the county, the park and recreation service area may be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. The voters of a park and recreation service area shall be all registered voters residing within the service area.

A multicounty park and recreation service area shall be governed as provided in an

interlocal agreement adopted pursuant to chapter 39.34 RCW.

[1988 c 82 § 1; 1985 c 253 § 1; 1981 c 210 § 1; 1965 ex.s. c 76 § 1; 1963 c 218 § 1.]

Notes:

Severability--1981 c 210: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 210 § 21.]

Contracts with community service organizations for public improvements: RCW 35.21.278.

Dissolution of inactive special purpose districts: Chapter 36.96 RCW.

May acquire property for park, recreational, viewpoint, greenbelt, conservation, historic, scenic, or view purposes: RCW 36.34.340.

Parks, county commissioners may designate name of: RCW 36.32.430.

RCW 36.68.410 May be initiated by resolution or petition.

Park and recreation service areas may be initiated in any unincorporated area of any county by resolution adopted by the county legislative authority or by a petition signed by ten percent of the registered voters within the proposed park and recreation service area. Incorporated areas may be included under RCW 36.68.610 and 36.68.620.

[1981 c 210 § 2; 1965 ex.s. c 76 § 2; 1963 c 218 § 2.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.420 Resolution or petition--Contents.

Any resolution or petition initiating a proposed park and recreation service area shall set forth the boundaries of the service area with certainty, describe the purpose or purposes for which the service area is to be formed, and contain an estimate of the initial cost of any capital improvements or services to be authorized in the service area.

"Initial costs" as used herein shall include the estimated cost during the first year of operation of:

- (1) Land to be acquired or leased for neighborhood park purposes by the service area to establish a park or park facility specified in the resolution or petition;
- (2) Capital improvements specified in the objectives or purposes of the service area;
- (3) Forming the service area; and
- (4) Personnel, maintenance or operation of any park facility within the service area as specified by the resolution or petition.

[1981 c 210 § 3; 1963 c 218 § 3.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.430 Petitions--Verification of signatures.

Petitions shall be submitted to the county auditor who shall verify the signatures thereon to determine that the petition has been signed by the requisite number of persons who are registered voters within the proposed service area. If the petition is found not to have the requisite number of signatures, it shall be returned to the petitioners. If the petition is found to be sufficient, the auditor shall so certify and transmit the same to the board of county commissioners.

[1963 c 218 § 4.]

RCW 36.68.440 Feasibility and cost studies--Public hearing--Notice.

Upon accepting a petition to form a park and recreation service area, or upon passage of a resolution to establish such a service area, the county legislative authority shall order a full investigation for the purpose or purposes of the proposed service area to determine the feasibility of forming the same and to determine the estimated initial costs involved in obtaining the objectives set forth in the petition or resolution. The reports on the feasibility and the cost of the proposed service area shall be made available to the county legislative authority, and copies of such reports shall be filed with the clerk of the county legislative authority not more than eighty days after the county legislative authority first directs that the studies and reports be undertaken. The county legislative authority shall also provide by resolution that within twenty days after receiving the reports a public hearing shall be held at the county seat or at some convenient location within the proposed service area. At least five days before the hearing, the county legislative authority shall give notice of the hearing not less than twice in a legal newspaper of general circulation in the county. The notice shall describe the boundaries of the proposed service area, the purpose or purposes of the proposed service area, the estimated initial costs, indicate that the reports and other materials prepared at the order of the county legislative authority are available in the office of the clerk of the county legislative authority for the study and review of any interested party, and set the time, date and place of the hearing.

[1981 c 210 § 4; 1963 c 218 § 5.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.450 Hearing procedure--Inclusion of property--Examination of reports--Recess.

At the hearing, the county legislative authority shall first provide for an explanation of the objectives of the proposed park and recreation service area and the estimated initial costs thereof. The county legislative authority shall permit any resident or property owner of the proposed service area to appear and be heard, and may permit property owners in contiguous areas to include their property within the proposed service area in the event that they make their request for inclusion in writing. The county legislative authority shall examine all reports on the feasibility of the proposed service area and its initial costs and may, if they deem it necessary,

recess the hearing for not more than twenty days to obtain any additional information necessary to arrive at the findings provided for in RCW 36.68.420.

[1981 c 210 § 5; 1963 c 218 § 6.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.460 Findings of county commissioners--Dismissal of proceedings, limitation on subsequent initiation.

At the conclusion of a hearing, the board of county commissioners shall make the following findings:

(1) Whether or not the service area's objectives fit within the general framework of the county's comprehensive park plan and general park policies.

(2) The exact boundaries of the service area: The board shall be empowered to modify the boundaries as originally defined in the petition or resolution initiating the proposed service area: PROVIDED, That the boundaries of the service area may not be enlarged unless the property owners within the area to be added consent to their inclusion in writing; or unless the board gives the property owners of the area to be added, written notice, mailed to their regular permanent residences as shown on the latest records of the county auditor, five days prior to a regular or continued hearing upon the formation of the proposed service area.

(3) A full definition or explanation of the nature of improvements or services to be financed by the proposed service area.

(4) Whether or not the objectives of the service area are feasible.

(5) The number or name of the service area.

If satisfactory findings cannot be made by the board, the petition or resolution shall be dismissed, and no petition or resolution embracing the same area may be accepted or heard for at least two years.

[1963 c 218 § 7.]

RCW 36.68.470 Resolution ordering election--Election procedure--Formation.

(1) Upon making findings under the provisions of RCW 36.68.460, the county legislative authority shall, by resolution, order an election of the voters of the proposed park and recreation service area to determine if the service area shall be formed. The county legislative authority shall in their resolution direct the county auditor to set the election to be held at the next general election or at a special election held for such purpose; describe the purposes of the proposed service area; set forth the estimated cost of any initial improvements or services to be financed by the service area should it be formed; describe the method of financing the initial improvements or services described in the resolution or petition; and order that notice of election be published in a newspaper of general circulation in the county at least twice prior to the election date.

(2) A proposition to form a park and recreation service area shall be submitted to the voters of the proposed service area. Upon approval by a majority of the voters voting on the proposition, a park and recreation service area shall be established. The proposition submitted to the voters by the county auditor on the ballot shall be in substantially the following form:

FORMATION OF PARK AND
RECREATION SERVICE AREA

Shall a park and recreation service area be established for the area described in a resolution of the legislative authority of county, adopted on the day of 19. . . ., to provide financing for neighborhood park facilities, improvements, and services?

Yes No

[1981 c 210 § 6; 1963 c 218 § 8.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.480 Property tax levies or bond retirement levies--Election.

If the petition or resolution initiating the formation of the proposed park and recreation service area proposes that the initial capital or operational costs are to be financed by regular property tax levies for a six-year period as authorized by RCW 36.68.525, or an annual excess levy, or that proposed capital costs are to be financed by the issuance of general obligation bonds and bond retirement levies, a proposition or propositions for such purpose or purposes shall be submitted to the voters of the proposed service area at the same election. A proposition or propositions for regular property tax levies for a six-year period as authorized by RCW 36.68.525, an annual excess levy, or the issuance of general obligation bonds and bond retirement levies, may also be submitted to the voters at any general or special election.

[1984 c 131 § 7; 1981 c 210 § 7; 1973 1st ex.s. c 195 § 38; 1963 c 218 § 9.]

Notes:

Purpose--1984 c 131 §§ 3-9: See note following RCW 29.30.111.

Severability--1981 c 210: See note following RCW 36.68.400.

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 36.68.490 Annual excess levy or bond retirement levies--Election procedure--Vote required.

In order for the annual excess tax levy proposition or bond retirement levies proposition to be approved, voters exceeding in number at least sixty percent of the number of voters who cast ballots for the office of county legislative authority within the park and recreation area, or

within the proposed service area, in the last preceding general election for that office must cast ballots on the tax levy proposition, and of all the votes cast at the election at least sixty percent of said votes must approve the annual excess tax levy or the bond retirement levies.

[1981 c 210 § 8; 1963 c 218 § 10.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.500 Resolution declaring formation--Treasurer--Disbursement procedure.

If the formation of the service area is approved by the voters, the county legislative authority shall by resolution declare the service area to be formed and direct the county treasurer to be the treasurer of the service area. Expenditures of the service area shall be made upon warrants drawn by the county auditor pursuant to vouchers approved by the governing body of the service area.

[1981 c 210 § 9; 1963 c 218 § 11.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.510 Local service area fund.

If the service area is formed, there shall be created in the office of the county treasurer a local service area fund with such accounts as the treasurer may find convenient, or as the state auditor may direct, into which shall be deposited all revenues received by the service area from tax levy, from gifts or donations, and from service or admission charges. Such fund shall be designated "(name of county) service area No. . . . fund." Or "(name of district) service area fund." Special accounts shall be established within the fund for the deposit of the proceeds of each bond issue made for the construction of a specified project or improvement, and there shall also be established special accounts, within the fund for the deposit of revenues raised by special levy or derived from other specific revenues, to be used exclusively for the retirement of an outstanding bond issue or for paying the interest or service charges on any bond issue.

[1963 c 218 § 12.]

RCW 36.68.520 Annual excess property tax levy--General obligation bonds.

(1) A park and recreation service area shall have the power to levy annual excess levies upon the property included within the service area if authorized at a special election called for the purpose in the manner prescribed by section 2, Article VII of the Constitution and by RCW 84.52.052 for operating funds, capital outlay funds, and cumulative reserve funds.

(2) A park and recreation service area may issue general obligation bonds for capital purposes only, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to three-eighths of one percent of the value of the taxable

property within the service area. Additionally, a park and recreation service area may issue general obligation bonds, together with any outstanding voter approved and nonvoter approved general indebtedness, equal to two and one-half percent of the value of the taxable property within the service area, as the term "value of the taxable property" is defined in RCW 39.36.015, when such bonds are approved by the voters of the service area at a special election called for the purpose in accordance with the provisions of Article VIII, section 6 of the Constitution. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW.

Bonds may be retired by excess property tax levies when such levies are approved by the voters at a special election in accordance with the provisions of Article VII, section 2 of the Constitution and RCW 84.52.056.

Any elections shall be held as provided in RCW 39.36.050.

[1994 c 156 § 4. Prior: 1984 c 186 § 29; 1984 c 131 § 8; (1983 c 167 § 271 repealed by 1984 c 186 § 70; and repealed by 1984 c 131 § 10); 1983 c 167 § 83; 1981 c 210 § 10; 1973 1st ex.s. c 195 § 39; 1970 ex.s. c 42 § 19; 1963 c 218 § 13.]

Notes:

Intent--1994 c 156: See note following RCW 36.69.140.

Purpose--1984 c 186: See note following RCW 39.46.110.

Purpose--1984 c 131 §§ 3-9: See note following RCW 29.30.111.

Effective dates--1983 c 167: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except sections 271 and 272 shall take effect July 1, 1985." [1983 c 167 § 274.]

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--1981 c 210: See note following RCW 36.68.400.

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

RCW 36.68.525 Six-year regular property tax levies--Limitations--Election.

A park and recreation service area may impose regular property tax levies in an amount equal to sixty cents or less per thousand dollars of assessed value of property in the service area in each year for six consecutive years when specifically authorized so to do by a majority of at least three-fifths of the voters thereof approving a proposition authorizing the levies submitted not more than twelve months prior to the date on which the proposed initial levy is to be made and not oftener than twice in such twelve month period, either at a special election or at the regular election of the service area, at which election the number of voters voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percent of the number of voters voting in the service area at the last preceding general election when the number of voters voting on the proposition does not exceed forty percent of the number of voters voting in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the voters thereof voting on the proposition if the number of voters voting on the proposition exceeds forty per centum of the number of voters voting in such taxing district in the last preceding general election. A proposition authorizing such tax levies shall not be submitted by a park and recreation service area more than twice in any twelve-month period. Ballot propositions

shall conform with RCW 29.30.111. If a park and recreation service area is levying property taxes, which in combination with property taxes levied by other taxing districts result in taxes in excess of the nine-dollar and fifteen cents per thousand dollars of assessed valuation limitation provided for in RCW 84.52.043, the park and recreation service area property tax levy shall be reduced or eliminated before the property tax levies of other taxing districts are reduced.

[1994 c 156 § 5; 1984 c 131 § 9.]

Notes:

Intent--1994 c 156: See note following RCW 36.69.140.

Purpose--1984 c 131 §§ 3-9: See note following RCW 29.30.111.

RCW 36.68.527 Community revitalization financing--Public improvements.

In addition to other authority that a park and recreation service area possesses, a park and recreation service area may provide any public improvement as defined under RCW 39.89.020, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW 39.89.050.

This section does not limit the authority of a park and recreation service area to otherwise participate in the public improvements if that authority exists elsewhere.

[2001 c 212 § 14.]

NOTES:

Severability--2001 c 212: See RCW 39.89.902.

RCW 36.68.530 Budgets--Appropriations--Accumulation of reserves.

The governing body of each park and recreation service area shall annually compile a budget for each service area in a form prescribed by the state auditor for the ensuing calendar year which shall, to the extent that anticipated income is actually realized, constitute the appropriations for the service area. The budget may include an amount to accumulate a reserve for a stated capital purpose. In compiling the budget, all available funds and anticipated income shall be taken into consideration, including contributions or contractual payments from school districts, cities, or towns, county or any other governmental entity, gifts and donations, special tax levy, fees and charges, proceeds of bond issues, and cumulative reserve funds.

[1995 c 301 § 67; 1981 c 210 § 11; 1963 c 218 § 14.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.541 Employees.

Park and recreation service areas may hire employees and may fund all or a portion of the salaries and benefits of county park employees who perform work on county park and recreation facilities within the service area and may fund all or a portion of the salaries and benefits of city or town park employees who perform work on city or town park and recreation facilities within

the service area.

[1988 c 82 § 2; 1981 c 210 § 12.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.550 Use and admission fees and charges.

A park and recreation service area may impose and collect use fees or other direct charges on facilities financed, acquired, and operated by the park and recreation service area. The county legislative authority may allow admission fees or other direct charges which are paid by persons using county park facilities located within a park and recreation service area to be transferred to a park and recreation service area. Such direct charges to users may be made for the use of or admission to swimming pools, field houses, tennis and handball courts, bathhouses, swimming beaches, boat launching, storage or moorage facilities, ski lifts, picnic areas and other similar recreation facilities, and for parking lots used in conjunction with such facilities. All funds collected under the provisions of this section shall be deposited to the fund of the service area established in the office of the county treasurer, to be disbursed under the service area budget as approved by the governing body of the park and recreation service area.

[1988 c 82 § 3; 1981 c 210 § 13; 1963 c 218 § 16.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.555 Eminent domain.

A park and recreation service area may exercise the power of eminent domain to obtain property for its authorized purposes in a manner consistent with the power of eminent domain of the county in which the park and recreation service area is located.

[1988 c 82 § 8.]

RCW 36.68.560 Concessions.

The county legislative authority may transfer the proceeds from concessions for food and other services accruing to the county from park or park facilities which are located in a park and recreation service area to the fund of the service area in the office of the county treasurer to be disbursed under the service area budget.

[1981 c 210 § 14; 1963 c 218 § 17.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.570 Use of funds--Purchases.

A park and recreation service area may reimburse the county for any charge incurred by the county current expense fund which is properly an expense of the service area, including reasonable administrative costs incurred by the offices of county treasurer and the county auditor in providing accounting, clerical or other services for the benefit of the service area. The county legislative authority may, where a county purchasing department has been established, provide for the purchase of all supplies and equipment for a park and recreation service area through the department. The park and recreation service area may contract with the county to administer purchasing.

[1988 c 82 § 4; 1981 c 210 § 15; 1963 c 218 § 18.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.580 Ownership of parks and facilities--Expenditure of funds budgeted for park purposes.

Any park facility or park acquired, improved or otherwise financed in whole or in part by park and recreation service area funds shall be owned by the park service area and/or the county and/or the city or town in which the park or facility is located. The county may make expenditures from its current expense funds budgeted for park purposes for the maintenance, operation or capital improvement of any county park or park facility acquired, improved, or otherwise financed in whole or in part by park and recreation service area funds. Similarly, a city or town may make expenditures for any city or town park or park facility acquired, improved, or otherwise financed in whole or in part by park and recreation service area funds.

[1988 c 82 § 5; 1981 c 210 § 16; 1963 c 218 § 19.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.

RCW 36.68.590 Purpose--Level of services--General park programs.

The purpose of RCW 36.68.400 et seq. shall be to provide a higher level of park services and shall not in any way diminish the right of a county to provide a general park program financed from current expense funds.

[1963 c 218 § 20.]

RCW 36.68.600 Use of park and recreation service area funds in exercise of powers enumerated in chapter 67.20 RCW.

A park and recreation service area may exercise any of the powers enumerated in chapter 67.20 RCW with respect to any park and recreation facility financed in whole or part from park

and recreation service area funds.

[1988 c 82 § 6; 1981 c 210 § 17; 1963 c 218 § 21.]

Notes:

Severability--1981 c 210: See note following RCW 36.68.400.
Parks, bathing beaches, public camps: Chapter 67.20 RCW.

RCW 36.68.610 Area which may be included--Inclusion of area within city or town--Procedure.

A park and recreation service area may include any unincorporated area in the state, and when any part of the proposed district lies within the corporate limits of any city or town said resolution or petition shall be accompanied by a certified copy of a resolution of the governing body of said city or town, approving inclusion of the area within the corporate limits of the city or town.

[1973 c 65 § 1.]

RCW 36.68.620 Enlargement by inclusion of additional area--Procedure.

After a park and recreation service area has been organized, an additional area may be added by the same procedure within the proposed additional area as is provided herein for the organization of a park and recreation service area, and all electors within both the organized park and recreation service area and the proposed additional territory shall vote upon the proposition for enlargement.

[1973 c 65 § 2.]

**Chapter 36.69 RCW
PARK AND RECREATION DISTRICTS**

(Formerly: Recreation districts act)

Sections

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NOTES:

Contracts with community service organizations for public improvements: RCW 35.21.278.

RCW 39.33.060 to govern on sales by water-sewer district for park and recreational purposes: RCW 57.08.140.

Transfer of real property or contract for use for park and recreational purposes: RCW 39.33.060.

RCW 36.69.010 Park and recreation districts authorized--"Recreational facilities" defined.

Park and recreation districts are hereby authorized to be formed as municipal

corporations for the purpose of providing leisure time activities and facilities and recreational facilities, of a nonprofit nature as a public service to the residents of the geographical areas included within their boundaries.

The term "recreational facilities" means parks, playgrounds, gymnasiums, swimming pools, field houses, bathing beaches, stadiums, golf courses, automobile race tracks and drag strips, coliseums for the display of spectator sports, public campgrounds, boat ramps and launching sites, public hunting and fishing areas, arboretums, bicycle and bridle paths, senior citizen centers, community centers, and other recreational facilities.

[1991 c 363 § 79; 1990 c 32 § 1; 1972 ex.s. c 94 § 1; 1969 c 26 § 1; 1967 c 63 § 1; 1963 c 4 § 36.69.010. Prior: 1961 c 272 § 1; 1959 c 304 § 1; 1957 c 58 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.69.020 Formation of district by petition--Procedure.

The formation of a park and recreation district shall be initiated by a petition designating the boundaries thereof by metes and bounds, or by describing the land to be included therein by townships, ranges and legal subdivisions. Such petition shall set forth the object of the district and state that it will be conducive to the public welfare and convenience, and that it will be a benefit to the area therein. Such petition shall be signed by not less than fifteen percent of the registered voters residing within the area so described. The name of a person who has signed the petition may not be withdrawn from the petition after the petition has been filed.

The petition shall be filed with the auditor of the county within which the proposed district is located, accompanied by an obligation signed by two or more petitioners, agreeing to pay the cost of the publication of the notice provided for in RCW 36.69.040. The county auditor shall, within thirty days from the date of filing the petition, examine the signatures and certify to the sufficiency or insufficiency thereof.

If the petition is found to contain a sufficient number of signatures of qualified persons, the auditor shall transmit it, together with a certificate of sufficiency attached thereto, to the county legislative authority, which shall by resolution entered upon its minutes receive it and fix a day and hour when the legislative authority will publicly hear the petition, as provided in RCW 36.69.040.

[1994 c 223 § 42; 1969 c 26 § 2; 1967 c 63 § 2; 1963 c 4 § 36.69.020. Prior: 1961 c 272 § 2; 1959 c 304 § 2; 1957 c 58 § 2.]

RCW 36.69.030 Area which may be included--Resolution of governing body of city or town.

A park and recreation district may include any unincorporated area in the state and, when any part of the proposed district lies within the corporate limits of any city or town, said petition shall be accompanied by a certified copy of a resolution of the governing body of said city or town, approving inclusion of the area within the corporate limits of the city or town.

[1969 c 26 § 3; 1967 c 63 § 3; 1963 c 4 § 36.69.030. Prior: 1961 c 272 § 3; 1959 c 304 § 3; 1957 c 58 § 3.]

RCW 36.69.040 Hearing on petition--Notice.

The board of county commissioners shall set a time for a hearing on the petition for the formation of a park and recreation district to be held not more than sixty days following the receipt of such petition. Notice of hearing shall be given by publication three times, at intervals of not less than one week, in a newspaper of general circulation within the county. Such notice shall state the time and place of hearing and describe particularly the area proposed to be included within the district.

[1963 c 4 § 36.69.040. Prior: 1957 c 58 § 4.]

RCW 36.69.050 Boundaries--Name--Inclusion, exclusion of lands.

The board of county commissioners shall designate a name for and fix the boundaries of the proposed district following such hearing. No land shall be included in the boundaries as fixed by the county commissioners which was not described in the petition, unless the owners of such land shall consent in writing thereto.

The board of county commissioners shall eliminate from the boundaries of the proposed district land which they find will not be benefited by inclusion therein.

[1963 c 4 § 36.69.050. Prior: 1957 c 58 § 5.]

RCW 36.69.065 Election for formation--Inclusion of proposition for tax levy or issuance of bonds.

If the petition or resolution initiating the formation of the proposed park and recreation district proposes that the initial capital or operational costs are to be financed by regular property tax levies for a *five-year period as authorized by RCW 36.69.145, or an annual excess levy, or that proposed capital costs are to be financed by the issuance of general obligation bonds and bond retirement levies, a proposition or propositions for such purpose or purposes shall be submitted to the voters of the proposed park and recreation district at the same election. A proposition or propositions for regular property tax levies for a *five-year period as authorized by RCW 36.69.145, an annual excess levy, or the issuance of general obligation bonds and bond retirement levies, may also be submitted to the voters at any general or special election. The ballot proposition or propositions authorizing the imposition of a tax levy or levies, or issuance of general obligation bonds and imposition of tax levies, shall be null and void if the park and recreation district was not authorized to be formed.

[1989 c 184 § 1.]

Notes:

***Reviser's note:** 1994 c 156 § 3 amended RCW 36.69.145 to authorize a six-year period.

RCW 36.69.070 Elections--Procedures--Terms.

A ballot proposition authorizing the formation of the proposed park and recreation district shall be submitted to the voters of the proposed district for their approval or rejection at the next general state election occurring sixty or more days after the county legislative authority fixes the boundaries of the proposed district. Notices of the election for the formation of the park and recreation district shall state generally and briefly the purpose thereof and shall give the boundaries of the proposed district and name the day of the election and the hours during which the polls will be open. The proposition to be submitted to the voters shall be stated in such manner that the voters may indicate yes or no upon the proposition of forming the proposed park and recreation district.

The initial park and recreation commissioners shall be elected at the same election, but this election shall be null and void if the district is not authorized to be formed. No primary shall be held to nominate candidates for the initial commissioner positions. Candidates shall run for specific commission positions. A special filing period shall be opened as provided in RCW 29.15.170 and 29.15.180. The person who receives the greatest number of votes for each commission position shall be elected to that position. The three persons who are elected receiving the greatest number of votes shall be elected to four-year terms of office if the election is held in an odd-numbered year or three-year terms of office if the election is held in an even-numbered year. The other two persons who are elected shall be elected to two-year terms of office if the election is held in an odd-numbered year or one-year terms of office if the election is held in an even-numbered year. The initial commissioners shall take office immediately upon being elected and qualified, but the length of such terms shall be computed from the first day of January in the year following this election.

[1994 c 223 § 43; 1979 ex.s. c 126 § 28; 1963 c 4 § 36.69.070. Prior: 1959 c 304 § 4; 1957 c 58 § 7.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 36.69.080 Election results.

If a majority of all votes cast upon the proposition favors the formation of the district, the county legislative authority shall, by resolution, declare the territory organized as a park and recreation district under the designated name.

[1994 c 223 § 44; 1979 ex.s. c 126 § 29; 1963 c 4 § 36.69.080. Prior: 1957 c 58 § 8.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 36.69.090 Commissioners--Terms--Election procedures.

A park and recreation district shall be governed by a board of five commissioners. Except for the initial commissioners, all commissioners shall be elected to staggered four-year terms of

office and shall serve until their successors are elected and qualified and assume office in accordance with RCW 29.04.170. Candidates shall run for specific commissioner positions.

Elections for park and recreation district commissioners shall be held biennially in conjunction with the general election in each odd-numbered year. Elections shall be held in accordance with the provisions of Title 29 RCW dealing with general elections, except that there shall be no primary to nominate candidates. All persons filing and qualifying shall appear on the general election ballot and the person receiving the largest number of votes for each position shall be elected.

[1996 c 324 § 2; 1994 c 223 § 45; 1987 c 53 § 1; 1979 ex.s. c 126 § 30; 1963 c 200 § 18; 1963 c 4 § 36.69.090. Prior: 1957 c 58 § 9.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 36.69.100 Commissioners--Vacancies.

Vacancies on the board of park and recreation commissioners shall occur and shall be filled as provided in chapter 42.12 RCW.

[1994 c 223 § 46; 1963 c 4 § 36.69.100. Prior: 1957 c 58 § 10.]

RCW 36.69.110 Commissioners--Compensation, expenses.

The park and recreation commissioners shall receive no compensation for their services but shall receive necessary expenses in attending meetings of the board or when otherwise engaged on district business.

[1963 c 4 § 36.69.110. Prior: 1957 c 58 § 11.]

RCW 36.69.120 Commissioners--Duties.

The park and recreation district board of commissioners shall:

- (1) Elect its officers including a chairman, vice chairman, secretary, and such other officers as it may determine it requires;
- (2) Hold regular public meetings at least monthly;
- (3) Adopt policies governing transaction of board business, keeping of records, resolutions, transactions, findings and determinations, which shall be of public record;
- (4) Initiate, direct and administer district park and recreation activities, and select and employ such properly qualified employees as it may deem necessary.

[1963 c 4 § 36.69.120. Prior: 1957 c 58 § 12.]

RCW 36.69.130 Powers of districts.

Park and recreation districts shall have such powers as are necessary to carry out the

purpose for which they are created, including, but not being limited to, the power: (1) To acquire and hold real and personal property; (2) to dispose of real and personal property only by unanimous vote of the district commissioners; (3) to make contracts; (4) to sue and be sued; (5) to borrow money to the extent and in the manner authorized by this chapter; (6) to grant concessions; (7) to make or establish charges, fees, rates, rentals and the like for the use of facilities (including recreational facilities) or for participation; (8) to make and enforce rules and regulations governing the use of property, facilities or equipment and the conduct of persons thereon; (9) to contract with any municipal corporation, governmental, or private agencies for the conduct of park and recreation programs; (10) to operate jointly with other governmental units any facilities or property including participation in the acquisition; (11) to hold in trust or manage public property useful to the accomplishment of their objectives; (12) to establish cumulative reserve funds in the manner and for the purposes prescribed by law for cities; (13) to acquire, construct, reconstruct, maintain, repair, add to, and operate recreational facilities; and, (14) to make improvements or to acquire property by the local improvement method in the manner prescribed by this chapter: PROVIDED, That such improvement or acquisition is within the scope of the purposes granted to such park and recreation district.

[1972 ex.s. c 94 § 2; 1969 c 26 § 4; 1967 c 63 § 4; 1963 c 4 § 36.69.130. Prior: 1961 c 272 § 4; 1959 c 304 § 5; 1957 c 58 § 13.]

RCW 36.69.140 Excess levies authorized--Bonds--Interest bearing warrants.

(1) A park and recreation district shall have the power to levy excess levies upon the property included within the district, in the manner prescribed by Article VII, section 2, of the Constitution and by RCW 84.52.052 for operating funds, capital outlay funds, and cumulative reserve funds.

(2) A park and recreation district may issue general obligation bonds for capital purposes only, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness equal to three-eighths of one percent of the value of the taxable property within such district, as the term "value of the taxable property" is defined in RCW 39.36.015. A park and recreation district may additionally issue general obligation bonds, together with outstanding voter approved and nonvoter approved general obligation indebtedness, equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015, when such bonds are approved by three-fifths of the voters of the district at a general or special election called for that purpose and may provide for the retirement thereof by levies in excess of dollar rate limitations in accordance with the provisions of RCW 84.52.056. When authorized by the voters of the district, the district may issue interest bearing warrants payable out of and to the extent of excess levies authorized in the year in which the excess levy was approved. These elections shall be held as provided in RCW 39.36.050. Such bonds and warrants shall be issued and sold in accordance with chapter 39.46 RCW.

[1994 c 156 § 2; 1984 c 186 § 30; 1983 c 167 § 84; 1981 c 210 § 19; 1977 ex.s. c 90 § 1; 1973 1st ex.s. c 195 § 40;

1970 ex.s. c 42 § 20; 1969 c 26 § 5; 1967 c 63 § 5; 1963 c 4 § 36.69.140. Prior: 1961 c 272 § 5; 1959 c 304 § 6; 1957 c 58 § 14.]

NOTES:

Intent--1994 c 156: "The intent of the legislature by enacting sections 2 through 5, chapter 156, Laws of 1994 is:

(1) To allow park and recreation districts and park and recreation service areas to place more than one excess levy on the same ballot, allowing districts and service areas to give voters the opportunity to vote on separate issues, such as for operating and capital funds, at the same election, thereby reducing election costs; and

(2) To increase the amount a park and recreation district or park and recreation service area may collect through a six-year property tax levy from a maximum of fifteen cents per thousand dollars of assessed value to a maximum of sixty cents per thousand dollars of assessed value. This would allow for a more stable funding source for park and recreation districts and park and recreation service areas at a realistic tax rate and reduce the need for holding excess levy elections on an annual or biannual [biennial] basis. In addition, it would level out the collection of taxes over each of six years rather than the practice now of collecting in one year to fund two years." [1994 c 156 § 1.]

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--1981 c 210: See note following RCW 36.68.400.

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

RCW 36.69.145 Six-year regular property tax levies--Limitations--Election.

(1) A park and recreation district may impose regular property tax levies in an amount equal to sixty cents or less per thousand dollars of assessed value of property in the district in each year for six consecutive years when specifically authorized so to do by a majority of at least three-fifths of the voters thereof approving a proposition authorizing the levies submitted at a special election or at the regular election of the district, at which election the number of voters voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the number of voters voting in such district at the last preceding general election when the number of voters voting on the proposition does not exceed forty per centum of the number of voters voting in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the voters thereof voting on the proposition if the number of voters voting on the proposition exceeds forty per centum of the number of voters voting in such taxing district in the last preceding general election. A proposition authorizing the tax levies shall not be submitted by a park and recreation district more than twice in any twelve-month period. Ballot propositions shall conform with RCW 29.30.111. In the event a park and recreation district is levying property taxes, which in combination with property taxes levied by other taxing districts subject to the one percent limitation provided for in Article 7, section 2, of our state Constitution result in taxes in excess of the limitation provided for in RCW 84.52.043, the park and recreation district property tax levy shall be reduced or eliminated before the property tax levies of other taxing districts are reduced.

(2) The limitation in RCW 84.55.010 shall not apply to the first levy imposed under this section following the approval of the levies by the voters under subsection (1) of this section.

[1994 c 156 § 3; 1984 c 131 § 6; 1981 c 210 § 18.]

Notes:

Intent--1994 c 156: See note following RCW 36.69.140.

Purpose--1984 c 131 §§ 3-9: See note following RCW 29.30.111.

RCW 36.69.147 Community revitalization financing--Public improvements.

In addition to other authority that a park and recreation district possesses, a park and recreation district may provide any public improvement as defined under RCW 39.89.020, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW 39.89.050.

This section does not limit the authority of a park and recreation district to otherwise participate in the public improvements if that authority exists elsewhere.

[2001 c 212 § 15.]

NOTES:

Severability--2001 c 212: See RCW 39.89.902.

RCW 36.69.150 District treasurer--Warrants--Vouchers.

The county treasurer of the county in which the district shall be located shall be the treasurer of the district, and expenditures shall be made upon warrants drawn by the county auditor pursuant to vouchers approved by the board of park and recreation commissioners.

[1963 c 4 § 36.69.150. Prior: 1957 c 58 § 16.]

RCW 36.69.160 Budget.

The board of park and recreation commissioners of each park and recreation district shall annually compile a budget, in form prescribed by the state auditor, for the ensuing calendar year, and which shall, to the extent that anticipated income is actually realized, constitute the appropriations for the district. The budget may include an amount to accumulate a reserve for a stated capital purpose. In compiling the budget, all available funds and anticipated income shall be taken into consideration, including contributions or contractual payments from school districts, cities or towns, county, or any other governmental unit; gifts and donations; special tax levy; assessments; fees and charges; proceeds of bond issues; cumulative reserve funds.

[1995 c 301 § 68; 1963 c 4 § 36.69.160. Prior: 1957 c 58 § 17.]

RCW 36.69.170 Expenditures.

Expenditures shall be made solely in accordance with the budget, and should revenues accrue at a rate below the anticipated amounts, the board of park and recreation commissioners shall reduce expenditures accordingly: PROVIDED, That the board may, by unanimous vote, authorize such expenditures, or authorize expenditures in excess of those budgeted, if sufficient revenue to pay such expenditures is derived by the levy of the district or if provided by other

governmental agencies specifically for such purposes.

[1963 c 4 § 36.69.170. Prior: 1957 c 58 § 18.]

RCW 36.69.180 Violation of rules--Penalty.

The violation of any of the rules or regulations of a park and recreation district adopted by its board for the preservation of order, control of traffic, protection of life or property, or for the regulation of the use of park property shall constitute a misdemeanor: PROVIDED, That violation of a rule or regulation relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule or regulation equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

[1979 ex.s. c 136 § 37; 1963 c 4 § 36.69.180. Prior: 1957 c 58 § 19.]

Notes:

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 36.69.190 Additional area may be added to district.

After a park and recreation district has been organized, an additional area may be added by the same procedure within the proposed additional area as is provided herein for the organization of a park and recreation district, except that no first commissioners shall be nominated by the board of county commissioners or elected, and all electors within both the organized park and recreation district and the proposed additional territory shall vote upon the proposition for enlargement.

[1969 c 26 § 6; 1967 c 63 § 6; 1963 c 4 § 36.69.190. Prior: 1961 c 272 § 6; 1959 c 304 § 7; 1957 c 58 § 20.]

RCW 36.69.200 L.I.D.'s--Authorization--Assessments, warrants, bonds--County treasurer's duties.

(1) Whenever the board of park and recreation commissioners of any district shall determine that any proposed capital improvement would be of special benefit to all or to any portion of the district, it may establish local improvement districts within its territory; levy special assessments under the mode of annual installments extending over a period not exceeding twenty years, on all property specially benefited by a local improvement, on the basis of special benefits to pay in whole or in part the damage or costs of any improvements ordered in the district; and issue local improvement bonds in the improvement district to be repaid by the collection of local improvement assessments. The method of establishment, levying, collection and enforcement of such assessments and issuance and redemption of local improvement warrants and bonds and the provisions regarding the conclusiveness of the assessment roll and the review by the superior court of any objections thereto shall be as provided for the levying, collection, and enforcement of local improvement assessments and the issuance of local improvement bonds by cities and towns, insofar as consistent herewith. The duties devolving upon the city treasurer are hereby imposed upon the county treasurer for the purposes hereof.

The mode of assessment shall be determined by the board. Such bonds may be in any form, including coupon bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 85; 1983 c 3 § 80; 1963 c 4 § 36.69.200. Prior: 1957 c 58 § 21.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.
Local improvements, supplemental authority: Chapter 35.51 RCW.

RCW 36.69.210 L.I.D.'s--Initiation by resolution or petition.

Local improvement districts may be initiated either (1) by resolution of the board of park and recreation commissioners, or, (2) by petition signed by the owners (according to the county auditor's records) of at least fifty-one percent of the area of land within the limits of the local improvement district to be created.

[1963 c 4 § 36.69.210. Prior: 1957 c 58 § 22.]

RCW 36.69.220 L.I.D.'s--Procedure when by resolution.

If the board of park and recreation commissioners desires to initiate the formation of a local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed local improvement district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

[1963 c 4 § 36.69.220. Prior: 1957 c 58 § 23.]

RCW 36.69.230 L.I.D.'s--Procedure when by petition--Publication of notice of intent by either resolution or petition.

If such local improvement district is initiated by petition, such petition shall set forth the nature and territorial extent of the proposed improvement requested to be ordered and the fact that the signers thereof are the owners (according to the records of the county auditor) of at least fifty-one percent of the area of land within the limits of the local improvement district to be created. Upon the filing of such petition the board of park and recreation commissioners shall determine whether it is sufficient, and the board's determination thereof shall be conclusive upon all persons. No person shall withdraw his name from the petition after it has been filed with the board. If the board shall find the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the nature and

territorial extent of said improvement, designating the number of the proposed local district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

The resolution of intention, whether adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board.

[1963 c 4 § 36.69.230. Prior: 1957 c 58 § 24.]

RCW 36.69.240 L.I.D.'s--Notice--Contents.

Notice of the adoption of the resolution of intention shall be given each owner or reputed owner of any lot, tract, parcel of land or other property within the proposed improvement district by mailing said notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date, time and place of the hearing before the board of park and recreation commissioners; and in the case of improvements initiated by resolution, the notice shall also state that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board before the time fixed for said public hearing.

[1963 c 4 § 36.69.240. Prior: 1957 c 58 § 25.]

RCW 36.69.245 L.I.D.'s--Notice must contain statement that assessments may vary from estimates.

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

[1989 c 243 § 4.]

RCW 36.69.250 L.I.D.'s--Public hearing--Inclusion, exclusion of property.

Whether the improvement is initiated by petition or resolution, the board of park and recreation commissioners shall conduct a public hearing at the time and place designated in the

notice to property owners. At this hearing the board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in the plans for the proposed improvement as shall be deemed necessary: PROVIDED, That the board may not change the boundaries of the district to include or exclude property not previously included or excluded without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time herein provided for the original notice.

[1963 c 4 § 36.69.250. Prior: 1957 c 58 § 26.]

RCW 36.69.260 L.I.D.'s--Protests--Procedure--Jurisdiction of board.

After said hearing the board of park and recreation commissioners shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution: PROVIDED, That the jurisdiction of the board to proceed with any improvement initiated by resolution shall be divested by a protest filed with the secretary of the board prior to said public hearing for the improvement signed by the owners of the property within the proposed local improvement district which is subject to sixty percent or more of the cost of the improvement as shown and determined by the preliminary estimates and assessment roll of the proposed improvement district.

[1963 c 4 § 36.69.260. Prior: 1957 c 58 § 27.]

RCW 36.69.270 L.I.D.'s--Powers and duties of board upon formation.

If the board of park and recreation commissioners finds that the district should be formed, it shall by resolution order the improvement, adopt detailed plans of the local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the park and recreation district such eminent domain proceedings as may be necessary to entitle the district to proceed with the work. The board shall thereupon proceed with the work and file with the county treasurer its roll levying special assessments in the amount to be paid by special assessment against the property situated within the improvement district in proportion to the special benefits to be derived by the property therein from the improvement.

[1963 c 4 § 36.69.270. Prior: 1957 c 58 § 28.]

RCW 36.69.280 L.I.D.'s--Assessment roll--Procedure for approval--Objections.

Before approval of the roll a notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the local district, stating that the roll is on file and open to inspection in the office of the secretary, and fixing the time, not less than fifteen or more than thirty days from the date of the first publication of the notice within which protests must be filed with the secretary against any assessments shown thereon, and fixing a time when a hearing

will be held by the board of park and recreation commissioners on the protests. Notice shall also be given by mailing, at least fifteen days before the hearing, a similar notice to the owners or reputed owners of the land in the local district as they appear on the books of the treasurer of the county in which the park and recreation district is located. At the hearing, or any adjournment thereof, the commissioners may correct, change or modify the roll, or any part thereof, or set aside the roll and order a new assessment, and may then by resolution approve it. If an assessment is raised a new notice similar to the first shall be given, after which final approval of the roll may be made. When property has been entered originally upon the roll and the assessment thereon is not raised, no objection thereto shall be considered by the commissioners or by any court on appeal unless the objection is made in writing at, or prior, to the date fixed for the original hearing upon the roll.

[1963 c 4 § 36.69.280. Prior: 1957 c 58 § 29.]

RCW 36.69.290 L.I.D.'s--Segregation of assessments--Power of board.

Whenever any land against which there has been levied any special assessment by any park and recreation district shall have been sold in part or subdivided, the board of park and recreation commissioners of such district shall have the power to order a segregation of the assessment.

[1963 c 4 § 36.69.290. Prior: 1957 c 58 § 30.]

RCW 36.69.300 L.I.D.'s--Segregation of assessments--Procedure--Fee, charges.

Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the board of park and recreation commissioners of the park and recreation district which levied the assessment. If the board determines that a segregation should be made, it shall by resolution order the county treasurer to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the county treasurer who shall proceed to make the segregation ordered upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made. In addition to such charge the board may require as a condition to the order of segregation that the person seeking it pay the district the reasonable engineering and clerical costs incident to making the segregation.

[1963 c 4 § 36.69.300. Prior: 1957 c 58 § 31.]

RCW 36.69.305 L.I.D.'s--Acquisition of property subject to unpaid or delinquent

assessments by state or political subdivision--Payment of lien or installments.

See RCW 79.44.190.

RCW 36.69.310 Dissolution.

Any park and recreation district formed under the provisions of this chapter may be dissolved in the manner provided in chapter 53.48 RCW, relating to port districts.

[1963 c 4 § 36.69.310. Prior: 1957 c 58 § 32.]

Notes:

Alternative procedure for dissolution of special districts: Chapter 36.96 RCW.

RCW 36.69.320 Disincorporation of district located in county with a population of two hundred ten thousand or more and inactive for five years.

See chapter 57.90 RCW.

RCW 36.69.350 Board authorized to contract indebtedness and issue revenue bonds.

The board of parks and recreation commissioners is hereby authorized for the purpose of carrying out the lawful powers granted to park and recreation districts by the laws of the state to contract indebtedness and to issue revenue bonds evidencing such indebtedness in conformity with this chapter.

[1972 ex.s. c 94 § 3.]

RCW 36.69.360 Revenue bonds--Authorized purposes.

All such revenue bonds authorized under the terms of this chapter may be issued and sold by the district from time to time and in such amounts as is deemed necessary by the board of park and recreation commissioners of each district to provide sufficient funds for the carrying out of all district powers, without limiting the generality thereof, including the following: Acquisition; construction; reconstruction; maintenance; repair; additions; operations of recreational facilities; parking facilities as a part of a recreational facility; and any other district purpose from which revenues can be derived. Included in the costs thereof shall be any necessary engineering, inspection, accounting, fiscal, and legal expenses, the cost of issuance of bonds, including printing, engraving and advertising and other similar expenses, and the proceeds of such bond issue are hereby made available for all such purposes.

[1972 ex.s. c 94 § 4.]

Notes:

Alternative authority to issue revenue bonds: RCW 39.46.150, 39.46.160.

Funds for reserve purposes may be included in issue amount: RCW 39.44.140.

RCW 36.69.370 Revenue bonds--Issuance, form, seal, etc.

(1) When revenue bonds are issued for authorized purposes, said bonds shall be either registered as to principal only or principal and interest as provided in RCW 39.46.030 or shall be bearer bonds; shall be in such denominations, shall be numbered, shall bear such date, shall be payable at such time or times up to a maximum period of not to exceed thirty years and payable as determined by the park and recreation commissioners of the district; shall bear interest payable semiannually; shall be executed by the chairman of the board of park and recreation commissioners, and attested by the secretary of the board, and the seal of such board shall be affixed to each bond, but not to any coupon; and may have facsimile signatures of the chairman and the secretary imprinted on any interest coupons in lieu of original signatures.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 86; 1972 ex.s. c 94 § 5.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.69.380 Resolution to authorize bonds--Contents.

Bonds issued under the provisions of this chapter shall be payable solely out of the operating revenues of the park and recreation district. Such bonds shall be authorized by resolution adopted by the board of park and recreation commissioners, which resolution shall create a special fund or funds into which the board of park and recreation commissioners may obligate and bind the district to set aside and pay any part or parts of, or all of, or a fixed proportion of, or fixed amounts of gross revenue received by the district from moneys for services or activities as stated in the resolution, for the purpose of paying the principal of and interest on such bonds as the same shall become due, and if deemed necessary to maintain adequate reserves therefor. Such fund or funds shall be drawn upon solely for the purpose of paying the principal and interest upon the bonds issued pursuant to this chapter.

The bonds shall be negotiable instruments within the provision and intent of the negotiable instruments law of this state, even though they shall be payable solely from such special fund or funds, and the tax revenue of the district may not be used to pay, secure, or guarantee the payment of the principal of and interest on such bonds. The bonds and any coupons attached thereto shall state upon their face that they are payable solely from such special fund or funds. If the county fails to set aside and pay into such fund or funds, the payments provided for in such resolution, the owner of any such bonds may bring suit to compel compliance with the provisions of the resolution.

[1983 c 167 § 87; 1972 ex.s. c 94 § 6.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.69.390 Payment of bonds--Covenants--Enforcement.

The board of park and recreation commissioners may provide covenants as it may deem necessary to secure the payment of the principal of and interest on such bonds and may, but shall not be required to, include covenants to create a reserve fund or account and to authorize the payment or deposit of certain moneys therein for the purpose of securing the payment of such principal and interest; to establish, maintain, and collect rates, charges, fees, rentals, and the like on the facilities and service the income of which is pledged for the payment of such bonds, sufficient to pay or secure the payment of such principal and interest and to maintain an adequate coverage over annual debt service; and to make any and all other covenants not inconsistent with the provisions of this chapter which will increase the marketability of such bonds. The board may also provide that revenue bonds payable out of the same source or sources may later be sold on a parity with any revenue bonds being issued and sold. The provisions of this chapter and any resolution or resolutions providing for the authorization, issuance, and sale of such bonds shall constitute a contract with the owner of such bonds, and the provisions thereof shall be enforceable by any owner of such bonds by mandamus or any appropriate suit, action or proceeding at law or in equity in any court of competent jurisdiction.

[1983 c 167 § 88; 1972 ex.s. c 94 § 7.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.69.400 Funding, refunding bonds.

(1) The board of parks and recreation commissioners of any district may by resolution, from time to time, provide for the issuance of funding or refunding revenue bonds to fund or refund any outstanding revenue bonds and any interest and premiums due thereon at or before the maturity of such bonds, and parts or all of various series and issues of outstanding revenue bonds in the amount thereof to be funded or refunded.

The board shall create a special fund for the sole purpose of paying the principal of and interest on such funding or refunding revenue bonds, into which fund the board shall obligate and bind the district to set aside and pay any part or parts of, or all of, or a fixed proportion of, or a fixed amount of the revenue of the recreational facility of the district sufficient to pay such principal and interest as the same shall become due, and if deemed necessary to maintain adequate reserves therefor.

Such funding or refunding bonds shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state, and the tax revenue of the district may not be used to pay, secure, or guarantee the payment of the principal of and interest on such bonds. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

The district may exchange such funding or refunding bonds for the bonds, and any coupons being funded or refunded, or it may sell such funding or refunding bonds in the manner, at such price and at such rate or rates of interest as the board shall deem to be for the best interest of the district and its inhabitants, either at public or private sale.

The provisions of this chapter relating to the terms, conditions, covenants, issuance, and

sale of revenue bonds shall be applicable to such funding or refunding bonds except as may be otherwise specifically provided in this section.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 89; 1972 ex.s. c 94 § 8.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.69.410 Authority for issuance of bonds--Construction.

This chapter shall be complete authority for the issuance of the revenue bonds hereby authorized, and shall be liberally construed to accomplish its purposes. Any restrictions, limitations or regulations relative to the issuance of such revenue bonds contained in any other act shall not apply to the bonds issued under this chapter. Any act inconsistent herewith shall be deemed modified to conform with the provisions of this chapter for the purpose of this chapter only.

[1972 ex.s. c 94 § 9.]

RCW 36.69.420 Joint park and recreation district--Authorization.

A park and recreation district may be formed encompassing portions of two or more counties. Such a district shall be known as a joint park and recreation district and shall have all powers and duties of a park and recreation district. The procedures established in this chapter for the formation of a park and recreation district shall be followed in the formation of a joint park and recreation district except as otherwise provided by RCW 36.69.430, 36.69.440, and 36.69.450.

[1979 ex.s. c 11 § 1.]

Notes:

Severability--1979 ex.s. c 11: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 11 § 7.]

RCW 36.69.430 Joint park and recreation district--Formation--Petition.

The formation of a joint park and recreation district shall be initiated by a petition as prescribed in RCW 36.69.020. The petition shall be filed with the county auditor of one of the counties within which a portion of the proposed joint district is located. A copy of the petition shall be filed with the county auditor of the other county or counties within which a portion of the proposed joint district is located. The county auditors shall jointly certify the sufficiency or insufficiency of the petition to the legislative authorities of the counties.

[1979 ex.s. c 11 § 2.]

Notes:

Severability--1979 ex.s. c 11: See note following RCW 36.69.420.

RCW 36.69.440 Joint park and recreation district--Formation--Hearing--Boundaries--Election.

(1) If the petition filed under RCW 36.69.430 is found to contain a sufficient number of signatures, the legislative authority of each county shall set a time for a hearing on the petition for the formation of a park and recreation district as prescribed in RCW 36.69.040.

(2) At the public hearing the legislative authority for each county shall fix the boundaries for that portion of the proposed park and recreation district that lies within the county as provided in RCW 36.69.050. Each county shall notify the other county or counties of the determination of the boundaries within ten days.

(3) If the territories created by the county legislative authorities are not contiguous, a joint park and recreation district shall not be formed. If the territories are contiguous, the county containing the portion of the proposed joint district having the larger population shall determine the name of the proposed joint district.

(4) The proposition for the formation of the proposed joint park and recreation district shall be submitted to the voters of the district at the next general election, which election shall be conducted as required by RCW 36.69.070 and 36.69.080.

[1994 c 223 § 47; 1979 ex.s. c 11 § 3.]

Notes:

Severability--1979 ex.s. c 11: See note following RCW 36.69.420.

RCW 36.69.450 Joint park and recreation district--Duties of county officers.

For all purposes essential to the maintenance, operation, and administration of a joint park and recreation district, including the apportionment of any funds, the county in which a joint park and recreation district shall be considered as belonging shall be the county containing the largest population of the joint district. Whenever the laws relating to park and recreation districts provide for an action by a county officer, the action, if required to be performed on behalf of a joint park and recreation district, shall be performed by the proper officer of the county to which the joint district belongs, except as otherwise provided by law. This delegation of authority extends but is not limited to:

(1) The declaration by the county legislative authority of the election results, as required by RCW 36.69.080;

(2) The filing of declarations of candidacy with the county auditor under RCW 36.69.090;

(3) The issuance of warrants by the county treasurer under RCW 36.69.150;

(4) The duties of the county treasurer and auditor in the establishment and operation of a local improvement district under RCW 36.69.200, 36.69.220, 36.69.240, and 36.69.300. If the

local improvement district is located wholly within any one of the participating counties, then the officers of that county shall perform the duties relating to that local improvement district; and

(5) Receipt by the county treasurer of payments of revenue bonds under RCW 36.69.370.

[1979 ex.s. c 11 § 4.]

Notes:

Severability--1979 ex.s. c 11: See note following RCW 36.69.420.

RCW 36.69.460 Joint park and recreation district--Population determinations.

Population determinations for the purposes of RCW 36.69.440 and 36.69.450 shall be made by the office of financial management.

[1979 ex.s. c 11 § 5.]

Notes:

Severability--1979 ex.s. c 11: See note following RCW 36.69.420.

RCW 36.69.900 Short title.

This chapter may be cited as the "Recreation Districts Act for Counties."

[1969 c 26 § 7; 1967 c 63 § 7; 1963 c 4 § 36.69.900. Prior: 1961 c 272 § 7; 1959 c 304 § 9; 1957 c 58 § 33.]

**Chapter 36.70 RCW
PLANNING ENABLING ACT**

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RCW 36.70.010 Purpose and intent.

The purpose and intent of this chapter is to provide the authority for, and the procedures to be followed in, guiding and regulating the physical development of a county or region through correlating both public and private projects and coordinating their execution with respect to all subject matters utilized in developing and servicing land, all to the end of assuring the highest standards of environment for living, and the operation of commerce, industry, agriculture and recreation, and assuring maximum economies and conserving the highest degree of public health, safety, morals and welfare.

[1963 c 4 § 36.70.010. Prior: 1959 c 201 § 1.]

RCW 36.70.015 Expenditure of funds declared public purpose.

Regional planning under the provisions of this chapter is hereby declared to be a proper public purpose for the expenditure of the funds of counties, school districts, public utility districts, housing authorities, port districts, cities or towns or any other public organization interested in regional planning.

[1963 c 4 § 36.70.015. Prior: 1961 c 232 § 6.]

RCW 36.70.020 Definitions.

The following words or terms as used in this chapter shall have the following meaning unless a different meaning is clearly indicated by the context:

(1) "Approval by motion" is a means by which a board, through other than by ordinance, approves and records recognition of a comprehensive plan or amendments thereto.

(2) "Board" means the board of county commissioners.

(3) "Certification" means the affixing on any map or by adding to any document comprising all or any portion of a comprehensive plan a record of the dates of action thereon by the commission and by the board, together with the signatures of the officer or officers authorized by ordinance to so sign.

(4) "Commission" means a county or regional planning commission.

(5) "Commissioners" means members of a county or regional planning commission.

(6) "Comprehensive plan" means the policies and proposals approved and recommended by the planning agency or initiated by the board and approved by motion by the board (a) as a beginning step in planning for the physical development of the county; (b) as the means for

coordinating county programs and services; (c) as a source of reference to aid in developing, correlating, and coordinating official regulations and controls; and (d) as a means for promoting the general welfare. Such plan shall consist of the required elements set forth in RCW 36.70.330 and may also include the optional elements set forth in RCW 36.70.350 which shall serve as a policy guide for the subsequent public and private development and official controls so as to present all proposed developments in a balanced and orderly relationship to existing physical features and governmental functions.

(7) "Conditional use" means a use listed among those classified in any given zone but permitted to locate only after review by the board of adjustment, or zoning adjustor if there be such, and the granting of a conditional use permit imposing such performance standards as will make the use compatible with other permitted uses in the same vicinity and zone and assure against imposing excessive demands upon public utilities, provided the county ordinances specify the standards and criteria that shall be applied.

(8) "Department" means a planning department organized and functioning as any other department in any county.

(9) "Element" means one of the various categories of subjects, each of which constitutes a component part of the comprehensive plan.

(10) "Ex officio member" means a member of the commission who serves by virtue of his official position as head of a department specified in the ordinance creating the commission.

(11) "Official controls" means legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of a county or any part thereof or any detail thereof, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision control, platting, and adoption of detailed maps.

(12) "Ordinance" means a legislative enactment by a board; in this chapter the word, "ordinance", is synonymous with the term "resolution", as representing a legislative enactment by a board of county commissioners.

(13) "Planning agency" means (a) a planning commission, together with its staff members, employees and consultants, or (b) a department organized and functioning as any other department in any county government together with its planning commission.

(14) "Variance." A variance is the means by which an adjustment is made in the application of the specific regulations of a zoning ordinance to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and which adjustment remedies disparity in privileges.

[1963 c 4 § 36.70.020. Prior: 1959 c 201 § 2.]

RCW 36.70.025 "Solar energy system" defined.

As used in this chapter, "solar energy system" means any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not

limited to any substance or device which collects sunlight for use in:

- (1) The heating or cooling of a structure or building;
- (2) The heating or pumping of water;
- (3) Industrial, commercial, or agricultural processes; or
- (4) The generation of electricity.

A solar energy system may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of a roof of a building or structure and serving as a window or wall.

[1979 ex.s. c 170 § 9.]

Notes:

Severability--1979 ex.s. c 170: See note following RCW 64.04.140.

Local governments authorized to encourage and protect solar energy systems: RCW 64.04.140.

RCW 36.70.030 Commission--Creation.

By ordinance a board may create a planning commission and provide for the appointment by the commission of a director of planning.

[1963 c 4 § 36.70.030. Prior: 1959 c 201 § 3.]

RCW 36.70.040 Department--Creation--Creation of commission to assist department.

By ordinance a board may, as an alternative to and in lieu of the creation of a planning commission as provided in RCW 36.70.030, create a planning department which shall be organized and function as any other department of the county. When such department is created, the board shall also create a planning commission which shall assist the planning department in carrying out its duties, including assistance in the preparation and execution of the comprehensive plan and recommendations to the department for the adoption of official controls and/or amendments thereto. To this end, the planning commission shall conduct such hearings as are required by this chapter and shall make findings and conclusions therefrom which shall be transmitted to the department which shall transmit the same on to the board with such comments and recommendations it deems necessary.

[1963 c 4 § 36.70.040. Prior: 1959 c 201 § 4.]

RCW 36.70.050 Authority for planning.

Upon the creation of a planning agency as authorized in RCW 36.70.030 and 36.70.040, a county may engage in a planning program as defined by this chapter. Two or more counties may jointly engage in a planning program as defined herein for their combined areas.

[1963 c 4 § 36.70.050. Prior: 1959 c 201 § 5.]

RCW 36.70.060 Regional planning commission--Appointment and powers.

A county or a city may join with one or more other counties, cities and towns, and/or with one or more school districts, public utility districts, private utilities, housing authorities, port districts, or any other private or public organizations interested in regional planning to form and organize a regional planning commission and provide for the administration of its affairs. Such regional planning commission may carry on a planning program involving the same subjects and procedures provided by this chapter for planning by counties, provided this authority shall not include enacting official controls other than by the individual participating municipal corporations. The authority to initiate a regional planning program, define the boundaries of the regional planning district, specify the number, method of appointment and terms of office of members of the regional planning commission and provide for allocating the cost of financing the work shall be vested individually in the governing bodies of the participating municipal corporations.

Any regional planning commission or municipal corporation participating in any regional planning district is authorized to receive grants-in-aid from, or enter into reasonable agreement with any department or agency of the government of the United States or of the state of Washington to arrange for the receipt of federal funds and state funds for planning in the interests of furthering the planning program.

[1963 c 4 § 36.70.060. Prior: 1961 c 232 § 1; 1959 c 201 § 6.]

Notes:

Commission as employer for retirement system purposes: RCW 41.40.010.

RCW 36.70.070 Commission--Composition.

Whenever a commission is created by a county, it shall consist of five, seven, or nine members as may be provided by ordinance: PROVIDED, That where a commission, on June 10, 1959, is operating with more than nine members, no further appointments shall be made to fill vacancies for whatever cause until the membership of the commission is reduced to five, seven or nine, whichever is the number specified by the county ordinance under this chapter. Departments of a county may be represented on the commission by the head of such departments as are designated in the ordinance creating the commission, who shall serve in an ex officio capacity, but such ex officio members shall not exceed one of a five-member commission, two of a seven-member commission, or three of a nine-member commission. At no time shall there be more than three ex officio members serving on a commission: PROVIDED FURTHER, That in lieu of one ex officio member, only, one employee of the county other than a department head may be appointed to serve as a member of the commission.

[1963 c 4 § 36.70.070. Prior: 1959 c 201 § 7.]

RCW 36.70.080 Commission--Appointment--County.

The members of a commission shall be appointed by the chairman of the board with the

approval of a majority of the board: PROVIDED, That each member of the board shall submit to the chairman a list of nominees residing in his commissioner district, and the chairman shall make his appointments from such lists so that as nearly as mathematically possible, each commissioner district shall be equally represented on the commission.

[1963 c 4 § 36.70.080. Prior: 1959 c 201 § 8.]

RCW 36.70.090 Commission--Membership--Terms--Existing commissions.

When a commission is created after June 10, 1959, the first terms of the members of the commission consisting of five, seven, and nine members, respectively, other than ex officio members, shall be as follows:

(1) For a five-member commission--one, shall be appointed for one year; one, for two years; one, for three years; and two, for four years.

(2) For a seven-member commission--one, shall be appointed for one year; two, for two years; two, for three years; and two, for four years.

(3) For a nine-member commission--two, shall be appointed for one year; two, for two years; two, for three years; and three, for four years.

Thereafter, the successors to the first member shall be appointed for four year terms: PROVIDED, That where the commission includes one ex officio member, the number of appointive members first appointed for a four year term shall be reduced by one; if there are to be two ex officio members, the number of appointive members for the three year and four year terms shall each be reduced by one; if there are to be three ex officio members, the number of appointive members for the four year term, the three year term, and the two year term shall each be reduced by one. The term of an ex officio member shall correspond to his official tenure: PROVIDED FURTHER, That where a commission, on the effective date of this chapter, is operating with members appointed for longer than four year terms, such members shall serve out the full term for which they were appointed, but their successors, if any, shall be appointed for four year terms.

[1963 c 4 § 36.70.090. Prior: 1959 c 201 § 9.]

RCW 36.70.100 Commission--Vacancies.

Vacancies occurring for any reason other than the expiration of the term shall be filled by appointment for the unexpired portion of the term except if, on June 10, 1959, the unexpired portion of a term is for more than four years the vacancy shall be filled for a period of time that will obtain the maximum staggered terms, but shall not exceed four years. Vacancies shall be filled from the same commissioner district as that of the vacating member.

[1963 c 4 § 36.70.100. Prior: 1959 c 201 § 10.]

RCW 36.70.110 Commission--Removal.

After public hearing, any appointee member of a commission may be removed by the chairman of the board, with the approval of the board, for inefficiency, neglect of duty, or malfeasance in office.

[1963 c 4 § 36.70.110. Prior: 1959 c 201 § 11.]

RCW 36.70.120 Commission--Officers.

Each commission shall elect its chairman and vice chairman from among the appointed members. The commission shall appoint a secretary who need not be a member of the commission.

[1963 c 4 § 36.70.120. Prior: 1959 c 201 § 12.]

RCW 36.70.130 Planning agency--Meetings.

Each planning agency shall hold not less than one regular meeting in each month: PROVIDED, That if no matters over which the planning agency has jurisdiction are pending upon its calendar, a meeting may be canceled.

[1963 c 4 § 36.70.130. Prior: 1959 c 201 § 13.]

RCW 36.70.140 Planning agency--Rules and records.

Each planning agency shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings, and determinations.

[1963 c 4 § 36.70.140. Prior: 1959 c 201 § 14.]

RCW 36.70.150 Planning agency--Joint meetings.

Two or more county planning agencies in any combination may hold joint meetings and by approval of their respective boards may have the same chairman.

[1963 c 4 § 36.70.150. Prior: 1959 c 201 § 15.]

RCW 36.70.160 Director--Appointment.

If a director of planning is provided for, he shall be appointed:

- (1) By the commission when a commission is created under RCW 36.70.030;
- (2) If a planning department is established as provided in RCW 36.70.040, then he shall be appointed by the board.

[1963 c 4 § 36.70.160. Prior: 1959 c 201 § 16.]

RCW 36.70.170 Director--Employees.

The director of planning shall be authorized to appoint such employees as are necessary to perform the duties assigned to him within the budget allowed.

[1963 c 4 § 36.70.170. Prior: 1959 c 201 § 17.]

RCW 36.70.180 Joint director.

The boards of two or more counties or the legislative bodies of other political subdivisions or special districts may jointly engage a single director of planning and may authorize him to employ such other personnel as may be necessary to carry out the joint planning program.

[1963 c 4 § 36.70.180. Prior: 1959 c 201 § 18.]

RCW 36.70.190 Special services.

Each planning agency, subject to the approval of the board, may employ or contract with the planning consultants or other specialists for such services as it requires.

[1963 c 4 § 36.70.190. Prior: 1959 c 201 § 19.]

RCW 36.70.200 Board of adjustment--Creation--Zoning adjustor.

Whenever a board shall have created a planning agency, it shall also by ordinance, coincident with the enactment of a zoning ordinance, create a board of adjustment, and may establish the office of zoning adjustor: PROVIDED, That any county that has prior to June 10, 1959, enacted a zoning ordinance, shall, within ninety days thereof, create a board of adjustment.

[1963 c 4 § 36.70.200. Prior: 1959 c 201 § 20.]

RCW 36.70.210 Board of adjustment--Membership--Quorum.

A board of adjustment shall consist of five or seven members as may be provided by ordinance, and a majority of the members shall constitute a quorum for the transaction of all business.

[1965 ex.s. c 24 § 1; 1963 c 4 § 36.70.210. Prior: 1959 c 201 § 21.]

RCW 36.70.220 Board of adjustment--Appointment--Appointment of zoning adjustor.

The members of a board of adjustment and the zoning adjustor shall be appointed in the same manner as provided for the appointment of commissioners in RCW 36.70.080. One member of the board of adjustment may be an appointee member of the commission.

[1963 c 4 § 36.70.220. Prior: 1959 c 201 § 22.]

RCW 36.70.230 Board of adjustment--Terms.

If the board of adjustment is to consist of three members, when it is first appointed after June 10, 1959, the first terms shall be as follows: One shall be appointed for one year; one, for two years; and one, for three years. If it consists of five members, when it is first appointed after June 10, 1959, the first terms shall be as follows: One shall be appointed for one year; one, for two years; one, for three years; one, for four years; and one, for six years. Thereafter the terms shall be for six years and until their successors are appointed and qualified.

[1963 c 4 § 36.70.230. Prior: 1959 c 201 § 23.]

RCW 36.70.240 Board of adjustment--Vacancies.

Vacancies in the board of adjustment shall be filled by appointment in the same manner in which the commissioners are appointed in RCW 36.70.080. Appointment shall be for the unexpired portion of the term.

[1963 c 4 § 36.70.240. Prior: 1959 c 201 § 24.]

RCW 36.70.250 Board of adjustment--Removal.

Any member of the board of adjustment may be removed by the chairman of the board with the approval of the board for inefficiency, neglect of duty or malfeasance in office.

[1963 c 4 § 36.70.250. Prior: 1959 c 201 § 25.]

RCW 36.70.260 Board of adjustment--Organization.

The board of adjustment shall elect a chairman and vice chairman from among its members. The board of adjustment shall appoint a secretary who need not be a member of the board.

[1963 c 4 § 36.70.260. Prior: 1959 c 201 § 26.]

RCW 36.70.270 Board of adjustment--Meetings.

The board of adjustment shall hold not less than one regular meeting in each month of each year: PROVIDED, That if no issues over which the board has jurisdiction are pending upon its calendar, a meeting may be canceled.

[1963 c 4 § 36.70.270. Prior: 1959 c 201 § 27.]

RCW 36.70.280 Board of adjustment--Rules and records.

The board of adjustment shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations.

[1963 c 4 § 36.70.280. Prior: 1959 c 201 § 28.]

RCW 36.70.290 Appropriation for planning agency, board of adjustment.

The board shall provide the funds, equipment and accommodations necessary for the work of the planning agency. Such appropriations may include funds for joint ventures as set forth in RCW 36.70.180. The expenditures of the planning agency, exclusive of gifts, shall be within the amounts appropriated for the respective purposes. The provisions herein for financing the work of the planning agencies shall also apply to the board of adjustment and the zoning adjustor.

[1963 c 4 § 36.70.290. Prior: 1959 c 201 § 29.]

RCW 36.70.300 Accept gifts.

The planning agency of a county may accept gifts in behalf of the county to finance any planning work authorized by law.

[1963 c 4 § 36.70.300. Prior: 1959 c 201 § 30.]

RCW 36.70.310 Conference and travel expenses--Commission members and staff.

Members of planning agencies shall inform themselves on matter affecting the functions and duties of planning agencies. For that purpose, and when authorized, such members may attend planning conferences, meetings of planning executives or of technical bodies; hearings on planning legislation or matters relating to the work of the planning agency. The reasonable travel expenses, registration fees and other costs incident to such attendance at such meetings and conferences shall be charges upon the funds allocated to the planning agency. In addition, members of a commission may also receive reasonable travel expenses to and from their usual place of business to the place of a regular meeting of the commission. The planning agency may, when authorized, pay dues for membership in organizations specializing in the subject of planning. The planning agency may, when authorized, subscribe to technical publications pertaining to planning.

[1963 c 4 § 36.70.310. Prior: 1959 c 201 § 31.]

RCW 36.70.315 Public notice--Identification of affected property.

Any notice made under chapter 36.70 RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means.

[1988 c 168 § 11.]

RCW 36.70.317 Statement of restrictions applicable to real property.

(1) A property owner may make a written request for a statement of restrictions applicable to a single parcel, tract, lot, or block of real property located in an unincorporated portion of a county to the county in which the real property is located.

(2) Within thirty days of the receipt of the request, the county shall provide the owner, by registered mail, with a statement of restrictions as described in subsection (3) of this section.

(3) The statement of restrictions shall include the following:

(a) The zoning currently applicable to the real property;

(b) Pending zoning changes currently advertised for public hearing that would be applicable to the real property;

(c) Any designations made by the county pursuant to chapter 36.70A RCW of any portion of the real property as agricultural land, forest land, mineral resource land, wetland, an area with a critical recharging effect on aquifers used for potable water, a fish and wildlife habitat conservation area, a frequently flooded area, and as a geological hazardous area; and

(d) If information regarding the designations listed in (c) of this subsection are not readily available, inform the owner of the procedure by which the owner can obtain that site-specific information from the county.

(4) If a county fails to provide the statement of restrictions within thirty days after receipt of the written request, the owner shall be awarded recovery of all attorneys' fees and costs incurred in any successful application for a writ of mandamus to compel production of a statement.

(5) For purposes of this section:

(a) "Owner" means any vested owner or any person holding the buyer's interest under a recorded real estate contract in which the seller is the vested owner; and

(b) "Real property" means a parcel, tract, lot or block: (i) Containing a single-family residence that is occupied by the owner or a member of his or her family, or rented to another by the owner; or (ii) five acres or less in size.

(6) This section does not affect the vesting of permits or development rights.

Nothing in this section shall be deemed to create any liability on the part of a county.

[1996 c 206 § 8.]

Notes:

Effective date--1996 c 206 §§ 6-8: See note following RCW 35.21.475.

Findings--1996 c 206: See note following RCW 43.05.030.

RCW 36.70.320 Comprehensive plan.

Each planning agency shall prepare a comprehensive plan for the orderly physical development of the county, or any portion thereof, and may include any land outside its boundaries which, in the judgment of the planning agency, relates to planning for the county. The plan shall be referred to as the comprehensive plan, and, after hearings by the commission and approval by motion of the board, shall be certified as the comprehensive plan. Amendments or additions to the comprehensive plan shall be similarly processed and certified.

Any comprehensive plan adopted for a portion of a county shall not be deemed invalid on the ground that the remainder of the county is not yet covered by a comprehensive plan. *This 1973 amendatory act shall also apply to comprehensive plans adopted for portions of a county prior to April 24, 1973.

[1973 1st ex.s. c 172 § 1; 1963 c 4 § 36.70.320. Prior: 1959 c 201 § 32.]

Notes:

***Reviser's note:** "This 1973 amendatory act" refers to 1973 1st ex.s. c 172 § 1.

RCW 36.70.330 Comprehensive plan--Required elements.

The comprehensive plan shall consist of a map or maps, and descriptive text covering objectives, principles and standards used to develop it, and shall include each of the following elements:

(1) A land use element which designates the proposed general distribution and general location and extent of the uses of land for agriculture, housing, commerce, industry, recreation, education, public buildings and lands, and other categories of public and private use of land, including a statement of the standards of population density and building intensity recommended for the various areas in the jurisdiction and estimates of future population growth in the area covered by the comprehensive plan, all correlated with the land use element of the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of ground water used for public water supplies and shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound;

(2) A circulation element consisting of the general location, alignment and extent of major thoroughfares, major transportation routes, trunk utility lines, and major terminal facilities, all of which shall be correlated with the land use element of the comprehensive plan;

(3) Any supporting maps, diagrams, charts, descriptive material and reports necessary to explain and supplement the above elements.

[1985 c 126 § 3; 1984 c 253 § 3; 1963 c 4 § 36.70.330. Prior: 1959 c 201 § 33.]

RCW 36.70.340 Comprehensive plan--Amplification of required elements.

When the comprehensive plan containing the mandatory subjects as set forth in RCW 36.70.330 shall have been approved by motion by the board and certified, it may thereafter be progressively amplified and augmented in scope by expanding and increasing the general provisions and proposals for all or any one of the required elements set forth in RCW 36.70.330 and by adding provisions and proposals for the optional elements set forth in RCW 36.70.350. The comprehensive plan may also be amplified and augmented in scope by progressively including more completely planned areas consisting of natural homogeneous communities, distinctive geographic areas, or other types of districts having unified interests within the total area of the county. In no case shall the comprehensive plan, whether in its entirety or area by

area or subject by subject be considered to be other than in such form as to serve as a guide to the later development and adoption of official controls.

[1963 c 4 § 36.70.340. Prior: 1959 c 201 § 34.]

RCW 36.70.350 Comprehensive plan--Optional elements.

A comprehensive plan may include--

(1) a conservation element for the conservation, development and utilization of natural resources, including water and its hydraulic force, forests, water sheds, soils, rivers and other waters, harbors, fisheries, wild life, minerals and other natural resources,

(2) a solar energy element for encouragement and protection of access to direct sunlight for solar energy systems,

(3) a recreation element showing a comprehensive system of areas and public sites for recreation, natural reservations, parks, parkways, beaches, playgrounds and other recreational areas, including their locations and proposed development,

(4) a transportation element showing a comprehensive system of transportation, including general locations of rights of way, terminals, viaducts and grade separations. This element of the plan may also include port, harbor, aviation and related facilities,

(5) a transit element as a special phase of transportation, showing proposed systems of rail transit lines, including rapid transit in any form, and related facilities,

(6) a public services and facilities element showing general plans for sewerage, refuse disposal, drainage and local utilities, and rights of way, easements and facilities for such services,

(7) a public buildings element, showing general locations, design and arrangements of civic and community centers, and showing locations of public schools, libraries, police and fire stations and all other public buildings,

(8) a housing element, consisting of surveys and reports upon housing conditions and needs as a means of establishing housing standards to be used as a guide in dealings with official controls related to land subdivision, zoning, traffic, and other related matters,

(9) a renewal and/or redevelopment element comprising surveys, locations, and reports for the elimination of slums and other blighted areas and for community renewal and/or redevelopment, including housing sites, business and industrial sites, public building sites and for other purposes authorized by law,

(10) a plan for financing a capital improvement program,

(11) as a part of a comprehensive plan the commission may prepare, receive and approve additional elements and studies dealing with other subjects which, in its judgment, relate to the physical development of the county.

[1979 ex.s. c 170 § 10; 1963 c 4 § 36.70.350. Prior: 1959 c 201 § 35.]

Notes:

Severability--1979 ex.s. c 170: See note following RCW 64.04.140.
"Solar energy system" defined: RCW 36.70.025.

RCW 36.70.360 Comprehensive plan--Cooperation with affected agencies.

During the formulation of the comprehensive plan, and especially in developing a specialized element of such comprehensive plan, the planning agency may cooperate to the extent it deems necessary with such authorities, departments or agencies as may have jurisdiction over the territory or facilities for which plans are being made, to the end that maximum correlation and coordination of plans may be secured and properly located sites for all public purposes may be indicated on the comprehensive plan.

[1963 c 4 § 36.70.360. Prior: 1959 c 201 § 36.]

RCW 36.70.370 Comprehensive plan--Filing of copies.

Whenever a planning agency has developed a comprehensive plan, or any addition or amendment thereto, covering any land outside of the boundaries of the county as provided in RCW 36.70.320, copies of any features of the comprehensive plan extending into an adjoining jurisdiction shall for purposes of information be filed with such adjoining jurisdiction.

[1963 c 4 § 36.70.370. Prior: 1959 c 201 § 37.]

RCW 36.70.380 Comprehensive plan--Public hearing required.

Before approving all or any part of the comprehensive plan or any amendment, extension or addition thereto, the commission shall hold at least one public hearing and may hold additional hearings at the discretion of the commission.

[1963 c 4 § 36.70.380. Prior: 1959 c 201 § 38.]

RCW 36.70.390 Comprehensive plan--Notice of hearing.

Notice of the time, place and purpose of any public hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county, at least ten days before the hearing.

[1963 c 4 § 36.70.390. Prior: 1959 c 201 § 39.]

RCW 36.70.400 Comprehensive plan--Approval--Required vote--Record.

The approval of the comprehensive plan, or of any amendment, extension or addition thereto, shall be by the affirmative vote of not less than a majority of the total members of the commission. Such approval shall be by a recorded motion which shall incorporate the findings of fact of the commission and the reasons for its action and the motion shall refer expressly to the maps, descriptive, and other matters intended by the commission to constitute the plan or amendment, addition or extension thereto. The indication of approval by the commission shall be recorded on the map and descriptive matter by the signatures of the chairman and the secretary

of the commission and of such others as the commission in its rules may designate.

[1963 c 4 § 36.70.400. Prior: 1961 c 232 § 2; 1959 c 201 § 40.]

RCW 36.70.410 Comprehensive plan--Amendment.

When changed conditions or further studies by the planning agency indicate a need, the commission may amend, extend or add to all or part of the comprehensive plan in the manner provided herein for approval in the first instance.

[1963 c 4 § 36.70.410. Prior: 1959 c 201 § 41.]

RCW 36.70.420 Comprehensive plan--Referral to board.

A copy of a comprehensive plan or any part, amendment, extension of or addition thereto, together with the motion of the planning agency approving the same, shall be transmitted to the board for the purpose of being approved by motion and certified as provided in this chapter.

[1963 c 4 § 36.70.420. Prior: 1959 c 201 § 42.]

RCW 36.70.430 Comprehensive plan--Board may initiate or change--Notice.

When it deems it to be for the public interest, or when it considers a change in the recommendations of the planning agency to be necessary, the board may initiate consideration of a comprehensive plan, or any element or part thereof, or any change in or addition to such plan or recommendation. The board shall first refer the proposed plan, change or addition to the planning agency for a report and recommendation. Before making a report and recommendation, the commission shall hold at least one public hearing on the proposed plan, change or addition. Notice of the time and place and purpose of the hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county, at least ten days before the hearing.

[1963 c 4 § 36.70.430. Prior: 1959 c 201 § 43.]

RCW 36.70.440 Comprehensive plan--Board may approve or change--Notice.

After the receipt of the report and recommendations of the planning agency on the matters referred to in RCW 36.70.430, or after the lapse of the prescribed time for the rendering of such report and recommendation by the commission, the board may approve by motion and certify such plan, change or addition without further reference to the commission: PROVIDED, That the plan, change or addition conforms either to the proposal as initiated by the county or the recommendation thereon by the commission: PROVIDED FURTHER, That if the planning agency has failed to report within a ninety day period, the board shall hold at least one public hearing on the proposed plan, change or addition. Notice of the time, place and purpose of the

hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county, at least ten days before the hearing. Thereafter, the board may proceed to approve by motion and certify the proposed comprehensive plan or any part, amendment or addition thereto.

[1963 c 4 § 36.70.440. Prior: 1959 c 201 § 44.]

RCW 36.70.450 Planning agency--Relating projects to comprehensive plan.

After a board has approved by motion and certified all or parts of a comprehensive plan for a county or for any part of a county, the planning agency shall use such plan as the basic source of reference and as a guide in reporting upon or recommending any proposed project, public or private, as to its purpose, location, form, alignment and timing. The report of the planning agency on any project shall indicate wherein the proposed project does or does not conform to the purpose of the comprehensive plan and may include proposals which, if effected, would make the project conform. If the planning agency finds that a proposed project reveals the justification or necessity for amending the comprehensive plan or any part of it, it may institute proceedings to accomplish such amendment, and in its report to the board on the project shall note that appropriate amendments to the comprehensive plan, or part thereof, are being initiated.

[1963 c 4 § 36.70.450. Prior: 1959 c 201 § 45.]

RCW 36.70.460 Planning agency--Annual report.

After all or part of the comprehensive plan of a county has been approved by motion and certified, the planning agency shall render an annual report to the board on the status of the plan and accomplishments thereunder.

[1963 c 4 § 36.70.460. Prior: 1959 c 201 § 46.]

RCW 36.70.470 Planning agency--Promotion of public interest in plan.

Each planning agency shall endeavor to promote public interest in, and understanding of, the comprehensive plan and its purpose, and of the official controls related to it.

[1963 c 4 § 36.70.470. Prior: 1959 c 201 § 47.]

RCW 36.70.480 Planning agency--Cooperation with agencies.

Each planning agency shall, to the extent it deems necessary, cooperate with officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens generally with relation to carrying out the purpose of the comprehensive plan.

[1963 c 4 § 36.70.480. Prior: 1959 c 201 § 48.]

RCW 36.70.490 Information to be furnished agency.

Upon request, all public officials or agencies shall furnish to the planning agency within a reasonable time such available information as is required for the work of the planning agency.

[1963 c 4 § 36.70.490. Prior: 1959 c 201 § 49.]

RCW 36.70.495 Planning regulations--Copies provided to county assessor.

By July 31, 1997, a county planning under RCW 36.70A.040 shall provide to the county assessor a copy of the county's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

[1996 c 254 § 5.]

RCW 36.70.500 Right of entry--Commission or planning staff.

In the performance of their functions and duties, duly authorized members of a commission or planning staff may enter upon any land and make examinations and surveys: PROVIDED, That such entries, examinations and surveys do not damage or interfere with the use of the land by those persons lawfully entitled to the possession thereof.

[1963 c 4 § 36.70.500. Prior: 1959 c 201 § 50.]

RCW 36.70.510 Special referred matters--Reports.

By general or special rule the board creating a planning agency may provide that other matters shall be referred to the planning agency before final action is taken thereupon by the board or officer having final authority on the matter, and final action thereon shall not be taken upon the matter so referred until the planning agency has submitted its report within such period of time as the board shall designate. In reporting upon the matters referred to in this section the planning agency may make such investigations, maps, reports and recommendations as it deems desirable.

[1963 c 4 § 36.70.510. Prior: 1959 c 201 § 51.]

RCW 36.70.520 Required submission of capital expenditure projects.

At least five months before the end of each fiscal year each county officer, department, board or commission and each governmental body whose jurisdiction lies entirely within the county, except incorporated cities and towns, whose functions include preparing and recommending plans for, or constructing major public works, shall submit to the respective planning agency a list of the proposed public works being recommended for initiation or construction during the ensuing fiscal year.

[1963 c 4 § 36.70.520. Prior: 1959 c 201 § 52.]

RCW 36.70.530 Relating capital expenditure projects to comprehensive plan.

The planning agency shall list all such matters referred to in RCW 36.70.520 and shall prepare for and submit a report to the board which report shall set forth how each proposed project relates to all other proposed projects on the list and to all features in the comprehensive plan both as to location and timing. The planning agency shall report to the board through the planning director if there be such.

[1963 c 4 § 36.70.530. Prior: 1959 c 201 § 53.]

RCW 36.70.540 Referral procedure--Reports.

Whenever a county legislative authority has approved by motion and certified all or part of a comprehensive plan, no road, square, park or other public ground or open space shall be acquired by dedication or otherwise and no public building or structure shall be constructed or authorized to be constructed in the area to which the comprehensive plan applies until its location, purpose and extent has been submitted to and reported upon by the planning agency. The report by the planning agency shall set forth the manner and the degree to which the proposed project does or does not conform to the objectives of the comprehensive plan. If final authority is vested by law in some governmental officer or body other than the county legislative authority, such officer or governmental body shall report the project to the planning agency and the planning agency shall render its report to such officer or governmental body. In both cases the report of the planning agency shall be advisory only. Failure of the planning agency to report on such matter so referred to it within forty days or such longer time as the county legislative authority or other governmental officer or body may indicate, shall be deemed to be approval.

[1991 c 363 § 80; 1963 c 4 § 36.70.540. Prior: 1959 c 201 § 54.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.70.545 Development regulations--Consistency with comprehensive plan.

Beginning July 1, 1992, the development regulations of each county that does not plan under RCW 36.70A.040 shall not be inconsistent with the county's comprehensive plan. For the purposes of this section, "development regulations" has the same meaning as set forth in RCW 36.70A.030.

[1990 1st ex.s. c 17 § 24.]

Notes:

Severability--Part, section headings not law--1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

RCW 36.70.547 General aviation airports--Siting of incompatible uses.

Every county, city, and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall, through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent to such general aviation airport. Such plans and regulations may only be adopted or amended after formal consultation with: Airport owners and managers, private airport operators, general aviation pilots, ports, and the aviation division of the department of transportation. All proposed and adopted plans and regulations shall be filed with the aviation division of the department of transportation within a reasonable time after release for public consideration and comment. Each county, city, and town may obtain technical assistance from the aviation division of the department of transportation to develop plans and regulations consistent with this section.

Any additions or amendments to comprehensive plans or development regulations required by this section may be adopted during the normal course of land-use proceedings.

This section applies to every county, city, and town, whether operating under chapter 35.63, 35A.63, 36.70, [or] 36.70A RCW, or under a charter.

[1996 c 239 § 2.]

RCW 36.70.550 Official controls.

From time to time, the planning agency may, or if so requested by the board shall, cause to be prepared official controls which, when adopted by ordinance by the board, will further the objectives and goals of the comprehensive plan. The planning agency may also draft such regulations, programs and legislation as may, in its judgment, be required to preserve the integrity of the comprehensive plan and assure its systematic execution, and the planning agency may recommend such plans, regulations, programs and legislation to the board for adoption.

[1963 c 4 § 36.70.550. Prior: 1959 c 201 § 55.]

RCW 36.70.560 Official controls--Forms of controls.

Official controls may include:

(1) Maps showing the exact boundaries of zones within each of which separate controls over the type and degree of permissible land uses are defined;

(2) Maps for streets showing the exact alignment, gradients, dimensions and other pertinent features, and including specific controls with reference to protecting such accurately defined future rights of way against encroachment by buildings, other physical structures or facilities;

(3) Maps for other public facilities, such as parks, playgrounds, civic centers, etc., showing exact location, size, boundaries and other related features, including appropriate regulations protecting such future sites against encroachment by buildings and other physical structures or facilities;

(4) Specific regulations and controls pertaining to other subjects incorporated in the comprehensive plan or establishing standards and procedures to be employed in land development including, but not limited to, subdividing of land and the approval of land plats and the preservation of streets and lands for other public purposes requiring future dedication or acquisition and general design of physical improvements, and the encouragement and protection of access to direct sunlight for solar energy systems.

[1979 ex.s. c 170 § 11; 1963 c 4 § 36.70.560. Prior: 1959 c 201 § 56.]

Notes:

Severability--1979 ex.s. c 170: See note following RCW 64.04.140.
"Solar energy system" defined: RCW 36.70.025.

RCW 36.70.570 Official controls--Adoption.

Official controls shall be adopted by ordinance and shall further the purpose and objectives of a comprehensive plan and parts thereof.

[1963 c 4 § 36.70.570. Prior: 1959 c 201 § 57.]

RCW 36.70.580 Official controls--Public hearing by commission.

Before recommending an official control or amendment to the board for adoption, the commission shall hold at least one public hearing.

[1963 c 4 § 36.70.580. Prior: 1959 c 201 § 58.]

RCW 36.70.590 Official controls--Notice of hearing.

Notice of the time, place and purpose of the hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county at least ten days before the hearing. The board may prescribe additional methods for providing notice.

[1963 c 4 § 36.70.590. Prior: 1959 c 201 § 59.]

RCW 36.70.600 Official controls--Recommendation to board--Required vote.

The recommendation to the board of any official control or amendments thereto by the planning agency shall be by the affirmative vote of not less than a majority of the total members of the commission. Such approval shall be by a recorded motion which shall incorporate the findings of fact of the commission and the reasons for its action and the motion shall refer expressly to the maps, descriptive and other matters intended by the commission to constitute the plan, or amendment, addition or extension thereto. The indication of approval by the commission shall be recorded on the map and descriptive matter by the signatures of the chairman and the secretary of the commission and of such others as the commission in its rules may designate.

[1963 c 4 § 36.70.600. Prior: 1961 c 232 § 3; 1959 c 201 § 60.]

RCW 36.70.610 Official controls--Reference to board.

A copy of any official control or amendment recommended pursuant to RCW 36.70.550, 36.70.560, 36.70.570 and 36.70.580 shall be submitted to the board not later than fourteen days following the action by the commission and shall be accompanied by the motion of the planning agency approving the same, together with a statement setting forth the factors considered at the hearing, and analysis of findings considered by the commission to be controlling.

[1963 c 4 § 36.70.610. Prior: 1961 c 232 § 4; 1959 c 201 § 61.]

RCW 36.70.620 Official controls--Action by board.

Upon receipt of any recommended official control or amendment thereto, the board shall at its next regular public meeting set the date for a public meeting where it may, by ordinance, adopt or reject the official control or amendment.

[1963 c 4 § 36.70.620. Prior: 1959 c 201 § 62.]

RCW 36.70.630 Official controls--Board to conduct hearing, adopt findings prior to incorporating changes in recommended control.

If after considering the matter at a public meeting as provided in RCW 36.70.620 the board deems a change in the recommendations of the planning agency to be necessary, the change shall not be incorporated in the recommended control until the board shall conduct its own public hearing, giving notice thereof as provided in RCW 36.70.590, and it shall adopt its own findings of fact and statement setting forth the factors considered at the hearing and its own analysis of findings considered by it to be controlling.

[1963 c 4 § 36.70.630. Prior: 1961 c 232 § 5; 1959 c 201 § 63.]

RCW 36.70.640 Official controls--Board may initiate.

When it deems it to be for the public interest, the board may initiate consideration of an ordinance establishing an official control, or amendments to an existing official control, including those specified in RCW 36.70.560. The board shall first refer the proposed official control or amendment to the planning agency for report which shall, thereafter, be considered and processed in the same manner as that set forth in RCW 36.70.630 regarding a change in the recommendation of the planning agency.

[1963 c 4 § 36.70.640. Prior: 1959 c 201 § 64.]

RCW 36.70.650 Board final authority.

The report and recommendation by the planning agency, whether on a proposed control initiated by it, whether on a matter referred back to it by the board for further report, or whether on a matter initiated by the board, shall be advisory only and the final determination shall rest with the board.

[1963 c 4 § 36.70.650. Prior: 1959 c 201 § 65.]

RCW 36.70.660 Procedures for adoption of controls limited to planning matters.

The provisions of this chapter with references to the procedures to be followed in the adoption of official controls shall apply only to establishing official controls pertaining to subjects set forth in RCW 36.70.560.

[1963 c 4 § 36.70.660. Prior: 1959 c 201 § 66.]

RCW 36.70.670 Enforcement--Official controls.

The board may determine and establish administrative rules and procedures for the application and enforcement of official controls, and may assign or delegate such administrative functions, powers and duties to such department or official as may be appropriate.

[1963 c 4 § 36.70.670. Prior: 1959 c 201 § 67.]

RCW 36.70.675 Child care facilities--Review of need and demand--Adoption of ordinances.

Each county that does not provide for the siting of family day care homes in zones that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones that are designated for any residential or commercial uses, shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 335 § 6.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings--Purpose--Severability--1989 c 335: See notes following RCW 35.63.170.

Definitions for RCW 36.70.675: See RCW 35.63.170.

RCW 36.70.677 Accessory apartments.

Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3).

[1993 c 478 § 10.]

RCW 36.70.678 Conditional and special use permit applications by parties licensed or certified by the department of social and health services or the department of corrections--Mediation prior to appeal required.

A final decision by a hearing examiner involving a conditional or special use permit application under this chapter that is requested by a party that is licensed or certified by the department of social and health services or the department of corrections is subject to mediation under RCW 35.63.260 before an appeal may be filed.

[1998 c 119 § 3.]

RCW 36.70.680 Subdividing and platting.

The planning agency shall review all proposed land plats and subdivisions and make recommendations to the board thereon with reference to approving, or recommending any modifications necessary to assure conformance to the general purposes of the comprehensive plan and to standards and specifications established by state law or local controls.

[1963 c 4 § 36.70.680. Prior: 1959 c 201 § 68.]

RCW 36.70.690 County improvements.

No county shall improve any street or lay or authorize the laying of sewers or connections or other improvements to be laid in any street within any territory for which the board has adopted an official control in the form of precise street map or maps, until the matter has been referred to the planning agency by the department or official having jurisdiction for a report thereon and a copy of the report has been filed with the department or official making the reference unless one of the following conditions apply:

(1) The street has been accepted, opened, or has otherwise received legal status of a public street;

(2) It corresponds with and conforms to streets shown on the official controls applicable to the subject;

(3) It corresponds with and conforms to streets shown on a subdivision (land plat) approved by the board.

[1963 c 4 § 36.70.690. Prior: 1959 c 201 § 69.]

RCW 36.70.700 Planning agency--Time limit for report.

Failure of the planning agency to report on the matters referred to in RCW 36.70.690 within forty days after the reference, or such longer period as may be designated by the board, department or official making the reference, shall be deemed to be approval of such matter.

[1963 c 4 § 36.70.700. Prior: 1959 c 201 § 70.]

RCW 36.70.710 Final authority.

Reports and recommendations by the planning agency on all matters shall be advisory only, and final determination shall rest with the administrative body, official, or the board whichever has authority to decide under applicable law.

[1963 c 4 § 36.70.710. Prior: 1959 c 201 § 71.]

RCW 36.70.720 Prerequisite for zoning.

Zoning maps as an official control may be adopted only for areas covered by a comprehensive plan containing not less than a land use element and a circulation element. Zoning ordinances and maps adopted prior to June 10, 1959, are hereby validated, provided only that at the time of their enactment the comprehensive plan for the county existed according to law applicable at that time.

[1963 c 4 § 36.70.720. Prior: 1959 c 201 § 72.]

RCW 36.70.730 Text without map.

The text of a zoning ordinance may be prepared and adopted in the absence of a comprehensive plan providing no zoning map or portion of a zoning map may be adopted thereunder until there has been compliance with the provisions of RCW 36.70.720.

[1963 c 4 § 36.70.730. Prior: 1959 c 201 § 73.]

RCW 36.70.740 Zoning map--Progressive adoption.

Because of practical considerations, the total area of a county to be brought under the control of zoning may be divided into areas possessing geographical, topographical or urban identity and such divisions may be progressively and separately officially mapped.

[1963 c 4 § 36.70.740. Prior: 1959 c 201 § 74.]

RCW 36.70.750 Zoning--Types of regulations.

Any board, by ordinance, may establish classifications, within each of which, specific controls are identified, and which will:

- (1) Regulate the use of buildings, structures, and land as between agriculture, industry,

business, residence, and other purposes;

(2) Regulate location, height, bulk, number of stories and size of buildings and structures; the size of yards, courts, and other open spaces; the density of population; the percentage of a lot which may be occupied by buildings and structures; and the area required to provide off-street facilities for the parking of motor vehicles.

[1963 c 4 § 36.70.750. Prior: 1959 c 201 § 75.]

RCW 36.70.755 Residential care facilities--Review of need and demand--Adoption of ordinances.

Each county that does not provide for the siting of residential care facilities in zones that are designated for single family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 427 § 38.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability--1989 c 427: See RCW 74.39.900.

RCW 36.70.760 Establishing zones.

For the purpose set forth in RCW 36.70.750 the county may divide a county, or portions thereof, into zones which, by number, shape, area and classification are deemed to be best suited to carry out the purposes of this chapter.

[1963 c 4 § 36.70.760. Prior: 1959 c 201 § 76.]

RCW 36.70.770 All regulations shall be uniform in each zone.

All regulations shall be uniform in each zone, but the regulations in one zone may differ from those in other zones.

[1963 c 4 § 36.70.770. Prior: 1959 c 201 § 77.]

RCW 36.70.780 Classifying unmapped areas.

After the adoption of the first map provided for in RCW 36.70.740, and pending the time that all property within a county can be precisely zoned through the medium of a zoning map, all properties not so precisely zoned by map shall be given a classification affording said properties such broad protective controls as may be deemed appropriate and necessary to serve public and private interests. Such controls shall be clearly set forth in the zoning ordinance in the form of a zone classification, and such classification shall apply to such areas until they shall have been included in the detailed zoning map in the manner provided for the adoption of a zoning map.

[1963 c 4 § 36.70.780. Prior: 1959 c 201 § 78.]

RCW 36.70.790 Interim zoning.

If the planning agency in good faith, is conducting or intends to conduct studies within a reasonable time for the purpose of, or is holding a hearing for the purpose of, or has held a hearing and has recommended to the board the adoption of any zoning map or amendment or addition thereto, or in the event that new territory for which no zoning may have been adopted as set forth in RCW 36.70.800 may be annexed to a county, the board, in order to protect the public safety, health and general welfare may, after report from the commission, adopt as an emergency measure a temporary interim zoning map the purpose of which shall be to so classify or regulate uses and related matters as constitute the emergency.

[1963 c 4 § 36.70.790. Prior: 1959 c 201 § 79.]

RCW 36.70.795 Moratoria, interim zoning controls--Public hearing--Limitation on length.

A board that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the board received a recommendation on the matter from the commission or department. If the board does not adopt findings of fact justifying its action before this hearing, then the board shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

[1992 c 207 § 4.]

RCW 36.70.800 Procedural amendments--Zoning ordinance.

An amendment to the text of a zoning ordinance which does not impose, remove or modify any regulation theretofore existing and affecting the zoning status of land shall be processed in the same manner prescribed by this chapter for the adoption of an official control except that no public hearing shall be required either by the commission or the board.

[1963 c 4 § 36.70.800. Prior: 1959 c 201 § 80.]

RCW 36.70.810 Board of adjustment--Authority.

The board of adjustment, subject to appropriate conditions and safeguards as provided by the zoning ordinance or the ordinance establishing the board of adjustment, if there be such, shall hear and decide:

(1) Applications for conditional uses or other permits when the zoning ordinance sets forth the specific uses to be made subject to conditional use permits and establishes criteria for determining the conditions to be imposed;

(2) Application for variances from the terms of the zoning ordinance: PROVIDED, That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated, and that the following circumstances are found to apply;

(a) because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zone classification;

(b) that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated.

(3) Appeals, where it is alleged by the applicant that there is error in any order, requirement, permit, decision, or determination made by an administrative official in the administration or enforcement of this chapter or any ordinance adopted pursuant to it.

[1963 c 4 § 36.70.810. Prior: 1959 c 201 § 81.]

RCW 36.70.820 Board of adjustment--Quasi judicial powers.

The board of adjustment may also exercise such other quasi judicial powers as may be granted by county ordinance.

[1963 c 4 § 36.70.820. Prior: 1959 c 201 § 82.]

RCW 36.70.830 Board of adjustment--Appeals--Time limit.

Appeals may be taken to the board of adjustment by any person aggrieved, or by any

officer, department, board or bureau of the county affected by any decision of an administrative official. Such appeals shall be filed in writing in duplicate with the board of adjustment within twenty days of the date of the action being appealed.

[1963 c 4 § 36.70.830. Prior: 1959 c 201 § 83.]

RCW 36.70.840 Board of adjustment--Notice of time and place of hearing on conditional permit.

Upon the filing of an application for a conditional use permit or a variance as set forth in RCW 36.70.810, the board of adjustment shall set the time and place for a public hearing on such matter, and written notice thereof shall be addressed through the United States mail to all property owners of record within a radius of three hundred feet of the exterior boundaries of subject property. The written notice shall be mailed not less than twelve days prior to the hearing.

[1963 c 4 § 36.70.840. Prior: 1959 c 201 § 84.]

RCW 36.70.850 Board of adjustment--Appeal--Notice of time and place.

Upon the filing of an appeal from an administrative determination, or from the action of the zoning adjustor, the board of adjustment shall set the time and place at which the matter will be considered. At least a ten day notice of such time and place together with one copy of the written appeal, shall be given to the official whose decision is being appealed. At least ten days notice of the time and place shall also be given to the adverse parties of record in the case. The officer from whom the appeal is being taken shall forthwith transmit to the board of adjustment all of the records pertaining to the decision being appealed from, together with such additional written report as he deems pertinent.

[1963 c 4 § 36.70.850. Prior: 1959 c 201 § 85.]

RCW 36.70.860 Board of adjustment--Scope of authority on appeal.

In exercising the powers granted by RCW 36.70.810 and 36.70.820, the board of adjustment may, in conformity with this chapter, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned.

[1963 c 4 § 36.70.860. Prior: 1959 c 201 § 86.]

RCW 36.70.870 Zoning adjustor--Powers and duties.

If the office of zoning adjustor is established as provided in this chapter, all of the

provisions of this chapter defining the powers, duties, and procedures of the board of adjustment shall also apply to the zoning adjustor.

[1963 c 4 § 36.70.870. Prior: 1959 c 201 § 87.]

RCW 36.70.880 Zoning adjustor--Action final unless appealed.

The action by the zoning adjustor on all matters coming before him shall be final and conclusive unless within ten days after the zoning adjustor has made his order, requirement, decision or determination, an appeal in writing is filed with the board of adjustment. Such an appeal may be taken by the original applicant, or by opponents of record in the case.

[1963 c 4 § 36.70.880. Prior: 1959 c 201 § 88.]

RCW 36.70.890 Board of adjustment--Action final--Writs.

The action by the board of adjustment on an application for a conditional use permit or a variance, or on an appeal from the decision of the zoning adjustor or an administrative officer shall be final and conclusive unless within ten days from the date of said action the original applicant or an adverse party makes application to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition or a writ of mandamus.

[1963 c 4 § 36.70.890. Prior: 1959 c 201 § 89.]

RCW 36.70.900 Inclusion of findings of fact.

Both the board of adjustment and the zoning adjustor shall, in making an order, requirement, decision or determination, include in a written record of the case the findings of fact upon which the action is based.

[1963 c 4 § 36.70.900. Prior: 1959 c 201 § 90.]

RCW 36.70.910 Short title.

This chapter shall be known as the "Planning Enabling Act of the State of Washington".

[1963 c 4 § 36.70.910. Prior: 1959 c 201 § 91.]

RCW 36.70.920 Duties and responsibilities imposed by other acts.

Any duties and responsibilities which by other acts are imposed upon a planning commission shall, after June 10, 1959, be performed by a planning agency however constituted.

[1963 c 4 § 36.70.920. Prior: 1959 c 201 § 92.]

RCW 36.70.930 Chapter alternative method.

This chapter shall not repeal, amend, or modify any other law providing for planning methods but shall be deemed an alternative method providing for such purpose.

[1963 c 4 § 36.70.930. Prior: 1959 c 201 § 93.]

RCW 36.70.940 Elective adoption.

Any county or counties presently operating under the provisions of chapter 35.63 RCW may elect to operate henceforth under the provisions of this chapter. Such election shall be effected by the adoption of an ordinance under the procedure prescribed by RCW 36.32.120(7), and by compliance with the provisions of this chapter.

[1963 c 4 § 36.70.940. Prior: 1959 c 201 § 94.]

RCW 36.70.970 Hearing examiner system--Adoption authorized--Alternative--Functions--Procedures.

(1) As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and issue recommendations on applications for plat approval and applications for amendments to the zoning ordinance, the county legislative authority may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and issue decisions on proposals for plat approval and for amendments to the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative authority may vest in a hearing examiner the power to hear and decide those issues it believes should be reviewed and decided by a hearing examiner, including but not limited to:

- (a) Applications for conditional uses, variances, shoreline permits, or any other class of applications for or pertaining to development of land or land use;
- (b) Appeals of administrative decisions or determinations; and
- (c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legislative authority shall prescribe procedures to be followed by a hearing examiner.

Any county which vests in a hearing examiner the authority to hear and decide conditional uses and variances shall not be required to have a zoning adjuster or board of adjustment.

(2) Each county legislative authority electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. Such legal effect may vary for the different classes of applications decided by the examiner but shall include one of the following:

- (a) The decision may be given the effect of a recommendation to the legislative authority;
- (b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative authority; or
- (c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative authority.

(3) Each final decision of a hearing examiner shall be in writing and shall include

findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the county's comprehensive plan and the county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

[1995 c 347 § 425; 1994 c 257 § 9; 1977 ex.s. c 213 § 3.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Severability--1994 c 257: See note following RCW 36.70A.270.

Severability--1977 ex.s. c 213: See note following RCW 35.63.130.

RCW 36.70.980 Conformance with chapter 43.97 RCW required.

With respect to the National Scenic Area, as defined in the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the exercise of any power or authority by a county or city pursuant to this chapter shall be subject to and in conformity with the requirements of chapter 43.97 RCW, including the Interstate Compact adopted by RCW 43.97.015, and with the management plan regulations and ordinances adopted by the Columbia River Gorge commission pursuant to the Compact.

[1987 c 499 § 9.]

RCW 36.70.982 Fish enhancement projects--County's liability.

A county is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of *RCW 75.20.350 and has been permitted by the department of fish and wildlife.

[1998 c 249 § 8.]

Notes:

***Reviser's note:** RCW 75.20.350 was recodified as RCW 77.55.290 pursuant to 2000 c 107 § 129.

Findings--Purpose--Report--Effective date--1998 c 249: See notes following RCW 77.55.290.

RCW 36.70.990 Treatment of residential structures occupied by persons with handicaps.

No county may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602).

[1993 c 478 § 22.]

RCW 36.70.992 Watershed restoration projects--Permit processing--Fish habitat enhancement project.

A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of *RCW 75.20.350(1) shall be reviewed and approved according to the provisions of *RCW 75.20.350.

[1998 c 249 § 7; 1995 c 378 § 10.]

Notes:

***Reviser's note:** RCW 75.20.350 was recodified as RCW 77.55.290 pursuant to 2000 c 107 § 129.
Findings--Purpose--Report--Effective date--1998 c 249: See notes following RCW 77.55.290.

**Chapter 36.70A RCW
GROWTH MANAGEMENT--PLANNING BY SELECTED COUNTIES AND CITIES**

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- 36.70A.420 Transportation projects--Findings--Intent.
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- 36.70A.450 Family day-care provider's home facility--City may not prohibit in residential or commercial area.
- 36.70A.460 Watershed restoration projects--Permit processing--Fish habitat enhancement project.
- 36.70A.470 Project review--Amendment suggestion procedure--Definitions.
- 36.70A.480 Shorelines of the state.
- 36.70A.481 Construction--Chapter 347, Laws of 1995.
- 36.70A.490 Growth management planning and environmental review fund--Established.
- 36.70A.500 Growth management planning and environmental review fund--Awarding of grants--Procedures.
- 36.70A.510 General aviation airports.
- 36.70A.520 National historic towns--Designation.
- 36.70A.800 Role of growth strategies commission.
- 36.70A.900 Severability--1990 1st ex.s. c 17.
- 36.70A.901 Part, section headings not law--1990 1st ex.s. c 17.
- 36.70A.902 Section headings not law--1991 sp.s. c 32.

Notes:

Building permits--Evidence of adequate water supply required: RCW 19.27.097.

Expediting completion of industrial projects of state-wide significance--Planning requirements: RCW 43.157.020.

Impact fees: RCW 82.02.050 through 82.02.100.

Population forecasts: RCW 43.62.035.

Regional transportation planning: Chapter 47.80 RCW.

Subdivision and short subdivision requirements: RCW 58.17.060, 58.17.110.

RCW 36.70A.010 Legislative findings.

The legislature finds that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning. Further, the legislature finds that it is in the public interest that economic development programs be shared with communities experiencing insufficient economic growth.

[1990 1st ex.s. c 17 § 1.]

RCW 36.70A.020 Planning goals.

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be

processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

[1990 1st ex.s. c 17 § 2.]

RCW 36.70A.030 Definitions.

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by *RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

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

(7) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical

areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(8) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under *RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

(15) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(16) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(17) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(18) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(19) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(20) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

[1997 c 429 § 3; 1995 c 382 § 9. Prior: 1994 c 307 § 2; 1994 c 257 § 5; 1990 1st ex.s. c 17 § 3.]

NOTES:

***Reviser's note:** RCW 84.33.100 through 84.33.120 were repealed or decodified by 2001 c 249 §§ 15 and 16.

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

Finding--Intent--1994 c 307: "The legislature finds that it is in the public interest to identify and provide long-term conservation of those productive natural resource lands that are critical to and can be managed economically and practically for long-term commercial production of food, fiber, and minerals. Successful achievement of the natural resource industries' goal set forth in RCW 36.70A.020 requires the conservation of a land base sufficient in size and quality to maintain and enhance those industries and the development and use of land use techniques that discourage uses incompatible to the management of designated lands. The 1994 amendment to RCW 36.70A.030(8) (section 2(8), chapter 307, Laws of 1994) is intended to clarify legislative intent regarding the designation of forest lands and is not intended to require every county that has already complied with the interim forest land designation requirement of RCW 36.70A.170 to review its actions until the adoption of its comprehensive plans and development regulations as provided in RCW 36.70A.060(3)." [1994 c 307 § 1.]

Effective date--1994 c 257 § 5: "Section 5 of this act shall take effect July 1, 1994." [1994 c 257 § 25.]

Severability--1994 c 257: See note following RCW 36.70A.270.

RCW 36.70A.035 Public participation--Notice provisions.

(1) The public participation requirements of this chapter shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations of proposed amendments to comprehensive plans and development regulation. Examples of reasonable notice provisions include:

- (a) Posting the property for site-specific proposals;
- (b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;
- (c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- (d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and
- (e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

(2)(a) Except as otherwise provided in (b) of this subsection, if the legislative body for a county or city chooses to consider a change to an amendment to a comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the county's or city's procedures, an opportunity for review and comment on the proposed change shall be provided before the local legislative body votes on the proposed change.

(b) An additional opportunity for public review and comment is not required under (a) of this subsection if:

- (i) An environmental impact statement has been prepared under chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;
- (ii) The proposed change is within the scope of the alternatives available for public

comment;

(iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;

(iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or

(v) The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

(3) This section is prospective in effect and does not apply to a comprehensive plan, development regulation, or amendment adopted before July 27, 1997.

[1999 c 315 § 708; 1997 c 429 § 9.]

Notes:

Part headings and captions not law--1999 c 315: See RCW 28A.315.901.

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 36.70A.040 Who must plan--Summary of requirements--Development regulations must implement comprehensive plans.

(1) Each county that has both a population of fifty thousand or more and, until May 16, 1995, has had its population increase by more than ten percent in the previous ten years or, on or after May 16, 1995, has had its population increase by more than seventeen percent in the previous ten years, and the cities located within such county, and any other county regardless of its population that has had its population increase by more than twenty percent in the previous ten years, and the cities located within such county, shall conform with all of the requirements of this chapter. However, the county legislative authority of such a county with a population of less than fifty thousand population may adopt a resolution removing the county, and the cities located within the county, from the requirements of adopting comprehensive land use plans and development regulations under this chapter if this resolution is adopted and filed with the department by December 31, 1990, for counties initially meeting this set of criteria, or within sixty days of the date the office of financial management certifies that a county meets this set of criteria under subsection (5) of this section. For the purposes of this subsection, a county not currently planning under this chapter is not required to include in its population count those persons confined in a correctional facility under the jurisdiction of the department of corrections that is located in the county.

Once a county meets either of these sets of criteria, the requirement to conform with all of the requirements of this chapter remains in effect, even if the county no longer meets one of these sets of criteria.

(2) The county legislative authority of any county that does not meet either of the sets of criteria established under subsection (1) of this section may adopt a resolution indicating its intention to have subsection (1) of this section apply to the county. Each city, located in a county that chooses to plan under this subsection, shall conform with all of the requirements of this

chapter. Once such a resolution has been adopted, the county and the cities located within the county remain subject to all of the requirements of this chapter.

(3) Any county or city that is initially required to conform with all of the requirements of this chapter under subsection (1) of this section shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall designate critical areas, agricultural lands, forest lands, and mineral resource lands, and adopt development regulations conserving these designated agricultural lands, forest lands, and mineral resource lands and protecting these designated critical areas, under RCW 36.70A.170 and 36.70A.060; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan on or before July 1, 1994, and if the county has a population of less than fifty thousand, the county and each city located within the county shall adopt a comprehensive plan under this chapter and development regulations that are consistent with and implement the comprehensive plan by January 1, 1995, but if the governor makes written findings that a county with a population of less than fifty thousand or a city located within such a county is not making reasonable progress toward adopting a comprehensive plan and development regulations the governor may reduce this deadline for such actions to be taken by no more than one hundred eighty days. Any county or city subject to this subsection may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(4) Any county or city that is required to conform with all the requirements of this chapter, as a result of the county legislative authority adopting its resolution of intention under subsection (2) of this section, shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city that is located within the county shall adopt development regulations conserving agricultural lands, forest lands, and mineral resource lands it designated under RCW 36.70A.060 within one year of the date the county legislative authority adopts its resolution of intention; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan not later than four years from the date the county legislative authority adopts its resolution of intention, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(5) If the office of financial management certifies that the population of a county that previously had not been required to plan under subsection (1) or (2) of this section has changed sufficiently to meet either of the sets of criteria specified under subsection (1) of this section, and

where applicable, the county legislative authority has not adopted a resolution removing the county from these requirements as provided in subsection (1) of this section, the county and each city within such county shall take actions under this chapter as follows: (a) The county legislative authority shall adopt a county-wide planning policy under RCW 36.70A.210; (b) the county and each city located within the county shall adopt development regulations under RCW 36.70A.060 conserving agricultural lands, forest lands, and mineral resource lands it designated within one year of the certification by the office of financial management; (c) the county shall designate and take other actions related to urban growth areas under RCW 36.70A.110; and (d) the county and each city located within the county shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan within four years of the certification by the office of financial management, but a county or city may obtain an additional six months before it is required to have adopted its development regulations by submitting a letter notifying the department of community, trade, and economic development of its need prior to the deadline for adopting both a comprehensive plan and development regulations.

(6) A copy of each document that is required under this section shall be submitted to the department at the time of its adoption.

(7) Cities and counties planning under this chapter must amend the transportation element of the comprehensive plan to be in compliance with this chapter and chapter 47.80 RCW no later than December 31, 2000.

[2000 c 36 § 1; 1998 c 171 § 1; 1995 c 400 § 1; 1993 sp.s. c 6 § 1; 1990 1st ex.s. c 17 § 4.]

Notes:

Effective date--1995 c 400: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 16, 1995]." [1995 c 400 § 6.]

Effective date--1993 sp.s. c 6: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1993." [1993 sp.s. c 6 § 7.]

RCW 36.70A.045 Phasing of comprehensive plan submittal.

The department may adopt a schedule to permit phasing of comprehensive plan submittal for counties and cities planning under RCW 36.70A.040. This schedule shall not permit a comprehensive plan to be submitted greater than one hundred eighty days past the date that the plan was required to be submitted and shall be used to facilitate expeditious review and interjurisdictional coordination of comprehensive plans and development regulations.

[1991 sp.s. c 32 § 15.]

RCW 36.70A.050 Guidelines to classify agriculture, forest, and mineral lands and critical areas.

(1) Subject to the definitions provided in RCW 36.70A.030, the department shall adopt guidelines, under chapter 34.05 RCW, no later than September 1, 1990, to guide the

classification of: (a) Agricultural lands; (b) forest lands; (c) mineral resource lands; and (d) critical areas. The department shall consult with the department of agriculture regarding guidelines for agricultural lands, the department of natural resources regarding forest lands and mineral resource lands, and the department of ecology regarding critical areas.

(2) In carrying out its duties under this section, the department shall consult with interested parties, including but not limited to: (a) Representatives of cities; (b) representatives of counties; (c) representatives of developers; (d) representatives of builders; (e) representatives of owners of agricultural lands, forest lands, and mining lands; (f) representatives of local economic development officials; (g) representatives of environmental organizations; (h) representatives of special districts; (i) representatives of the governor's office and federal and state agencies; and (j) representatives of Indian tribes. In addition to the consultation required under this subsection, the department shall conduct public hearings in the various regions of the state. The department shall consider the public input obtained at such public hearings when adopting the guidelines.

(3) The guidelines under subsection (1) of this section shall be minimum guidelines that apply to all jurisdictions, but also shall allow for regional differences that exist in Washington state. The intent of these guidelines is to assist counties and cities in designating the classification of agricultural lands, forest lands, mineral resource lands, and critical areas under RCW 36.70A.170.

(4) The guidelines established by the department under this section regarding classification of forest lands shall not be inconsistent with guidelines adopted by the department of natural resources.

[1990 1st ex.s. c 17 § 5.]

RCW 36.70A.060 Natural resource lands and critical areas--Development regulations.

(1) Each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.040. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities,

including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.

(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to insure consistency.

(4) Forest land and agricultural land located within urban growth areas shall not be designated by a county or city as forest land or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights.

[1998 c 286 § 5; 1991 sp.s. c 32 § 21; 1990 1st ex.s. c 17 § 6.]

RCW 36.70A.070 Comprehensive plans--Mandatory elements.

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing,

housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. In order to achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- (i) Containing or otherwise controlling rural development;
- (ii) Assuring visual compatibility of rural development with the surrounding rural area;
- (iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;
- (iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources; and
- (v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural

element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments. A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but shall not be subject to the requirements of (c)(ii) and (iii) of this subsection. An industrial area is not required to be principally designed to serve the existing and projected rural population;

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this

chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdiction boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's six-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of state-wide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the state-wide multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be

coordinated with the six-year improvement program developed by the department of transportation as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

(c) The transportation element described in this subsection (6), and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, RCW 35.58.2795 for public transportation systems, and RCW 47.05.030 for the state, must be consistent.

[1998 c 171 § 2; 1997 c 429 § 7; 1996 c 239 § 1. Prior: 1995 c 400 § 3; 1995 c 377 § 1; 1990 1st ex.s. c 17 § 7.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

Construction--Application--1995 c 400: "A comprehensive plan adopted or amended before May 16, 1995, shall be considered to be in compliance with RCW 36.70A.070 or 36.70A.110, as in effect before their amendment by this act, if the comprehensive plan is in compliance with RCW 36.70A.070 and 36.70A.110 as amended by this act. This section shall not be construed to alter the relationship between a county-wide planning policy and comprehensive plans as specified under RCW 36.70A.210.

As to any appeal relating to compliance with RCW 36.70A.070 or 36.70A.110 pending before a growth management hearings board on May 16, 1995, the board may take up to an additional ninety days to resolve such appeal. By mutual agreement of all parties to the appeal, this additional ninety-day period may be extended." [1995 c 400 § 4.]

Effective date--1995 c 400: See note following RCW 36.70A.040.

RCW 36.70A.080 Comprehensive plans--Optional elements.

(1) A comprehensive plan may include additional elements, items, or studies dealing with other subjects relating to the physical development within its jurisdiction, including, but not limited to:

(a) Conservation;

- (b) Solar energy; and
- (c) Recreation.

(2) A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.

[1990 1st ex.s. c 17 § 8.]

RCW 36.70A.090 Comprehensive plans--Innovative techniques.

A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights.

[1990 1st ex.s. c 17 § 9.]

RCW 36.70A.100 Comprehensive plans--Must be coordinated.

The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues.

[1990 1st ex.s. c 17 § 10.]

RCW 36.70A.103 State agencies required to comply with comprehensive plans.

State agencies shall comply with the local comprehensive plans and development regulations and amendments thereto adopted pursuant to this chapter except as otherwise provided in RCW 71.09.250 (1) through (3) and 72.09.333.

The provisions of chapter 12, Laws of 2001 2nd sp. sess. do not affect the state's authority to site any other essential public facility under RCW 36.70A.200 in conformance with local comprehensive plans and development regulations adopted pursuant to chapter 36.70A RCW.

[2001 2nd sp.s. c 12 § 203; 1991 sp.s. c 32 § 4.]

NOTES:

Intent--Severability--Effective dates--2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

RCW 36.70A.106 Comprehensive plans--Development regulations--Transmittal to state.

(1) Each county and city proposing adoption of a comprehensive plan or development regulations under this chapter shall notify the department of its intent to adopt such plan or regulations at least sixty days prior to final adoption. State agencies including the department may provide comments to the county or city on the proposed comprehensive plan, or proposed development regulations, during the public review process prior to adoption.

(2) Each county and city planning under this chapter shall transmit a complete and

accurate copy of its comprehensive plan or development regulations to the department within ten days after final adoption.

(3) Any amendments for permanent changes to a comprehensive plan or development regulation that are proposed by a county or city to its adopted plan or regulations shall be submitted to the department in the same manner as initial plans and development regulations under this section. Any amendments to a comprehensive plan or development regulations that are adopted by a county or city shall be transmitted to the department in the same manner as the initial plans and regulations under this section.

[1991 sp.s. c 32 § 8.]

RCW 36.70A.110 Comprehensive plans--Urban growth areas.

(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth

that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

(4) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

(5) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110. Such action may be appealed to the appropriate growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

(6) Each county shall include designations of urban growth areas in its comprehensive plan.

[1997 c 429 § 24; 1995 c 400 § 2; 1994 c 249 § 27; 1993 sp.s. c 6 § 2; 1991 sp.s. c 32 § 29; 1990 1st ex.s. c 17 § 11.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

Construction--Application--1995 c 400: See note following RCW 36.70A.070.

Effective date--1995 c 400: See note following RCW 36.70A.040.

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

Effective date--1993 sp.s. c 6: See note following RCW 36.70A.040.

RCW 36.70A.120 Planning activities and capital budget decisions--Implementation in conformity with comprehensive plan.

Each county and city that is required or chooses to plan under RCW 36.70A.040 shall perform its activities and make capital budget decisions in conformity with its comprehensive plan.

[1993 sp.s. c 6 § 3; 1990 1st ex.s. c 17 § 12.]

Notes:

Effective date--1993 sp.s. c 6: See note following RCW 36.70A.040.

RCW 36.70A.130 Comprehensive plans--Review--Amendments.

(1) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Not later than September 1, 2002, and at least every five years thereafter, a county or city shall take action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure that the plan and regulations are complying with the requirements of this chapter. The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section.

Any amendment or revision to a comprehensive land use plan shall conform to this chapter, and any change to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program identifying procedures whereby proposed amendments or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year except that amendments may be considered more frequently under the following circumstances:

(i) The initial adoption of a subarea plan;

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW; and

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

[1997 c 429 § 10; 1995 c 347 § 106; 1990 1st ex.s. c 17 § 13.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 36.70A.130(2) does not apply to master planned locations in industrial land banks: RCW 36.70A.367(4).

RCW 36.70A.131 Mineral resource lands--Review of related designations and development regulations.

As part of the review required by RCW 36.70A.130(1), a county or city shall review its mineral resource lands designations adopted pursuant to RCW 36.70A.170 and mineral resource lands development regulations adopted pursuant to RCW 36.70A.040 and 36.70A.060. In its review, the county or city shall take into consideration:

(1) New information made available since the adoption or last review of its designations or development regulations, including data available from the department of natural resources relating to mineral resource deposits; and

(2) New or modified model development regulations for mineral resource lands prepared by the department of natural resources, the department of community, trade, and economic development, or the Washington state association of counties.

[1998 c 286 § 7.]

RCW 36.70A.140 Comprehensive plans--Ensure public participation.

Each county and city that is required or chooses to plan under RCW 36.70A.040 shall establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. In enacting legislation in response to the board's decision pursuant to RCW 36.70A.300 declaring part or all of a comprehensive plan or development regulation invalid, the county or city shall provide for public participation that is appropriate and effective under the circumstances presented by the board's order. Errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.

[1995 c 347 § 107; 1990 1st ex.s. c 17 § 14.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 36.70A.150 Identification of lands useful for public purposes.

Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify lands useful for public purposes such as utility corridors, transportation corridors, landfills, sewage treatment facilities, storm water management facilities, recreation, schools, and other public uses. The county shall work with the state and the cities within its borders to identify areas of shared need for public facilities. The jurisdictions within the county shall prepare a prioritized list of lands necessary for the identified public uses including an estimated date by which the acquisition will be needed.

The respective capital acquisition budgets for each jurisdiction shall reflect the jointly agreed upon priorities and time schedule.

[1991 c 322 § 23; 1990 1st ex.s. c 17 § 15.]

Notes:

Findings--Intent--1991 c 322: See notes following RCW 86.12.200.

RCW 36.70A.160 Identification of open space corridors--Purchase authorized.

Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify open space corridors within and between urban growth areas. They shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030. Identification of a corridor under this section by a county or city shall not restrict the use or management of lands within the corridor for agricultural or forest purposes. Restrictions on the use or management of such lands for agricultural or forest purposes imposed after identification solely to maintain or enhance the value of such lands as a corridor may occur only if the county or city acquires sufficient interest to prevent development of the lands or to control the resource development of the lands. The requirement for acquisition of sufficient interest does not include those corridors regulated by the interstate commerce commission, under provisions of 16 U.S.C. Sec. 1247(d), 16 U.S.C. Sec. 1248, or 43 U.S.C. Sec. 912. Nothing in this section shall be interpreted to alter the authority of the state, or a county or city, to regulate land use activities.

The city or county may acquire by donation or purchase the fee simple or lesser interests in these open space corridors using funds authorized by RCW 84.34.230 or other sources.

[1992 c 227 § 1; 1990 1st ex.s. c 17 § 16.]

RCW 36.70A.165 Property designated as greenbelt or open space--Not subject to adverse possession.

The legislature recognizes that the preservation of urban greenbelts is an integral part of comprehensive growth management in Washington. The legislature further recognizes that certain greenbelts are subject to adverse possession action which, if carried out, threaten the comprehensive nature of this chapter. Therefore, a party shall not acquire by adverse possession property that is designated as a plat greenbelt or open space area or that is dedicated as open space to a public agency or to a bona fide homeowner's association.

[1997 c 429 § 41.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 36.70A.170 Natural resource lands and critical areas--Designations.

(1) On or before September 1, 1991, each county, and each city, shall designate where appropriate:

(a) Agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products;

(b) Forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber;

(c) Mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals; and

(d) Critical areas.

(2) In making the designations required by this section, counties and cities shall consider the guidelines established pursuant to RCW 36.70A.050.

[1990 1st ex.s. c 17 § 17.]

RCW 36.70A.172 Critical areas--Designation and protection--Best available science to be used.

(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, a growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW 36.70A.290 that involves critical areas.

[1995 c 347 § 105.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 36.70A.175 Wetlands to be delineated in accordance with manual.

Wetlands regulated under development regulations adopted pursuant to this chapter shall be delineated in accordance with the manual adopted by the department pursuant to RCW 90.58.380.

[1995 c 382 § 12.]

RCW 36.70A.177 Agricultural lands--Innovative zoning techniques.

(1) A county or a city may use a variety of innovative zoning techniques in areas designated as agricultural lands of long-term commercial significance under RCW 36.70A.170. The innovative zoning techniques should be designed to conserve agricultural lands and encourage the agricultural economy. A county or city should encourage nonagricultural uses to be limited to lands with poor soils or otherwise not suitable for agricultural purposes.

(2) Innovative zoning techniques a county or city may consider include, but are not limited to:

(a) Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land;

(b) Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;

(c) Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;

(d) Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land; and

(e) Sliding scale zoning, which allows the number of lots for single-family residential purposes with a minimum lot size of one acre to increase inversely as the size of the total acreage increases.

[1997 c 429 § 23.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 36.70A.180 Report on planning progress.

(1) It is the intent of the legislature that counties and cities required to adopt a comprehensive plan under RCW 36.70A.040(1) begin implementing this chapter on or before July 1, 1990, including but not limited to: (a) Inventorying, designating, and conserving agricultural, forest, and mineral resource lands, and critical areas; and (b) considering the modification or adoption of comprehensive land use plans and development regulations implementing the comprehensive land use plans. It is also the intent of the legislature that funds be made available to counties and cities beginning July 1, 1990, to assist them in meeting the requirements of this chapter.

(2) Each county and city that adopts a plan under RCW 36.70A.040 (1) or (2) shall report to the department annually for a period of five years, beginning on January 1, 1991, and each five years thereafter, on the progress made by that county or city in implementing this chapter.

[1990 1st ex.s. c 17 § 19.]

RCW 36.70A.190 Technical assistance, procedural criteria, grants, and mediation

services.

(1) The department shall establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state.

(2) The department shall develop a priority list and establish funding levels for planning and technical assistance grants both for counties and cities that plan under RCW 36.70A.040. Priority for assistance shall be based on a county's or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, and other relevant factors.

(3) The department shall develop and administer a grant program to provide direct financial assistance to counties and cities for the preparation of comprehensive plans under this chapter. The department may establish provisions for county and city matching funds to conduct activities under this subsection. Grants may be expended for any purpose directly related to the preparation of a county or city comprehensive plan as the county or city and the department may agree, including, without limitation, the conducting of surveys, inventories and other data gathering and management activities, the retention of planning consultants, contracts with regional councils for planning and related services, and other related purposes.

(4) The department shall establish a program of technical assistance:

(a) Utilizing department staff, the staff of other state agencies, and the technical resources of counties and cities to help in the development of comprehensive plans required under this chapter. The technical assistance may include, but not be limited to, model land use ordinances, regional education and training programs, and information for local and regional inventories; and

(b) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter.

(5) The department shall provide mediation services to resolve disputes between counties and cities regarding, among other things, coordination of regional issues and designation of urban growth areas.

(6) The department shall provide planning grants to enhance citizen participation under RCW 36.70A.140.

[1991 sp.s. c 32 § 3; 1990 1st ex.s. c 17 § 20.]

RCW 36.70A.200 Siting of essential public facilities.

(1) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than the deadline specified in RCW 36.70A.130, establish a process, or amend its existing process, for identifying and siting essential public facilities, and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than the deadline specified in RCW 36.70A.130, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

[2001 2nd sp.s. c 12 § 205; 1998 c 171 § 3; 1991 sp.s. c 32 § 1.]

NOTES:

Intent--Severability--Effective dates--2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

RCW 36.70A.210 County-wide planning policies.

(1) The legislature recognizes that counties are regional governments within their boundaries, and cities are primary providers of urban governmental services within urban growth areas. For the purposes of this section, a "county-wide planning policy" is a written policy statement or statements used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land-use powers of cities.

(2) The legislative authority of a county that plans under RCW 36.70A.040 shall adopt a county-wide planning policy in cooperation with the cities located in whole or in part within the county as follows:

(a) No later than sixty calendar days from July 16, 1991, the legislative authority of each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040 shall convene a meeting with representatives of each city located within the county for the purpose of establishing a collaborative process that will provide a framework for the adoption of a county-wide planning policy. In other counties that are required or choose to plan under RCW 36.70A.040, this meeting shall be convened no later than sixty days after the date the county adopts its resolution of intention or was certified by the office of financial management.

(b) The process and framework for adoption of a county-wide planning policy specified in (a) of this subsection shall determine the manner in which the county and the cities agree to all procedures and provisions including but not limited to desired planning policies, deadlines, ratification of final agreements and demonstration thereof, and financing, if any, of all activities

associated therewith.

(c) If a county fails for any reason to convene a meeting with representatives of cities as required in (a) of this subsection, the governor may immediately impose any appropriate sanction or sanctions on the county from those specified under RCW 36.70A.340.

(d) If there is no agreement by October 1, 1991, in a county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or if there is no agreement within one hundred twenty days of the date the county adopted its resolution of intention or was certified by the office of financial management in any other county that is required or chooses to plan under RCW 36.70A.040, the governor shall first inquire of the jurisdictions as to the reason or reasons for failure to reach an agreement. If the governor deems it appropriate, the governor may immediately request the assistance of the department of community, trade, and economic development to mediate any disputes that preclude agreement. If mediation is unsuccessful in resolving all disputes that will lead to agreement, the governor may impose appropriate sanctions from those specified under RCW 36.70A.340 on the county, city, or cities for failure to reach an agreement as provided in this section. The governor shall specify the reason or reasons for the imposition of any sanction.

(e) No later than July 1, 1992, the legislative authority of each county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or no later than fourteen months after the date the county adopted its resolution of intention or was certified by the office of financial management the county legislative authority of any other county that is required or chooses to plan under RCW 36.70A.040, shall adopt a county-wide planning policy according to the process provided under this section and that is consistent with the agreement pursuant to (b) of this subsection, and after holding a public hearing or hearings on the proposed county-wide planning policy.

(3) A county-wide planning policy shall at a minimum, address the following:

(a) Policies to implement RCW 36.70A.110;

(b) Policies for promotion of contiguous and orderly development and provision of urban services to such development;

(c) Policies for siting public capital facilities of a county-wide or state-wide nature, including transportation facilities of state-wide significance as defined in RCW 47.06.140;

(d) Policies for county-wide transportation facilities and strategies;

(e) Policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution;

(f) Policies for joint county and city planning within urban growth areas;

(g) Policies for county-wide economic development and employment; and

(h) An analysis of the fiscal impact.

(4) Federal agencies and Indian tribes may participate in and cooperate with the county-wide planning policy adoption process. Adopted county-wide planning policies shall be adhered to by state agencies.

(5) Failure to adopt a county-wide planning policy that meets the requirements of this section may result in the imposition of a sanction or sanctions on a county or city within the county, as specified in RCW 36.70A.340. In imposing a sanction or sanctions, the governor shall

specify the reasons for failure to adopt a county-wide planning policy in order that any imposed sanction or sanctions are fairly and equitably related to the failure to adopt a county-wide planning policy.

(6) Cities and the governor may appeal an adopted county-wide planning policy to the growth management hearings board within sixty days of the adoption of the county-wide planning policy.

(7) Multicounty planning policies shall be adopted by two or more counties, each with a population of four hundred fifty thousand or more, with contiguous urban areas and may be adopted by other counties, according to the process established under this section or other processes agreed to among the counties and cities within the affected counties throughout the multicounty region.

[1998 c 171 § 4; 1994 c 249 § 28; 1993 sp.s. c 6 § 4; 1991 sp.s. c 32 § 2.]

Notes:

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

Effective date--1993 sp.s. c 6: See note following RCW 36.70A.040.

RCW 36.70A.215 Review and evaluation program.

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, county-wide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the county-wide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection every five years as provided in subsection (3) of this section. The first evaluation shall be completed not later than September 1, 2002. The county and its cities may establish in the county-wide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the

county-wide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the county-wide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the county-wide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the county-wide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to county-wide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the county-wide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection

(7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section.

[1997 c 429 § 25.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 36.70A.250 Growth management hearings boards.

(1) There are hereby created three growth management hearings boards for the state of Washington. The boards shall be established as follows:

(a) An Eastern Washington board with jurisdictional boundaries including all counties that are required to or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains;

(b) A Central Puget Sound board with jurisdictional boundaries including King, Pierce, Snohomish, and Kitsap counties; and

(c) A Western Washington board with jurisdictional boundaries including all counties that are required or choose to plan under RCW 36.70A.040 and are located west of the crest of the Cascade mountains and are not included in the Central Puget Sound board jurisdictional boundaries. Skamania county, should it be required or choose to plan under RCW 36.70A.040, may elect to be included within the jurisdictional boundaries of either the Western or Eastern board.

(2) Each board shall only hear matters pertaining to the cities and counties located within its jurisdictional boundaries.

[1994 c 249 § 29; 1991 sp.s. c 32 § 5.]

Notes:

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

RCW 36.70A.260 Growth management hearings boards--Qualifications.

(1) Each growth management hearings board shall consist of three members qualified by experience or training in matters pertaining to land use planning and residing within the jurisdictional boundaries of the applicable board. At least one member of each board must be admitted to practice law in this state and at least one member must have been a city or county elected official. Each board shall be appointed by the governor and not more than two members at the time of appointment or during their term shall be members of the same political party. No more than two members at the time of appointment or during their term shall reside in the same county.

(2) Each member of a board shall be appointed for a term of six years. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. The terms of the first three members of a board shall be staggered so that one member is appointed to serve until July 1, 1994, one member until July 1, 1996, and one member until July 1, 1998.

[1994 c 249 § 30; 1991 sp.s. c 32 § 6.]

Notes:

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

RCW 36.70A.270 Growth management hearings boards--Conduct, procedure, and compensation.

Each growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of a board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. If it is determined that the review boards shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that a review board shall operate on a part-time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full-time board member. The principal office of each board shall be located by the governor within the jurisdictional boundaries of each board. The boards shall operate on either a part-time or full-time basis, as determined by the governor.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of each board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may appoint one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board,

to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The boards shall specify in their joint rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners selected by a board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) Each board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the board and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the boards jointly prescribe. All three boards shall jointly meet to develop and adopt joint rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals. The boards shall publish such rules and decisions they render and arrange for the reasonable distribution of the rules and decisions. Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the boards.

(8) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The joint rules of practice of the boards shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) The members of the boards shall meet jointly on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

[1997 c 429 § 11; 1996 c 325 § 1; 1994 c 257 § 1; 1991 sp.s. c 32 § 7.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

Severability--1996 c 325: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 325 § 6.]

Effective date--1996 c 325: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1996]." [1996 c 325 § 7.]

Severability--1994 c 257: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 257 § 26.]

RCW 36.70A.280 Matters subject to board review.

(1) A growth management hearings board shall hear and determine only those petitions alleging either:

(a) That a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, a board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by a board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by a board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as a "board adjusted population projection". None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

[1996 c 325 § 2; 1995 c 347 § 108; 1994 c 249 § 31; 1991 sp.s. c 32 § 9.]

Notes:

Severability--Effective date--1996 c 325: See notes following RCW 36.70A.270.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

RCW 36.70A.290 Petitions to growth management hearings boards--Evidence.

(1) All requests for review to a growth management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board. The board shall render written decisions articulating the basis for its holdings. The board shall

not issue advisory opinions on issues not presented to the board in the statement of issues, as modified by any prehearing order.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days after publication by the legislative bodies of the county or city.

(a) Except as provided in (c) of this subsection, the date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published.

(b) Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

Except as provided in (c) of this subsection, for purposes of this section the date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(c) For local governments planning under RCW 36.70A.040, promptly after approval or disapproval of a local government's shoreline master program or amendment thereto by the department of ecology as provided in RCW 90.58.090, the local government shall publish a notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology. For purposes of this section, the date of publication for the adoption or amendment of a shoreline master program is the date the local government publishes notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology.

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, or the parties have filed an agreement to have the case heard in superior court as provided in RCW 36.70A.295, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

(4) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

(5) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations.

[1997 c 429 § 12; 1995 c 347 § 109. Prior: 1994 c 257 § 2; 1994 c 249 § 26; 1991 sp.s. c 32 § 10.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Severability--1994 c 257: See note following RCW 36.70A.270.

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

RCW 36.70A.295 Direct judicial review.

(1) The superior court may directly review a petition for review filed under RCW 36.70A.290 if all parties to the proceeding before the board have agreed to direct review in the superior court. The agreement of the parties shall be in writing and signed by all of the parties to the proceeding or their designated representatives. The agreement shall include the parties' agreement to proper venue as provided in RCW 36.70A.300(5). The parties shall file their agreement with the board within ten days after the date the petition is filed, or if multiple petitions have been filed and the board has consolidated the petitions pursuant to RCW 36.70A.300, within ten days after the board serves its order of consolidation.

(2) Within ten days of receiving the timely and complete agreement of the parties, the board shall file a certificate of agreement with the designated superior court and shall serve the parties with copies of the certificate. The superior court shall obtain exclusive jurisdiction over a petition when it receives the certificate of agreement. With the certificate of agreement the board shall also file the petition for review, any orders entered by the board, all other documents in the board's files regarding the action, and the written agreement of the parties.

(3) For purposes of a petition that is subject to direct review, the superior court's subject matter jurisdiction shall be equivalent to that of the board. Consistent with the requirements of the superior court civil rules, the superior court may consolidate a petition subject to direct review under this section with a separate action filed in the superior court.

(4)(a) Except as otherwise provided in (b) and (c) of this subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which specify the nature and extent of board review, shall apply to the superior court's review.

(b) The superior court:

(i) Shall not have jurisdiction to directly review or modify an office of financial management population projection;

(ii) Except as otherwise provided in RCW 36.70A.300(2)(b), shall render its decision on the petition within one hundred eighty days of receiving the certification of agreement; and

(iii) Shall give a compliance hearing under RCW 36.70A.330(2) the highest priority of all civil matters before the court.

(c) An aggrieved party may secure appellate review of a final judgment of the superior court under this section by the supreme court or the court of appeals. The review shall be secured in the manner provided by law for review of superior court decisions in other civil cases.

(5) If, following a compliance hearing, the court finds that the state agency, county, or city is not in compliance with the court's prior order, the court may use its remedial and contempt powers to enforce compliance.

(6) The superior court shall transmit a copy of its decision and order on direct review to the board, the department, and the governor. If the court has determined that a county or city is not in compliance with the provisions of this chapter, the governor may impose sanctions against the county or city in the same manner as if a board had recommended the imposition of sanctions as provided in RCW 36.70A.330.

(7) After the court has assumed jurisdiction over a petition for review under this section,

the superior court civil rules shall govern a request for intervention and all other procedural matters not specifically provided for in this section.

[1997 c 429 § 13.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 36.70A.300 Final orders.

(1) The board shall issue a final order that shall be based exclusively on whether or not a state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW.

(2)(a) Except as provided in (b) of this subsection, the final order shall be issued within one hundred eighty days of receipt of the petition for review, or, if multiple petitions are filed, within one hundred eighty days of receipt of the last petition that is consolidated.

(b) The board may extend the period of time for issuing a decision to enable the parties to settle the dispute if additional time is necessary to achieve a settlement, and (i) an extension is requested by all parties, or (ii) an extension is requested by the petitioner and respondent and the board determines that a negotiated settlement between the remaining parties could resolve significant issues in dispute. The request must be filed with the board not later than seven days before the date scheduled for the hearing on the merits of the petition. The board may authorize one or more extensions for up to ninety days each, subject to the requirements of this section.

(3) In the final order, the board shall either:

(a) Find that the state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) Find that the state agency, county, or city is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW, in which case the board shall remand the matter to the affected state agency, county, or city. The board shall specify a reasonable time not in excess of one hundred eighty days, or such longer period as determined by the board in cases of unusual scope or complexity, within which the state agency, county, or city shall comply with the requirements of this chapter. The board may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

(4) Unless the board makes a determination of invalidity as provided in RCW 36.70A.302, a finding of noncompliance and an order of remand shall not affect the validity of comprehensive plans and development regulations during the period of remand.

(5) Any party aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in RCW 34.05.514 or 36.01.050 within thirty days of the final order of the board.

[1997 c 429 § 14; 1995 c 347 § 110; 1991 sp.s. c 32 § 11.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 36.70A.302 Determination of invalidity--Vesting of development permits--Interim controls.

(1) A board may determine that part or all of a comprehensive plan or development regulations are invalid if the board:

(a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;

(b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and

(c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.

(2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

(3)(a) Except as otherwise provided in subsection (2) of this section and (b) of this subsection, a development permit application not vested under state or local law before receipt of the board's order by the county or city vests to the local ordinance or resolution that is determined by the board not to substantially interfere with the fulfillment of the goals of this chapter.

(b) Even though the application is not vested under state or local law before receipt by the county or city of the board's order, a determination of invalidity does not apply to a development permit application for:

(i) A permit for construction by any owner, lessee, or contract purchaser of a single-family residence for his or her own use or for the use of his or her family on a lot existing before receipt by the county or city of the board's order, except as otherwise specifically provided in the board's order to protect the public health and safety;

(ii) A building permit and related construction permits for remodeling, tenant improvements, or expansion of an existing structure on a lot existing before receipt of the board's order by the county or city; and

(iii) A boundary line adjustment or a division of land that does not increase the number of buildable lots existing before receipt of the board's order by the county or city.

(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection (1) of this section whether the prior policies or regulations are valid during the period of remand.

(5) A county or city subject to a determination of invalidity may adopt interim controls and other measures to be in effect until it adopts a comprehensive plan and development regulations that comply with the requirements of this chapter. A development permit application may vest under an interim control or measure upon determination by the board that the interim controls and other measures do not substantially interfere with the fulfillment of the goals of this chapter.

(6) A county or city subject to a determination of invalidity may file a motion requesting that the board clarify, modify, or rescind the order. The board shall expeditiously schedule a hearing on the motion. At the hearing on the motion, the parties may present information to the board to clarify the part or parts of the comprehensive plan or development regulations to which the final order applies. The board shall issue any supplemental order based on the information provided at the hearing not later than thirty days after the date of the hearing.

(7)(a) If a determination of invalidity has been made and the county or city has enacted an ordinance or resolution amending the invalidated part or parts of the plan or regulation or establishing interim controls on development affected by the order of invalidity, after a compliance hearing, the board shall modify or rescind the determination of invalidity if it determines under the standard in subsection (1) of this section that the plan or regulation, as amended or made subject to such interim controls, will no longer substantially interfere with the fulfillment of the goals of this chapter.

(b) If the board determines that part or parts of the plan or regulation are no longer invalid as provided in this subsection, but does not find that the plan or regulation is in compliance with all of the requirements of this chapter, the board, in its order, may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

[1997 c 429 § 16.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 36.70A.305 Expedited review.

The court shall provide expedited review of a determination of invalidity or an order effectuating a determination of invalidity made or issued under *RCW 36.70A.300. The matter must be set for hearing within sixty days of the date set for submitting the board's record, absent a showing of good cause for a different date or a stipulation of the parties.

[1996 c 325 § 4.]

Notes:

***Reviser's note:** The reference to RCW 36.70A.300 appears to refer to the amendments made by 1996 c 325 § 3, which was vetoed by the governor.

Severability--Effective date--1996 c 325: See notes following RCW 36.70A.270.

RCW 36.70A.310 Limitations on appeal by the state.

A request for review by the state to a growth management hearings board may be made only by the governor, or with the governor's consent the head of an agency, or by the commissioner of public lands as relating to state trust lands, for the review of whether: (1) A county or city that is required or chooses to plan under RCW 36.70A.040 has failed to adopt a comprehensive plan or development regulations, or county-wide planning policies within the time limits established by this chapter; or (2) a county or city that is required or chooses to plan under this chapter has adopted a comprehensive plan, development regulations, or county-wide planning policies, that are not in compliance with the requirements of this chapter.

[1994 c 249 § 32; 1991 sp.s. c 32 § 12.]

Notes:

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

RCW 36.70A.320 Presumption of validity--Burden of proof--Plans and regulations.

(1) Except as provided in subsection (5) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

(2) Except as otherwise provided in subsection (4) of this section, the burden is on the petitioner to demonstrate that any action taken by a state agency, county, or city under this chapter is not in compliance with the requirements of this chapter.

(3) In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter.

(4) A county or city subject to a determination of invalidity made under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating that the ordinance or resolution it has enacted in response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of this chapter under the standard in RCW 36.70A.302(1).

(5) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW.

[1997 c 429 § 20; 1995 c 347 § 111; 1991 sp.s. c 32 § 13.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 36.70A.3201 Intent--Finding--1997 c 429 § 20(3).

In amending RCW 36.70A.320(3) by section 20(3), chapter 429, Laws of 1997, the legislature intends that the boards apply a more deferential standard of review to actions of counties and cities than the preponderance of the evidence standard provided for under existing law. In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the boards to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter. Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances. The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community.

[1997 c 429 § 2.]

Notes:

Prospective application--1997 c 429 §§ 1-21: "Except as otherwise specifically provided in RCW 36.70A.335, sections 1 through 21, chapter 429, Laws of 1997 are prospective in effect and shall not affect the validity of actions taken or decisions made before July 27, 1997." [1997 c 429 § 53.]

Severability--1997 c 429: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 429 § 54.]

RCW 36.70A.330 Noncompliance.

(1) After the time set for complying with the requirements of this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier time upon the motion of a county or city subject to a determination of invalidity under RCW 36.70A.300, the board shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter and with any compliance schedule established by the board in its final order. A person with standing to challenge the legislation enacted in response to the board's final order may participate in the hearing along with the petitioner and the state agency, county, or city. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board. The board shall issue any order necessary to make adjustments to the compliance schedule and set

additional hearings as provided in subsection (5) of this section.

(3) If the board after a compliance hearing finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor. The board may recommend to the governor that the sanctions authorized by this chapter be imposed. The board shall take into consideration the county's or city's efforts to meet its compliance schedule in making the decision to recommend sanctions to the governor.

(4) In a compliance hearing upon petition of a party, the board shall also reconsider its final order and decide, if no determination of invalidity has been made, whether one now should be made under RCW 36.70A.302.

(5) The board shall schedule additional hearings as appropriate pursuant to subsections (1) and (2) of this section.

[1997 c 429 § 21; 1995 c 347 § 112; 1991 sp.s. c 32 § 14.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 36.70A.335 Order of invalidity issued before July 27, 1997.

A county or city subject to an order of invalidity issued before July 27, 1997, by motion may request the board to review the order of invalidity in light of the section 14, chapter 429, Laws of 1997 amendments to RCW 36.70A.300, the section 21, chapter 429, Laws of 1997 amendments to RCW 36.70A.330, and RCW 36.70A.302. If a request is made, the board shall rescind or modify the order of invalidity as necessary to make it consistent with the section 14, chapter 429, Laws of 1997 amendments to RCW 36.70A.300, and to the section 21, chapter 429, Laws of 1997 amendments to RCW 36.70A.330, and RCW 36.70A.302.

[1997 c 429 § 22.]

Notes:

Prospective application--1997 c 429 §§ 1-21: See note following RCW 36.70A.3201.

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 36.70A.340 Noncompliance and sanctions.

Upon receipt from the board of a finding that a state agency, county, or city is in noncompliance under RCW 36.70A.330, or as a result of failure to meet the requirements of RCW 36.70A.210, the governor may either:

(1) Notify and direct the director of the office of financial management to revise allotments in appropriation levels;

(2) Notify and direct the state treasurer to withhold the portion of revenues to which the county or city is entitled under one or more of the following: The motor vehicle fuel tax, as

provided in chapter 82.36 RCW; the transportation improvement account, as provided in RCW 47.26.084; the urban arterial trust account, as provided in RCW 47.26.080; the rural arterial trust account, as provided in RCW 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190; and the liquor excise tax, as provided in RCW 82.08.170; or

(3) File a notice of noncompliance with the secretary of state and the county or city, which shall temporarily rescind the county or city's authority to collect the real estate excise tax under RCW 82.46.030 until the governor files a notice rescinding the notice of noncompliance.

[1991 sp.s. c 32 § 26.]

RCW 36.70A.345 Sanctions.

The governor may impose a sanction or sanctions specified under RCW 36.70A.340 on: (1) A county or city that fails to designate critical areas, agricultural lands, forest lands, or mineral resource lands under RCW 36.70A.170 by the date such action was required to have been taken; (2) a county or city that fails to adopt development regulations under RCW 36.70A.060 protecting critical areas or conserving agricultural lands, forest lands, or mineral resource lands by the date such action was required to have been taken; (3) a county that fails to designate urban growth areas under RCW 36.70A.110 by the date such action was required to have been taken; and (4) a county or city that fails to adopt its comprehensive plan or development regulations when such actions are required to be taken.

Imposition of a sanction or sanctions under this section shall be preceded by written findings by the governor, that either the county or city is not proceeding in good faith to meet the requirements of the act; or that the county or city has unreasonably delayed taking the required action. The governor shall consult with and communicate his or her findings to the appropriate growth management hearings board prior to imposing the sanction or sanctions. For those counties or cities that are not required to plan or have not opted in, the governor in imposing sanctions shall consider the size of the jurisdiction relative to the requirements of this chapter and the degree of technical and financial assistance provided.

[1994 c 249 § 33; 1993 sp.s. c 6 § 5.]

Notes:

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

Effective date--1993 sp.s. c 6: See note following RCW 36.70A.040.

RCW 36.70A.350 New fully contained communities.

A county required or choosing to plan under RCW 36.70A.040 may establish a process as part of its urban growth areas, that are designated under RCW 36.70A.110, for reviewing proposals to authorize new fully contained communities located outside of the initially designated urban growth areas.

(1) A new fully contained community may be approved in a county planning under this chapter if criteria including but not limited to the following are met:

(a) New infrastructure is provided for and impact fees are established consistent with the requirements of RCW 82.02.050;

(b) Transit-oriented site planning and traffic demand management programs are implemented;

(c) Buffers are provided between the new fully contained communities and adjacent urban development;

(d) A mix of uses is provided to offer jobs, housing, and services to the residents of the new community;

(e) Affordable housing is provided within the new community for a broad range of income levels;

(f) Environmental protection has been addressed and provided for;

(g) Development regulations are established to ensure urban growth will not occur in adjacent nonurban areas;

(h) Provision is made to mitigate impacts on designated agricultural lands, forest lands, and mineral resource lands;

(i) The plan for the new fully contained community is consistent with the development regulations established for the protection of critical areas by the county pursuant to RCW 36.70A.170.

(2) New fully contained communities may be approved outside established urban growth areas only if a county reserves a portion of the twenty-year population projection and offsets the urban growth area accordingly for allocation to new fully contained communities that meet the requirements of this chapter. Any county electing to establish a new community reserve shall do so no more often than once every five years as a part of the designation or review of urban growth areas required by this chapter. The new community reserve shall be allocated on a project-by-project basis, only after specific project approval procedures have been adopted pursuant to this chapter as a development regulation. When a new community reserve is established, urban growth areas designated pursuant to this chapter shall accommodate the unreserved portion of the twenty-year population projection.

Final approval of an application for a new fully contained community shall be considered an adopted amendment to the comprehensive plan prepared pursuant to RCW 36.70A.070 designating the new fully contained community as an urban growth area.

[1991 sp.s. c 32 § 16.]

RCW 36.70A.360 Master planned resorts.

(1) Counties that are required or choose to plan under RCW 36.70A.040 may permit master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.

(2) Capital facilities, utilities, and services, including those related to sewer, water, storm

water, security, fire suppression, and emergency medical, provided on-site shall be limited to meeting the needs of the master planned resort. Such facilities, utilities, and services may be provided to a master planned resort by outside service providers, including municipalities and special purpose districts, provided that all costs associated with service extensions and capacity increases directly attributable to the master planned resort are fully borne by the resort. A master planned resort and service providers may enter into agreements for shared capital facilities and utilities, provided that such facilities and utilities serve only the master planned resort or urban growth areas.

Nothing in this subsection may be construed as: Establishing an order of priority for processing applications for water right permits, for granting such permits, or for issuing certificates of water right; altering or authorizing in any manner the alteration of the place of use for a water right; or affecting or impairing in any manner whatsoever an existing water right.

All waters or the use of waters shall be regulated and controlled as provided in chapters 90.03 and 90.44 RCW and not otherwise.

(3) A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

(4) A master planned resort may be authorized by a county only if:

(a) The comprehensive plan specifically identifies policies to guide the development of master planned resorts;

(b) The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the master planned resort, except in areas otherwise designated for urban growth under RCW 36.70A.110;

(c) The county includes a finding as a part of the approval process that the land is better suited, and has more long-term importance, for the master planned resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forest land or agricultural land under RCW 36.70A.170;

(d) The county ensures that the resort plan is consistent with the development regulations established for critical areas; and

(e) On-site and off-site infrastructure and service impacts are fully considered and mitigated.

[1998 c 112 § 2; 1991 sp.s. c 32 § 17.]

Notes:

Intent--1998 c 112: "The primary intent of this act is to give effect to recommendations by the 1994 department of community, trade, and economic development's master planned resort task force by clarifying that master planned resorts may make use of capital facilities, utilities, and services provided by outside service providers, and may enter into agreements for shared facilities with such providers, when all costs directly attributable to the resort, including capacity increases, are fully borne by the resort." [1998 c 112 § 1.]

RCW 36.70A.362 Master planned resorts--Existing resort may be included.

Counties that are required or choose to plan under RCW 36.70A.040 may include

existing resorts as master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. An existing resort means a resort in existence on July 1, 1990, and developed, in whole or in part, as a significantly self-contained and integrated development that includes short-term visitor accommodations associated with a range of indoor and outdoor recreational facilities within the property boundaries in a setting of significant natural amenities. An existing resort may include other permanent residential uses, conference facilities, and commercial activities supporting the resort, but only if these other uses are integrated into and consistent with the on-site recreational nature of the resort.

An existing resort may be authorized by a county only if:

(1) The comprehensive plan specifically identifies policies to guide the development of the existing resort;

(2) The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the existing resort, except in areas otherwise designated for urban growth under RCW 36.70A.110 and *36.70A.360(1);

(3) The county includes a finding as a part of the approval process that the land is better suited, and has more long-term importance, for the existing resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forest land or agricultural land under RCW 36.70A.170;

(4) The county finds that the resort plan is consistent with the development regulations established for critical areas; and

(5) On-site and off-site infrastructure impacts are fully considered and mitigated.

A county may allocate a portion of its twenty-year population projection, prepared by the office of financial management, to the master planned resort corresponding to the projected number of permanent residents within the master planned resort.

[1997 c 382 § 1.]

Notes:

***Reviser's note:** RCW 36.70A.360 was amended by 1998 c 112 § 2, changing subsection (1) to subsection (4)(a).

RCW 36.70A.365 Major industrial developments.

A county required or choosing to plan under RCW 36.70A.040 may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for reviewing and approving proposals to authorize siting of specific major industrial developments outside urban growth areas.

(1) "Major industrial development" means a master planned location for a specific manufacturing, industrial, or commercial business that: (a) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (b) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent. The major industrial development shall not be for the purpose of retail commercial development or multitenant office parks.

(2) A major industrial development may be approved outside an urban growth area in a

county planning under this chapter if criteria including, but not limited to the following, are met:

- (a) New infrastructure is provided for and/or applicable impact fees are paid;
- (b) Transit-oriented site planning and traffic demand management programs are implemented;
- (c) Buffers are provided between the major industrial development and adjacent nonurban areas;
- (d) Environmental protection including air and water quality has been addressed and provided for;
- (e) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;
- (f) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands;
- (g) The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas; and
- (h) An inventory of developable land has been conducted and the county has determined and entered findings that land suitable to site the major industrial development is unavailable within the urban growth area. Priority shall be given to applications for sites that are adjacent to or in close proximity to the urban growth area.

(3) Final approval of an application for a major industrial development shall be considered an adopted amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070 designating the major industrial development site on the land use map as an urban growth area. Final approval of an application for a major industrial development shall not be considered an amendment to the comprehensive plan for the purposes of RCW 36.70A.130(2) and may be considered at any time.

[1995 c 190 § 1.]

RCW 36.70A.367 Major industrial developments--Master planned locations.

(1) In addition to the major industrial development allowed under RCW 36.70A.365, a county required or choosing to plan under RCW 36.70A.040 that meets the criteria in subsection (9) or (10) of this section may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for designating a bank of no more than two master planned locations for major industrial activity outside urban growth areas.

(2) A master planned location for major industrial developments outside an urban growth area may be included in the urban industrial land bank for the county if criteria including, but not limited to, the following are met:

- (a) New infrastructure is provided for and/or applicable impact fees are paid;
- (b) Transit-oriented site planning and traffic demand management programs are implemented;
- (c) Buffers are provided between the major industrial development and adjacent nonurban areas;
- (d) Environmental protection including air and water quality has been addressed and

provided for;

(e) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;

(f) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands;

(g) The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas; and

(h) An inventory of developable land has been conducted as provided in RCW 36.70A.365.

(3) In selecting master planned locations for inclusion in the urban industrial land bank, priority shall be given to locations that are adjacent to, or in close proximity to, an urban growth area.

(4) Final approval of inclusion of a master planned location in the urban industrial land bank shall be considered an adopted amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070, except that RCW 36.70A.130(2) does not apply so that inclusion or exclusion of master planned locations may be considered at any time.

(5) Once a master planned location has been included in the urban industrial land bank, manufacturing and industrial businesses that qualify as major industrial development under RCW 36.70A.365 may be located there.

(6) Nothing in this section may be construed to alter the requirements for a county to comply with chapter 43.21C RCW.

(7)(a) The authority of a county meeting the criteria of subsection (9) of this section to engage in the process of including or excluding master planned locations from the urban industrial land bank shall terminate on December 31, 1999. However, any location included in the urban industrial land bank on December 31, 1999, shall be available for major industrial development as long as the criteria of subsection (2) of this section are met.

(b) The authority of a county meeting the criteria of subsection (10) of this section to engage in the process of including or excluding master planned locations from the urban industrial land bank terminates on December 31, 2002. However, any location included in the urban industrial land bank on December 31, 2002, shall be available for major industrial development as long as the criteria of subsection (2) of this section are met.

(8) For the purposes of this section, "major industrial development" means a master planned location suitable for manufacturing or industrial businesses that: (a) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (b) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent; or (c) requires a location with characteristics such as proximity to transportation facilities or related industries such that there is no suitable location in an urban growth area. The major industrial development may not be for the purpose of retail commercial development or multitenant office parks.

(9) This section and the termination date specified in subsection (7)(a) of this section apply to a county that at the time the process is established under subsection (1) of this section:

(a) Has a population greater than two hundred fifty thousand and is part of a metropolitan

area that includes a city in another state with a population greater than two hundred fifty thousand;

(b) Has a population greater than one hundred forty thousand and is adjacent to another country; or

(c) Has a population greater than forty thousand but less than seventy-five thousand and has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(i) Is bordered by the Pacific Ocean; or

(ii) Is located in the Interstate 5 or Interstate 90 corridor.

(10) This section and the termination date specified in subsection (7)(b) of this section apply to a county that at the time the process is established under subsection (1) of this section:

(a) Has a population greater than forty thousand but fewer than eighty thousand;

(b) Has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(c) Is located in the Interstate 5 or Interstate 90 corridor.

[2001 c 326 § 1; 1998 c 289 § 2; 1997 c 402 § 1; 1996 c 167 § 2.]

NOTES:

Findings--Purpose--1998 c 289: "The legislature finds that to fulfill the economic development goal of this chapter, it is beneficial to expand the limited authorization for pilot projects for identifying locations for major industrial activity in advance of specific proposals by an applicant. The legislature further finds that land bank availability may provide economically disadvantaged counties the opportunity to attract new industrial activity by offering expeditious siting and therefore promote a community's economic health and vitality. The purpose of this act is to authorize and evaluate additional pilot projects for major industrial activity in economically disadvantaged counties." [1998 c 289 § 1.]

Findings--Purpose--1996 c 167: "In 1995 the legislature addressed the demand for siting of major industrial facilities by passage of Engrossed Senate Bill No. 5019, implementing a process for siting such activities outside urban growth areas. The legislature recognizes that the 1995 act requires consideration of numerous factors necessary to ensure that the community can reasonably accommodate a major industrial development outside an urban growth area.

The legislature finds that the existing case-by-case procedure for evaluating and approving such a site under the 1995 act may operate to a community's economic disadvantage when a firm, for business reasons, must make a business location decision expeditiously. The legislature therefore finds that it would be useful to authorize, on a limited basis, and evaluate a process for identifying locations for major industrial activity in advance of specific proposals by an applicant.

It is the purpose of this act (1) to authorize a pilot project under which a bank of major industrial development locations outside urban growth areas is created for use in expeditiously siting such a development; (2) to evaluate the impact of this process on the county's compliance with chapter 36.70A RCW; and (3) to encourage consolidation and planning, and environmental review procedures under chapter 36.70B RCW." [1996 c 167 § 1.]

Effective date--1996 c 167: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 28, 1996]." [1996 c 167 § 3.]

RCW 36.70A.370 Protection of private property.

(1) The state attorney general shall establish by October 1, 1991, an orderly, consistent process, including a checklist if appropriate, that better enables state agencies and local

governments to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property. It is not the purpose of this section to expand or reduce the scope of private property protections provided in the state and federal Constitutions. The attorney general shall review and update the process at least on an annual basis to maintain consistency with changes in case law.

(2) Local governments that are required or choose to plan under RCW 36.70A.040 and state agencies shall utilize the process established by subsection (1) of this section to assure that proposed regulatory or administrative actions do not result in an unconstitutional taking of private property.

(3) The attorney general, in consultation with the Washington state bar association, shall develop a continuing education course to implement this section.

(4) The process used by government agencies shall be protected by attorney client privilege. Nothing in this section grants a private party the right to seek judicial relief requiring compliance with the provisions of this section.

[1991 sp.s. c 32 § 18.]

RCW 36.70A.380 Extension of designation date.

The department may extend the date by which a county or city is required to designate agricultural lands, forest lands, mineral resource lands, and critical areas under RCW 36.70A.170, or the date by which a county or city is required to protect such lands and critical areas under RCW 36.70A.060, if the county or city demonstrates that it is proceeding in an orderly fashion, and is making a good faith effort, to meet these requirements. An extension may be for up to an additional one hundred eighty days. The length of an extension shall be based on the difficulty of the effort to conform with these requirements.

[1991 sp.s. c 32 § 39.]

RCW 36.70A.385 Environmental planning pilot projects.

(1) The legislature intends to determine whether the environmental review process mandated under chapter 43.21C RCW may be enhanced and simplified, and coordination improved, when applied to comprehensive plans mandated by this chapter. The department shall undertake pilot projects on environmental review to determine if the review process can be improved by fostering more coordination and eliminating duplicative environmental analysis which is made to assist decision makers approving comprehensive plans pursuant to this chapter. Such pilot projects should be designed and scoped to consider cumulative impacts resulting from plan decisions, plan impacts on environmental quality, impacts on adjacent jurisdictions, and similar factors in sufficient depth to simplify the analysis of subsequent specific projects being carried out pursuant to the approved plan.

(2) The legislature hereby authorizes the department to establish, in cooperation with business, industry, cities, counties, and other interested parties, at least two but not more than four pilot projects, one of which shall be with a county, on enhanced draft and final nonproject

environmental analysis of comprehensive plans prepared pursuant to this chapter, for the purposes outlined in subsection (1) of this section. The department may select appropriate geographic subareas within a comprehensive plan if that will best serve the purposes of this section and meet the requirements of chapter 43.21C RCW.

(3) An enhanced draft and final nonproject environmental analysis prepared pursuant to this section shall follow the rules adopted pursuant to chapter 43.21C RCW.

(4) Not later than December 31, 1993, the department shall evaluate the overall effectiveness of the pilot projects under this section regarding preparing enhanced nonproject environmental analysis for the approval process of comprehensive plans and shall:

(a) Provide an interim report of its findings to the legislature with such recommendations as may be appropriate, including the need, if any, for further legislation;

(b) Consider adoption of any further rules or guidelines as may be appropriate to assist counties and cities in meeting requirements of chapter 43.21C RCW when considering comprehensive plans; and

(c) Prepare and circulate to counties and cities such instructional manuals or other information derived from the pilot projects as will assist all counties and cities in meeting the requirements and objectives of chapter 43.21C RCW in the most expeditious and efficient manner in the process of considering comprehensive plans pursuant to this chapter.

[1998 c 245 § 30; 1995 c 399 § 43; 1991 sp.s. c 32 § 20.]

RCW 36.70A.390 Moratoria, interim zoning controls--Public hearing--Limitation on length--Exceptions.

A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

This section does not apply to the designation of critical areas, agricultural lands, forest lands, and mineral resource lands, under RCW 36.70A.170, and the conservation of these lands and protection of these areas under RCW 36.70A.060, prior to such actions being taken in a comprehensive plan adopted under RCW 36.70A.070 and implementing development regulations adopted under RCW 36.70A.120, if a public hearing is held on such proposed

actions.

[1992 c 207 § 6.]

RCW 36.70A.400 Accessory apartments.

Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3).

[1993 c 478 § 11.]

RCW 36.70A.410 Treatment of residential structures occupied by persons with handicaps.

No county or city that plans or elects to plan under this chapter may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602).

[1993 c 478 § 23.]

RCW 36.70A.420 Transportation projects--Findings--Intent.

The legislature recognizes that there are major transportation projects that affect multiple jurisdictions as to economic development, fiscal influence, environmental consequences, land use implications, and mobility of people and goods. The legislature further recognizes that affected jurisdictions have important interests that must be addressed, and that these jurisdictions' present environmental planning and permitting authority may result in multiple local permits and other requirements being specified for the projects.

The legislature finds that the present permitting system may result in segmented and sequential decisions by local governments that do not optimally serve all the parties with an interest in the decisions. The present system may also make more difficult achieving the consistency among plans and actions that is an important aspect of this chapter.

It is the intent of the legislature to provide for more efficiency and equity in the decisions of local governments regarding major transportation projects by encouraging coordination or consolidation of the processes for reviewing environmental planning and permitting requirements for those projects. The legislature intends that local governments coordinate their regulatory decisions by considering together the range of local, state, and federal requirements for major transportation projects. Nothing in RCW 36.70A.420 or 36.70A.430 alters the authority of cities or counties under any other planning or permitting statute.

[1994 c 258 § 1.]

Notes:

Captions not law--1994 c 258: "Section captions used in this act constitute no part of the law." [1994 c 258 § 6.]

RCW 36.70A.430 Transportation projects--Collaborative review process.

For counties engaged in planning under this chapter, there shall be established by December 31, 1994, a collaborative process to review and coordinate state and local permits for all transportation projects that cross more than one city or county boundary. This process shall at a minimum, establish a mechanism among affected cities and counties to designate a permit coordinating agency to facilitate multijurisdictional review and approval of such transportation projects.

[1994 c 258 § 2.]

Notes:

Captions not law--1994 c 258: See note following RCW 36.70A.420.

RCW 36.70A.450 Family day-care provider's home facility--City may not prohibit in residential or commercial area.

No city that plans or elects to plan under this chapter may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice which prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

A city may require that the facility: (1) Comply with all building, fire, safety, health code, and business licensing requirements; (2) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (3) is certified by the office of child care policy licensor as providing a safe passenger loading area; (4) include signage, if any, that conforms to applicable regulations; and (5) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

Nothing in this section shall be construed to prohibit a city that plans or elects to plan under this chapter from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

[1995 c 49 § 3; 1994 c 273 § 17.]

RCW 36.70A.460 Watershed restoration projects--Permit processing--Fish habitat enhancement project.

A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of *RCW 75.20.350(1) shall be reviewed and approved according to the provisions of *RCW 75.20.350.

[1998 c 249 § 11; 1995 c 378 § 11.]

Notes:

***Reviser's note:** RCW 75.20.350 was recodified as RCW 77.55.290 pursuant to 2000 c 107 § 129.

Findings--Purpose--Report--Effective date--1998 c 249: See notes following RCW 77.55.290.

RCW 36.70A.470 Project review--Amendment suggestion procedure--Definitions.

(1) Project review, which shall be conducted pursuant to the provisions of chapter 36.70B RCW, shall be used to make individual project decisions, not land use planning decisions. If, during project review, a county or city planning under RCW 36.70A.040 identifies deficiencies in plans or regulations:

- (a) The permitting process shall not be used as a comprehensive planning process;
- (b) Project review shall continue; and
- (c) The identified deficiencies shall be docketed for possible future plan or development regulation amendments.

(2) Each county and city planning under RCW 36.70A.040 shall include in its development regulations a procedure for any interested person, including applicants, citizens, hearing examiners, and staff of other agencies, to suggest plan or development regulation amendments. The suggested amendments shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW 36.70A.130.

(3) For purposes of this section, a deficiency in a comprehensive plan or development regulation refers to the absence of required or potentially desirable contents of a comprehensive plan or development regulation. It does not refer to whether a development regulation addresses a project's probable specific adverse environmental impacts which the permitting agency could mitigate in the normal project review process.

(4) For purposes of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan or development regulations in a manner that will ensure such suggested changes will be considered by the county or city and will be available for review by the public.

[1995 c 347 § 102.]

Notes:

Findings--Intent--1995 c 347 § 102: "The legislature finds that during project review, a county or city planning under RCW 36.70A.040 is likely to discover the need to make various improvements in comprehensive

plans and development regulations. There is no current requirement or process for applicants, citizens, or agency staff to ensure that these improvements are considered in the plan review process. The legislature also finds that in the past environmental review and permitting of proposed projects have been used to reopen and make land use planning decisions that should have been made through the comprehensive planning process, in part because agency staff and hearing examiners have not been able to ensure consideration of all issues in the local planning process. The legislature further finds that, while plans and regulations should be improved and refined over time, it is unfair to penalize applicants that have submitted permit applications that meet current requirements. It is the intent of the legislature in enacting RCW 36.70A.470 to establish a means by which cities and counties will docket suggested plan or development regulation amendments and ensure their consideration during the planning process." [1995 c 347 § 101.]

Finding--1995 c 347: "The legislature recognizes by this act that the growth management act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The growth management act provides the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development." [1995 c 347 § 1.]

Severability--1995 c 347: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 347 § 901.]

Part headings and table of contents not law--1995 c 347: "Part headings and the table of contents as used in this act do not constitute any part of the law." [1995 c 347 § 902.]

RCW 36.70A.480 Shorelines of the state.

(1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter 90.58 RCW rather than the procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.

[1995 c 347 § 104.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 36.70A.481 Construction--Chapter 347, Laws of 1995.

Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW.

[1995 c 382 § 13.]

RCW 36.70A.490 Growth management planning and environmental review fund--Established.

The growth management planning and environmental review fund is hereby established in the state treasury. Moneys may be placed in the fund from the proceeds of bond sales, tax revenues, budget transfers, federal appropriations, gifts, or any other lawful source. Moneys in the fund may be spent only after appropriation. Moneys in the fund shall be used to make grants to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500.

[1995 c 347 § 115.]

Notes:

Findings--Purpose--1995 c 347 § 115: "(1) The legislature finds that:

(a) As of July 23, 1995, twenty-nine counties and two hundred eight cities are conducting comprehensive planning under the growth management act, chapter 36.70A RCW, which together comprise over ninety percent of the state's population;

(b) Comprehensive plans for many of the jurisdictions were due by July 1, 1994, and the remaining jurisdictions must complete plans under due dates ranging from October 1994 to September 1997;

(c) Concurrently with these comprehensive planning activities, local governments must conduct several other planning requirements under the growth management act, such as the adoption of capital facilities plans, urban growth areas, and development regulations;

(d) Local governments must also comply with the state environmental policy act, chapter 43.21C RCW, in the development of comprehensive plans and development regulations;

(e) The combined activities of comprehensive planning and the state environmental policy act present a serious fiscal burden upon local governments; and

(f) Detailed environmental analysis integrated with comprehensive plans, subarea plans, and development regulations will facilitate planning for and managing growth, allow greater protection of the environment, and benefit both the general public and private property owners.

(2) In order to provide financial assistance to cities and counties planning under chapter 36.70A RCW and to improve the usefulness of plans and integrated environmental analyses, the legislature has created the fund described in RCW 36.70A.490." [1995 c 347 § 114.]

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 36.70A.500 Growth management planning and environmental review fund--Awarding of grants--Procedures.

(1) The department of community, trade, and economic development shall provide management services for the fund created by RCW 36.70A.490. The department shall establish procedures for fund management. The department shall encourage participation in the grant program by other public agencies. The department shall develop the grant criteria, monitor the grant program, and select grant recipients in consultation with state agencies participating in the grant program through the provision of grant funds or technical assistance.

(2) A grant may be awarded to a county or city that is required to or has chosen to plan under RCW 36.70A.040 and that is qualified pursuant to this section. The grant shall be provided to assist a county or city in paying for the cost of preparing an environmental analysis under chapter 43.21C RCW, that is integrated with a comprehensive plan, subarea plan, plan element,

county-wide planning policy, development regulation, monitoring program, or other planning activity adopted under or implementing this chapter that:

(a) Improves the process for project permit review while maintaining environmental quality; or

(b) Encourages use of plans and information developed for purposes of complying with this chapter to satisfy requirements of other state programs.

(3) In order to qualify for a grant, a county or city shall:

(a) Demonstrate that it will prepare an environmental analysis pursuant to chapter 43.21C RCW and subsection (2) of this section that is integrated with a comprehensive plan, subarea plan, plan element, county-wide planning policy, development regulations, monitoring program, or other planning activity adopted under or implementing this chapter;

(b) Address environmental impacts and consequences, alternatives, and mitigation measures in sufficient detail to allow the analysis to be adopted in whole or in part by applicants for development permits within the geographic area analyzed in the plan;

(c) Demonstrate that procedures for review of development permit applications will be based on the integrated plans and environmental analysis;

(d) Include mechanisms to monitor the consequences of growth as it occurs in the plan area and to use the resulting data to update the plan, policy, or implementing mechanisms and associated environmental analysis;

(e) Demonstrate substantial progress towards compliance with the requirements of this chapter. A county or city that is more than six months out of compliance with a requirement of this chapter is deemed not to be making substantial progress towards compliance; and

(f) Provide local funding, which may include financial participation by the private sector.

(4) In awarding grants, the department shall give preference to proposals that include one or more of the following elements:

(a) Financial participation by the private sector, or a public/private partnering approach;

(b) Identification and monitoring of system capacities for elements of the built environment, and to the extent appropriate, of the natural environment;

(c) Coordination with state, federal, and tribal governments in project review;

(d) Furtherance of important state objectives related to economic development, protection of areas of state-wide significance, and siting of essential public facilities;

(e) Programs to improve the efficiency and effectiveness of the permitting process by greater reliance on integrated plans and prospective environmental analysis;

(f) Programs for effective citizen and neighborhood involvement that contribute to greater likelihood that planning decisions can be implemented with community support; and

(g) Programs to identify environmental impacts and establish mitigation measures that provide effective means to satisfy concurrency requirements and establish project consistency with the plans.

(5) If the local funding includes funding provided by other state functional planning programs, including open space planning and watershed or basin planning, the functional plan shall be integrated into and be consistent with the comprehensive plan.

(6) State agencies shall work with grant recipients to facilitate state and local project

review processes that will implement the projects receiving grants under this section.

[1997 c 429 § 28; 1995 c 347 § 116.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 36.70A.510 General aviation airports.

Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to RCW 36.70.547.

[1996 c 239 § 5.]

RCW 36.70A.520 National historic towns--Designation.

Counties that are required or choose to plan under RCW 36.70A.040 may authorize and designate national historic towns that may constitute urban growth outside of urban growth areas as limited by this section. A national historic town means a town or district that has been designated a national historic landmark by the United States secretary of the interior pursuant to 16 U.S.C. 461 et seq., as amended, based on its significant historic urban features, and which historically contained a mix of residential and commercial or industrial uses.

A national historic town may be designated under this chapter by a county only if:

(1) The comprehensive plan specifically identifies policies to guide the preservation, redevelopment, infill, and development of the town;

(2) The comprehensive plan and development regulations specify a mix of residential, commercial, industrial, tourism-recreation, waterfront, or other historical uses, along with other uses, infrastructure, and services which promote the economic sustainability of the town and its historic character. To promote historic preservation, redevelopment, and an economically sustainable community, the town also may include the types of uses that existed at times during its history and is not limited to those present at the time of the historic designation. Portions of the town may include urban densities if they reflect density patterns that existed at times during its history;

(3) The boundaries of the town include all of the area contained in the national historic landmark designation, along with any additional limited areas determined by the county as appropriate for transitional uses and buffering. Provisions for transitional uses and buffering must be compatible with the town's historic character and must protect the existing natural and built environment under the requirements of this chapter within and beyond the additional limited areas, including visual compatibility. The comprehensive plan and development regulations must include restrictions that preclude new urban or suburban land uses in the vicinity of the town, including the additional limited areas, except in areas otherwise designated for urban growth under this chapter;

(4) The development regulations provide for architectural controls and review procedures

applicable to the rehabilitation, redevelopment, infill, or new development to promote the historic character of the town;

(5) The county finds that the national historic town is consistent with the development regulations established for critical areas; and

(6) On-site and off-site infrastructure impacts are fully considered and mitigated concurrent with development.

A county may allocate a portion of its twenty-year population projection, prepared by the office of financial management, to the national historic town corresponding to the projected number of permanent residents within the national historic town.

[2000 c 196 § 1.]

RCW 36.70A.800 Role of growth strategies commission.

The growth strategies commission created by executive order shall:

(1) Analyze different methods for assuring that county and city comprehensive plans adopted under chapter 36.70A RCW are consistent with the planning goals under RCW 36.70A.020 and with other requirements of chapter 36.70A RCW;

(2) Recommend to the legislature and the governor by October 1, 1990, a specific structure or process that, among other things:

(a) Ensures county and city comprehensive plans adopted under chapter 36.70A RCW are coordinated and comply with planning goals and other requirements under chapter 36.70A RCW;

(b) Requires state agencies to comply with this chapter and to consider and be consistent with county and city comprehensive plans in actions by state agencies, including the location, financing, and expansion of transportation systems and other public facilities;

(c) Defines the state role in growth management;

(d) Addresses lands and resources of state-wide significance, including to:

(i) Protect these lands and resources of state-wide significance by developing standards for their preservation and protection and suggesting the appropriate structure to monitor and enforce the preservation of these lands and resources; and

(ii) Consider the environmental, economic, and social values of the lands and resources with state-wide significance;

(e) Identifies potential state funds that may be withheld and incentives that promote county and city compliance with chapter 36.70A RCW;

(f) Increases affordable housing state-wide and promotes linkages between land use and transportation;

(g) Addresses vesting of rights; and

(h) Addresses short subdivisions; and

(3) Develop recommendations to provide for the resolution of disputes over urban growth areas between counties and cities, including incorporations and annexations.

[1990 1st ex.s. c 17 § 86.]

RCW 36.70A.900 Severability--1990 1st ex.s. c 17.

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

[1990 1st ex.s. c 17 § 88.]

RCW 36.70A.901 Part, section headings not law--1990 1st ex.s. c 17.

Part and section headings as used in this act do not constitute any part of the law.

[1990 1st ex.s. c 17 § 89.]

RCW 36.70A.902 Section headings not law--1991 sp.s. c 32.

Section headings as used in this act do not constitute any part of the law.

[1991 sp.s. c 32 § 40.]

**Chapter 36.70B RCW
LOCAL PROJECT REVIEW**

Sections

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RCW 36.70B.010 Findings and declaration.

The legislature finds and declares the following:

(1) As the number of environmental laws and development regulations has increased for land uses and development, so has the number of required local land use permits, each with its own separate approval process.

(2) The increasing number of local and state land use permits and separate environmental review processes required by agencies has generated continuing potential for conflict, overlap, and duplication between the various permit and review processes.

(3) This regulatory burden has significantly added to the cost and time needed to obtain local and state land use permits and has made it difficult for the public to know how and when to provide timely comments on land use proposals that require multiple permits and have separate environmental review processes.

[1995 c 347 § 401.]

RCW 36.70B.020 Definitions.

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

(1) "Closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

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

(3) "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

(4) "Project permit" or "project permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required

by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

(5) "Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

[1995 c 347 § 402.]

RCW 36.70B.030 Project review--Required elements--Limitations.

(1) Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with applicable development regulations, or in the absence of applicable regulations the adopted comprehensive plan, under RCW 36.70B.040 shall incorporate the determinations under this section.

(2) During project review, a local government or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas; and

(c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW.

(3) During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation. As part of its project review process, a local government shall provide a procedure for obtaining a code interpretation as provided in RCW 36.70B.110.

(4) Pursuant to RCW 43.21C.240, a local government may determine that the requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific adverse environmental impacts to which the requirements apply.

(5) Nothing in this section limits the authority of a permitting agency to approve,

condition, or deny a project as provided in its development regulations adopted under chapter 36.70A RCW and in its policies adopted under RCW 43.21C.060. Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, transportation demand management, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts, if applicable.

(6) Subsections (1) through (4) of this section apply only to local governments planning under RCW 36.70A.040.

[1995 c 347 § 404.]

Notes:

Intent--Findings--1995 c 347 §§ 404 and 405: "In enacting RCW 36.70B.030 and 36.70B.040, the legislature intends to establish a mechanism for implementing the provisions of chapter 36.70A RCW regarding compliance, conformity, and consistency of proposed projects with adopted comprehensive plans and development regulations. In order to achieve this purpose the legislature finds that:

(1) Given the extensive investment that public agencies and a broad spectrum of the public are making and will continue to make in comprehensive plans and development regulations for their communities, it is essential that project review start from the fundamental land use planning choices made in these plans and regulations. If the applicable regulations or plans identify the type of land use, specify residential density in urban growth areas, and identify and provide for funding of public facilities needed to serve the proposed development and site, these decisions at a minimum provide the foundation for further project review unless there is a question of code interpretation. The project review process, including the environmental review process under chapter 43.21C RCW and the consideration of consistency, should start from this point and should not reanalyze these land use planning decisions in making a permit decision.

(2) Comprehensive plans and development regulations adopted by local governments under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These provisions typically require environmental studies and contain specific standards to address various impacts associated with a proposed development, such as building size and location, drainage, transportation requirements, and protection of critical areas. When a permitting agency applies these existing requirements to a proposed project, some or all of a project's potential environmental impacts will be avoided or otherwise mitigated. Through the integrated project review process described in subsection (1) of this section, the local government will determine whether existing requirements, including the applicable regulations or plans, adequately analyze and address a project's environmental impacts. RCW 43.21C.240 provides that project review should not require additional studies or mitigation under chapter 43.21C RCW where existing regulations have adequately addressed a proposed project's probable specific adverse environmental impacts.

(3) Given the hundreds of jurisdictions and agencies in the state and the numerous communities and applicants affected by development regulations and comprehensive plans adopted under chapter 36.70A RCW, it is essential to establish a uniform framework for considering the consistency of a proposed project with the applicable regulations or plan. Consistency should be determined in the project review process by considering four factors found in applicable regulations or plans: The type of land use allowed; the level of development allowed, such as units per acre or other measures of density; infrastructure, such as the adequacy of public facilities and services to serve the proposed project; and the character of the proposed development, such as compliance with specific development standards. This uniform approach corresponds to existing project review practices and will not place a burden on applicants or local government. The legislature intends that this approach should be largely a matter of checking compliance with existing requirements for most projects, which are simple or routine, while more complex projects may require more analysis. RCW 43.21C.240 and 36.70B.030 establish this uniform framework and also direct state agencies to consult with local government and the public to develop a better format than the current environmental checklist to meet this objective.

(4) When an applicant applies for a project permit, consistency between the proposed project and applicable regulations or plan should be determined through a project review process that integrates land use and environmental impact analysis, so that governmental and public review of the proposed project as required by this chapter, by development regulations under chapter 36.70A RCW, and by the environmental process under chapter 43.21C RCW run concurrently and not separately.

(5) RCW 36.70B.030 and 36.70B.040 address three related needs with respect to how the project review process should address consistency between a proposed project and the applicable regulations or plan:

(a) A uniform framework for the meaning of consistency;

(b) An emphasis on relying on existing requirements and adopted standards, with the use of supplemental authority as specified by chapter 43.21C RCW to the extent that existing requirements do not adequately address a project's specific probable adverse environmental impacts; and

(c) The identification of three basic land use planning choices made in applicable regulations or plans that, at a minimum, serve as a foundation for project review and that should not be reanalyzed during project permitting." [1995 c 347 § 403.]

RCW 36.70B.040 Determination of consistency.

(1) A proposed project's consistency with a local government's development regulations adopted under chapter 36.70A RCW, or, in the absence of applicable development regulations, the appropriate elements of the comprehensive plan adopted under chapter 36.70A RCW shall be decided by the local government during project review by consideration of:

(a) The type of land use;

(b) The level of development, such as units per acre or other measures of density;

(c) Infrastructure, including public facilities and services needed to serve the development; and

(d) The characteristics of the development, such as development standards.

(2) In deciding whether a project is consistent, the determinations made pursuant to RCW 36.70B.030(2) shall be controlling.

(3) For purposes of this section, the term "consistency" shall include all terms used in this chapter and chapter 36.70A RCW to refer to performance in accordance with this chapter and chapter 36.70A RCW, including but not limited to compliance, conformity, and consistency.

(4) Nothing in this section requires documentation, dictates an agency's procedures for considering consistency, or limits a city or county from asking more specific or related questions with respect to any of the four main categories listed in subsection (1)(a) through (d) of this section.

(5) The department of community, trade, and economic development is authorized to develop and adopt by rule criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions. These criteria shall be jointly developed with the department of ecology.

[1997 c 429 § 46; 1995 c 347 § 405.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

Intent--Findings--1995 c 347 §§ 404 and 405: See note following RCW 36.70B.030.

RCW 36.70B.050 Local government review of project permit applications required--Objectives.

Not later than March 31, 1996, each local government shall provide by ordinance or resolution for review of project permit applications to achieve the following objectives:

(1) Combine the environmental review process, both procedural and substantive, with the procedure for review of project permits; and

(2) Except for the appeal of a determination of significance as provided in RCW 43.21C.075, provide for no more than one open record hearing and one closed record appeal.

[1995 c 347 § 406.]

RCW 36.70B.060 Local governments planning under the growth management act to establish integrated and consolidated project permit process--Required elements.

Not later than March 31, 1996, each local government planning under RCW 36.70A.040 shall establish by ordinance or resolution an integrated and consolidated project permit process that may be included in its development regulations. In addition to the elements required by RCW 36.70B.050, the process shall include the following elements:

(1) A determination of completeness to the applicant as required by RCW 36.70B.070;

(2) A notice of application to the public and agencies with jurisdiction as required by RCW 36.70B.110;

(3) Except as provided in RCW 36.70B.140, an optional consolidated project permit review process as provided in RCW 36.70B.120. The review process shall provide for no more than one consolidated open record hearing and one closed record appeal. If an open record predecision hearing is provided prior to the decision on a project permit, the process shall not allow a subsequent open record appeal hearing;

(4) Provision allowing for any public meeting or required open record hearing to be combined with any public meeting or open record hearing that may be held on the project by another local, state, regional, federal, or other agency, in accordance with provisions of RCW *36.70B.090 and 36.70B.110;

(5) A single report stating all the decisions made as of the date of the report on all project permits included in the consolidated permit process that do not require an open record predecision hearing and any recommendations on project permits that do not require an open record predecision hearing. The report shall state any mitigation required or proposed under the development regulations or the agency's authority under RCW 43.21C.060. The report may be the local permit. If a threshold determination other than a determination of significance has not been issued previously by the local government, the report shall include or append this determination;

(6) Except for the appeal of a determination of significance as provided in RCW 43.21C.075, if a local government elects to provide an appeal of its threshold determinations or project permit decisions, the local government shall provide for no more than one consolidated open record hearing on such appeal. The local government need not provide for any further

appeal and may provide an appeal for some but not all project permit decisions. If an appeal is provided after the open record hearing, it shall be a closed record appeal before a single decision-making body or officer;

(7) A notice of decision as required by RCW 36.70B.130 and issued within the time period provided in RCW 36.70B.080 and *36.70B.090;

(8) Completion of project review by the local government, including environmental review and public review and any appeals to the local government, within any applicable time periods under *RCW 36.70B.090; and

(9) Any other provisions not inconsistent with the requirements of this chapter or chapter 43.21C RCW.

[1995 c 347 § 407.]

Notes:

***Reviser's note:** RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

RCW 36.70B.070 Project permit applications--Determination of completeness--Notice to applicant.

(1) Within twenty-eight days after receiving a project permit application, a local government planning pursuant to RCW 36.70A.040 shall mail or provide in person a written determination to the applicant, stating either:

(a) That the application is complete; or

(b) That the application is incomplete and what is necessary to make the application complete.

To the extent known by the local government, the local government shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

(2) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.

(3) The determination of completeness may include the following as optional information:

(a) A preliminary determination of those development regulations that will be used for project mitigation;

(b) A preliminary determination of consistency, as provided under RCW 36.70B.040; or

(c) Other information the local government chooses to include.

(4)(a) An application shall be deemed complete under this section if the local government does not provide a written determination to the applicant that the application is incomplete as provided in subsection (1)(b) of this section.

(b) Within fourteen days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete application, the local government shall notify the applicant whether the application is complete or what additional information is necessary.

[1995 c 347 § 408; 1994 c 257 § 4. Formerly RCW 36.70A.440.]

Notes:

Severability--1994 c 257: See note following RCW 36.70A.270.

RCW 36.70B.080 Development regulations--Requirements.

(1) Development regulations adopted pursuant to RCW 36.70A.040 shall establish time periods for local government actions on specific project permit applications and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. The time periods for local government actions on specific complete project permit applications or project types should not exceed one hundred twenty days, unless the local government makes written findings that a specified amount of additional time is needed for processing of specific complete project permit applications or project types.

Such development regulations shall specify the contents of a completed project permit application necessary for the application of such time periods and procedures.

(2)(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least twenty thousand shall identify the types of project permit applications for which decisions are issued according to the provisions of this chapter. For each type of project permit application identified, these counties and cities shall establish a deadline for issuing a notice of final decision as required by subsection (1) of this section and minimum requirements for applications to be deemed complete under RCW 36.70B.070 as required by subsection (1) of this section. Counties and cities subject to the requirements of this subsection also shall, through September 1, 2003, prepare at least two annual performance reports that include, at a minimum, the following information for each type of project permit application:

- (i) Total number of complete applications received during the year;
- (ii) Number of complete applications received during the year for which a notice of final decision was issued before the deadline established under this subsection;
- (iii) Number of applications received during the year for which a notice of final decision was issued after the deadline established under this subsection;
- (iv) Number of applications received during the year for which an extension of time was mutually agreed upon by the applicant and the county or city; and
- (v) Variance of actual performance, excluding applications for which mutually agreed time extensions have occurred, to the deadline established under this subsection during the year.

(b) Until July 1, 2003, counties and cities subject to the requirements of this subsection shall provide notice of and access to the annual performance reports required by this subsection

through the county's or city's web site. If a county or city subject to the requirements of this subsection does not maintain a web site, notice of the report shall be given by reasonable methods, including but not limited to those methods specified in RCW 36.70B.110(4).

(3) Nothing in this section prohibits a county or city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government.

[2001 c 322 § 1; 1995 c 347 § 410; (1995 c 347 § 409 expired July 1, 2000); 1994 c 257 § 3. Formerly RCW 36.70A.065.]

NOTES:

Effective date--1995 c 347 § 410: "Section 410, chapter 347, Laws of 1995 shall take effect July 1, 2000." [1998 c 286 § 10; 1995 c 347 § 412.]

Expiration date--1995 c 347 § 409: "The amendments to RCW 36.70B.080 contained in section 409, chapter 347, Laws of 1995 shall expire July 1, 2000." [1998 c 286 § 9; 1995 c 347 § 411.]

Severability--1994 c 257: See note following RCW 36.70A.270.

RCW 36.70B.100 Designation of person or entity to receive determinations and notices.

A local government may require the applicant for a project permit to designate a single person or entity to receive determinations and notices required by this chapter.

[1995 c 347 § 414.]

RCW 36.70B.110 Notice of application--Required elements--Integration with other review procedures--Administrative appeals (as amended by 1997 c 396).

(1) Not later than April 1, 1996, a local government planning under RCW 36.70A.040 shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a threshold determination (~~of significance~~) under chapter 43.21C RCW concurrently with the notice of application, the notice of application (~~shall~~ may) be combined with the threshold determination (~~of significance~~) and the scoping notice for a determination of significance. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application.

(2) The notice of application shall be provided within fourteen days after the determination of completeness as provided in RCW 36.70B.070 and include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070 or *36.70B.090;

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed

project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW 36.70B.040; and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

(a) Posting the property for site-specific proposals;

(b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;

(f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

(g) Mailing to neighboring property owners.

(5) A notice of application shall not be required for project permits that are categorically exempt under chapter 43.21C RCW, unless a public comment period or an open record predecision hearing is required.

(6) A local government shall integrate the permit procedures in this section with environmental review under chapter 43.21C RCW as follows:

(a) Except for a threshold determination (of significance), the local government may not issue ~~(its threshold determination, or issue)~~ a decision or a recommendation on a project permit

until the expiration of the public comment period on the notice of application.

(b) If an open record predecision hearing is required and the local government's threshold determination requires public notice under chapter 43.21C RCW, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

(c) Comments shall be as specific as possible.

(7) A local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency provided that the hearing is held within the geographic boundary of the local government. Hearings shall be combined if requested by an applicant, as long as the joint hearing can be held within the time periods specified in *RCW 36.70B.090 or the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as:

(a) The agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.

(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision, combined with any environmental determinations, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules adopted pursuant to chapter 43.21C RCW allow public comment on a determination of nonsignificance issued as part of the appealable project permit decision.

(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.

(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations.

[1997 c 396 § 1; 1995 c 347 § 415.]

Notes:

***Reviser's note:** RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

RCW 36.70B.110 Notice of application--Required elements--Integration with other review procedures--Administrative appeals (*as amended by 1997 c 429*).

(1) Not later than April 1, 1996, a local government planning under RCW 36.70A.040

shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a determination of significance under chapter 43.21C RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application. Nothing in this section or this chapter prevents a lead agency, when it is a project proponent or is funding a project, from conducting its review under chapter 43.21C RCW or from allowing appeals of procedural determinations prior to submitting a project permit application.

(2) The notice of application shall be provided within fourteen days after the determination of completeness as provided in RCW 36.70B.070 and, except as limited by the provisions of subsection (4)(b) of this section, shall include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070 or *36.70B.090;

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW (~~36.70B.040~~) 36.70B.030(2); and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method

of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

- (a) Posting the property for site-specific proposals;
- (b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the notice of application required by subsection (2) of this section and the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;
- (c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- (d) Notifying the news media;
- (e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;
- (f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and
- (g) Mailing to neighboring property owners.

(5) A notice of application shall not be required for project permits that are categorically exempt under chapter 43.21C RCW, unless ~~(a public comment period or)~~ an open record predecision hearing is required or an open record appeal hearing is allowed on the project permit decision.

(6) A local government shall integrate the permit procedures in this section with its environmental review under chapter 43.21C RCW as follows:

(a) Except for a determination of significance and except as otherwise expressly allowed in this section, the local government may not issue its threshold determination ~~(, or issue a decision or a recommendation on a project permit)~~ until the expiration of the public comment period on the notice of application.

(b) If an open record predecision hearing is required ~~(and the local government's threshold determination requires public notice under chapter 43.21C RCW)~~, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

(c) Comments shall be as specific as possible.

(d) A local government is not required to provide for administrative appeals of its threshold determination. If provided, an administrative appeal shall be filed within fourteen days after notice that the determination has been made and is appealable. Except as otherwise expressly provided in this section, the appeal hearing on a determination of nonsignificance shall be consolidated with any open record hearing on the project permit.

(7) At the request of the applicant, a local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency ~~(provided that), if:~~

(a) The hearing is held within the geographic boundary of the local government(-Hearings shall be combined if requested by an applicant, as long as); and

(b) The joint hearing can be held within the time periods specified in *RCW 36.70B.090 or the applicant agrees to the schedule in the event that additional time is needed in order to

combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as:

(a) The agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.

(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision (~~combined with~~) and of any environmental determination(s) issued at the same time as the project decision, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules adopted pursuant to chapter 43.21C RCW allow public comment on a determination of nonsignificance issued as part of the appealable project permit decision.

(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.

(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations.

[1997 c 429 § 48; 1995 c 347 § 415.]

Notes:

Reviser's note: *(1) RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

(2) RCW 36.70B.110 was amended twice during the 1997 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 36.70B.120 Permit review process.

(1) Each local government planning under RCW 36.70A.040 shall establish a permit review process that provides for the integrated and consolidated review and decision on two or more project permits relating to a proposed project action, including a single application review and approval process covering all project permits requested by an applicant for all or part of a project action and a designated permit coordinator. If an applicant elects the consolidated permit review process, the determination of completeness, notice of application, and notice of final decision must include all project permits being reviewed through the consolidated permit review process.

(2) Consolidated permit review may provide different procedures for different categories

of project permits, but if a project action requires project permits from more than one category, the local government shall provide for consolidated permit review with a single open record hearing and no more than one closed record appeal as provided in RCW 36.70B.060. Each local government shall determine which project permits are subject to an open record hearing and a closed record appeal. Examples of categories of project permits include but are not limited to:

(a) Proposals that are categorically exempt from chapter 43.21C RCW, such as construction permits, that do not require environmental review or public notice;

(b) Permits that require environmental review, but no open record predecision hearing; and

(c) Permits that require a threshold determination and an open record predecision hearing and may provide for a closed record appeal to a hearing body or officer or to the local government legislative body.

(3) A local government may provide by ordinance or resolution for the same or a different decision maker or hearing body or officer for different categories of project permits. In the case of consolidated project permit review, the local government shall specify which decision makers shall make the decision or recommendation, conduct the hearing, or decide the appeal to ensure that consolidated permit review occurs as provided in this section. The consolidated permit review may combine an open record predecision hearing on one or more permits with an open record appeal hearing on other permits. In such cases, the local government by ordinance or resolution shall specify which project permits, if any, shall be subject to a closed record appeal.

[1995 c 347 § 416.]

RCW 36.70B.130 Notice of decision--Distribution.

A local government planning under RCW 36.70A.040 shall provide a notice of decision that also includes a statement of any threshold determination made under chapter 43.21C RCW and the procedures for administrative appeal, if any. The notice of decision may be a copy of the report or decision on the project permit application. The notice shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application. The local government shall provide for notice of its decision as provided in RCW 36.70B.110(4), which shall also state that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation. The local government shall provide notice of decision to the county assessor's office of the county or counties in which the property is situated.

[1996 c 254 § 1; 1995 c 347 § 417.]

RCW 36.70B.140 Project permits that may be excluded from review.

(1) A local government by ordinance or resolution may exclude the following project permits from the provisions of RCW 36.70B.060 through *36.70B.090 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that

the local government by ordinance or resolution has determined present special circumstances that warrant a review process different from that provided in RCW 36.70B.060 through *36.70B.090 and 36.70B.110 through 36.70B.130.

(2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

[1995 c 347 § 418.]

Notes:

***Reviser's note:** RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

RCW 36.70B.150 Local governments not planning under the growth management act may use provisions.

A local government not planning under RCW 36.70A.040 may incorporate some or all of the provisions of RCW 36.70B.060 through *36.70B.090 and 36.70B.110 through 36.70B.130 into its procedures for review of project permits or other project actions.

[1995 c 347 § 419.]

Notes:

***Reviser's note:** RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

RCW 36.70B.160 Additional project review encouraged--Construction.

(1) Each local government is encouraged to adopt further project review provisions to provide prompt, coordinated review and ensure accountability to applicants and the public, including expedited review for project permit applications for projects that are consistent with adopted development regulations and within the capacity of system-wide infrastructure improvements.

(2) Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution.

(3) Each local government shall adopt procedures to monitor and enforce permit decisions and conditions.

(4) Nothing in this chapter modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.

[1995 c 347 § 420.]

RCW 36.70B.170 Development agreements--Authorized.

(1) A local government may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development

agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW.

(2) RCW 36.70B.170 through 36.70B.190 and section 501, chapter 347, Laws of 1995 do not affect the validity of a contract rezone, concomitant agreement, annexation agreement, or other agreement in existence on July 23, 1995, or adopted under separate authority, that includes some or all of the development standards provided in subsection (3) of this section.

(3) For the purposes of this section, "development standards" includes, but is not limited to:

(a) Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;

(b) The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

(c) Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW;

(d) Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;

(e) Affordable housing;

(f) Parks and open space preservation;

(g) Phasing;

(h) Review procedures and standards for implementing decisions;

(i) A build-out or vesting period for applicable standards; and

(j) Any other appropriate development requirement or procedure.

(4) The execution of a development agreement is a proper exercise of county and city police power and contract authority. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

[1995 c 347 § 502.]

Notes:

Findings--Intent--1995 c 347 §§ 502-506: "The legislature finds that the lack of certainty in the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project

applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements." [1995 c 347 § 501.]

RCW 36.70B.180 Development agreements--Effect.

Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement. A permit or approval issued by the county or city after the execution of the development agreement must be consistent with the development agreement.

[1995 c 347 § 503.]

Notes:

Findings--Intent--1995 c 347 §§ 502-506: See note following RCW 36.70B.170.

RCW 36.70B.190 Development agreements--Recording--Parties and successors bound.

A development agreement shall be recorded with the real property records of the county in which the property is located. During the term of the development agreement, the agreement is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement.

[1995 c 347 § 504.]

Notes:

Findings--Intent--1995 c 347 §§ 502-506: See note following RCW 36.70B.170.

RCW 36.70B.200 Development agreements--Public hearing.

A county or city shall only approve a development agreement by ordinance or resolution after a public hearing. The county or city legislative body or a planning commission, hearing examiner, or other body designated by the legislative body to conduct the public hearing may conduct the hearing. If the development agreement relates to a project permit application, the provisions of chapter 36.70C RCW shall apply to the appeal of the decision on the development agreement.

[1995 c 347 § 505.]

Notes:

Findings--Intent--1995 c 347 §§ 502-506: See note following RCW 36.70B.170.

RCW 36.70B.210 Development agreements--Authority to impose fees not extended.

Nothing in RCW 36.70B.170 through 36.70B.200 and section 501, chapter 347, Laws of

1995 is intended to authorize local governments to impose impact fees, inspection fees, or dedications or to require any other financial contributions or mitigation measures except as expressly authorized by other applicable provisions of state law.

[1995 c 347 § 506.]

Notes:

Findings--Intent--1995 c 347 §§ 502-506: See note following RCW 36.70B.170.

RCW 36.70B.220 Permit assistance staff.

(1) Each county and city having populations of ten thousand or more that plan under RCW 36.70A.040 shall designate permit assistance staff whose function it is to assist permit applicants. An existing employee may be designated as the permit assistance staff.

(2) Permit assistance staff designated under this section shall:

(a) Make available to permit applicants all current local government regulations and adopted policies that apply to the subject application. The local government shall provide counter copies thereof and, upon request, provide copies according to chapter 42.17 RCW. The staff shall also publish and keep current one or more handouts containing lists and explanations of all local government regulations and adopted policies;

(b) Establish and make known to the public the means of obtaining the handouts and related information; and

(c) Provide assistance regarding the application of the local government's regulations in particular cases.

(3) Permit assistance staff designated under this section may obtain technical assistance and support in the compilation and production of the handouts under subsection (2) of this section from the municipal research council and the department of community, trade, and economic development.

[1996 c 206 § 9.]

Notes:

Findings--1996 c 206: See note following RCW 43.05.030.

RCW 36.70B.230 Planning regulations--Copies provided to county assessor.

By July 31, 1997, a local government planning under RCW 36.70A.040 shall provide to the county assessor a copy of the local government's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

[1996 c 254 § 6.]

RCW 36.70B.900 Finding--Severability--Part headings and table of contents not law--1995 c 347.

See notes following RCW 36.70A.470.

Chapter 36.70C RCW
JUDICIAL REVIEW OF LAND USE DECISIONS

Sections

36.70C.005	Short title.
36.70C.010	Purpose.
36.70C.020	Definitions.
36.70C.030	Chapter exclusive means of judicial review of land use decisions--Exceptions.
36.70C.040	Commencement of review--Land use petition--Procedure.
36.70C.050	Joinder of parties.
36.70C.060	Standing.
36.70C.070	Land use petition--Required elements.
36.70C.080	Initial hearing.
36.70C.090	Expedited review.
36.70C.100	Stay of action pending review.
36.70C.110	Record for judicial review--Costs.
36.70C.120	Scope of review--Discovery.
36.70C.130	Standards for granting relief.
36.70C.140	Decision of the court.
36.70C.900	Finding--Severability--Part headings and table of contents not law--1995 c 347.

RCW 36.70C.005 Short title.

This chapter may be known and cited as the land use petition act.

[1995 c 347 § 701.]

RCW 36.70C.010 Purpose.

The purpose of this chapter is to reform the process for judicial review of land use decisions made by local jurisdictions, by establishing uniform, expedited appeal procedures and uniform criteria for reviewing such decisions, in order to provide consistent, predictable, and timely judicial review.

[1995 c 347 § 702.]

RCW 36.70C.020 Definitions.

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

(1) "Land use decision" means a final determination by a local jurisdiction's body or officer with the highest level of authority to make the determination, including those with authority to hear appeals, on:

(a) An application for a project permit or other governmental approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but

excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations; and excluding applications for business licenses;

(b) An interpretative or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and

(c) The enforcement by a local jurisdiction of ordinances regulating the improvement, development, modification, maintenance, or use of real property. However, when a local jurisdiction is required by law to enforce the ordinances in a court of limited jurisdiction, a petition may not be brought under this chapter.

(2) "Local jurisdiction" means a county, city, or incorporated town.

(3) "Person" means an individual, partnership, corporation, association, public or private organization, or governmental entity or agency.

[1995 c 347 § 703.]

RCW 36.70C.030 Chapter exclusive means of judicial review of land use decisions--Exceptions.

(1) This chapter replaces the writ of certiorari for appeal of land use decisions and shall be the exclusive means of judicial review of land use decisions, except that this chapter does not apply to:

(a) Judicial review of:

(i) Land use decisions made by bodies that are not part of a local jurisdiction;

(ii) Land use decisions of a local jurisdiction that are subject to review by a quasi-judicial body created by state law, such as the shorelines hearings board or the growth management hearings board;

(b) Judicial review of applications for a writ of mandamus or prohibition; or

(c) Claims provided by any law for monetary damages or compensation. If one or more claims for damages or compensation are set forth in the same complaint with a land use petition brought under this chapter, the claims are not subject to the procedures and standards, including deadlines, provided in this chapter for review of the petition. The judge who hears the land use petition may, if appropriate, preside at a trial for damages or compensation.

(2) The superior court civil rules govern procedural matters under this chapter to the extent that the rules are consistent with this chapter.

[1995 c 347 § 704.]

RCW 36.70C.040 Commencement of review--Land use petition--Procedure.

(1) Proceedings for review under this chapter shall be commenced by filing a land use petition in superior court.

(2) A land use petition is barred, and the court may not grant review, unless the petition is timely filed with the court and timely served on the following persons who shall be parties to the

review of the land use petition:

(a) The local jurisdiction, which for purposes of the petition shall be the jurisdiction's corporate entity and not an individual decision maker or department;

(b) Each of the following persons if the person is not the petitioner:

(i) Each person identified by name and address in the local jurisdiction's written decision as an applicant for the permit or approval at issue; and

(ii) Each person identified by name and address in the local jurisdiction's written decision as an owner of the property at issue;

(c) If no person is identified in a written decision as provided in (b) of this subsection, each person identified by name and address as a taxpayer for the property at issue in the records of the county assessor, based upon the description of the property in the application; and

(d) Each person named in the written decision who filed an appeal to a local jurisdiction quasi-judicial decision maker regarding the land use decision at issue, unless the person has abandoned the appeal or the person's claims were dismissed before the quasi-judicial decision was rendered. Persons who later intervened or joined in the appeal are not required to be made parties under this subsection.

(3) The petition is timely if it is filed and served on all parties listed in subsection (2) of this section within twenty-one days of the issuance of the land use decision.

(4) For the purposes of this section, the date on which a land use decision is issued is:

(a) Three days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available;

(b) If the land use decision is made by ordinance or resolution by a legislative body sitting in a quasi-judicial capacity, the date the body passes the ordinance or resolution; or

(c) If neither (a) nor (b) of this subsection applies, the date the decision is entered into the public record.

(5) Service on the local jurisdiction must be by delivery of a copy of the petition to the persons identified by or pursuant to RCW 4.28.080 to receive service of process. Service on other parties must be in accordance with the superior court civil rules or by first class mail to:

(a) The address stated in the written decision of the local jurisdiction for each person made a party under subsection (2)(b) of this section;

(b) The address stated in the records of the county assessor for each person made a party under subsection (2)(c) of this section; and

(c) The address stated in the appeal to the quasi-judicial decision maker for each person made a party under subsection (2)(d) of this section.

(6) Service by mail is effective on the date of mailing and proof of service shall be by affidavit or declaration under penalty of perjury.

[1995 c 347 § 705.]

RCW 36.70C.050 Joinder of parties.

If the applicant for the land use approval is not the owner of the real property at issue,

and if the owner is not accurately identified in the records referred to in RCW 36.70C.040(2) (b) and (c), the applicant shall be responsible for promptly securing the joinder of the owners. In addition, within fourteen days after service each party initially named by the petitioner shall disclose to the other parties the name and address of any person whom such party knows may be needed for just adjudication of the petition, and the petitioner shall promptly name and serve any such person whom the petitioner agrees may be needed for just adjudication. If such a person is named and served before the initial hearing, leave of court for the joinder is not required, and the petitioner shall provide the newly joined party with copies of the pleadings filed before the party's joinder. Failure by the petitioner to name or serve, within the time required by RCW 36.70C.040(3), persons who are needed for just adjudication but who are not identified in the records referred to in RCW 36.70C.040(2)(b), or in RCW 36.70C.040(2)(c) if applicable, shall not deprive the court of jurisdiction to hear the land use petition.

[1995 c 347 § 706.]

RCW 36.70C.060 Standing.

Standing to bring a land use petition under this chapter is limited to the following persons:

- (1) The applicant and the owner of property to which the land use decision is directed;
- (2) Another person aggrieved or adversely affected by the land use decision, or who would be aggrieved or adversely affected by a reversal or modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:
 - (a) The land use decision has prejudiced or is likely to prejudice that person;
 - (b) That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision;
 - (c) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and
 - (d) The petitioner has exhausted his or her administrative remedies to the extent required by law.

[1995 c 347 § 707.]

RCW 36.70C.070 Land use petition--Required elements.

A land use petition must set forth:

- (1) The name and mailing address of the petitioner;
- (2) The name and mailing address of the petitioner's attorney, if any;
- (3) The name and mailing address of the local jurisdiction whose land use decision is at issue;
- (4) Identification of the decision-making body or officer, together with a duplicate copy of the decision, or, if not a written decision, a summary or brief description of it;
- (5) Identification of each person to be made a party under RCW 36.70C.040(2) (b)

through (d);

(6) Facts demonstrating that the petitioner has standing to seek judicial review under RCW 36.70C.060;

(7) A separate and concise statement of each error alleged to have been committed;

(8) A concise statement of facts upon which the petitioner relies to sustain the statement of error; and

(9) A request for relief, specifying the type and extent of relief requested.

[1995 c 347 § 708.]

RCW 36.70C.080 Initial hearing.

(1) Within seven days after the petition is served on the parties identified in RCW 36.70C.040(2), the petitioner shall note, according to the local rules of superior court, an initial hearing on jurisdictional and preliminary matters. This initial hearing shall be set no sooner than thirty-five days and no later than fifty days after the petition is served on the parties identified in RCW 36.70C.040(2).

(2) The parties shall note all motions on jurisdictional and procedural issues for resolution at the initial hearing, except that a motion to allow discovery may be brought sooner. Where confirmation of motions is required, each party shall be responsible for confirming its own motions.

(3) The defenses of lack of standing, untimely filing or service of the petition, and failure to join persons needed for just adjudication are waived if not raised by timely motion noted to be heard at the initial hearing, unless the court allows discovery on such issues.

(4) The petitioner shall move the court for an order at the initial hearing that sets the date on which the record must be submitted, sets a briefing schedule, sets a discovery schedule if discovery is to be allowed, and sets a date for the hearing or trial on the merits.

(5) The parties may waive the initial hearing by scheduling with the court a date for the hearing or trial on the merits and filing a stipulated order that resolves the jurisdictional and procedural issues raised by the petition, including the issues identified in subsections (3) and (4) of this section.

(6) A party need not file an answer to the petition.

[1995 c 347 § 709.]

RCW 36.70C.090 Expedited review.

The court shall provide expedited review of petitions filed under this chapter. The matter must be set for hearing within sixty days of the date set for submitting the local jurisdiction's record, absent a showing of good cause for a different date or a stipulation of the parties.

[1995 c 347 § 710.]

RCW 36.70C.100 Stay of action pending review.

(1) A petitioner or other party may request the court to stay or suspend an action by the local jurisdiction or another party to implement the decision under review. The request must set forth a statement of grounds for the stay and the factual basis for the request.

(2) A court may grant a stay only if the court finds that:

- (a) The party requesting the stay is likely to prevail on the merits;
- (b) Without the stay the party requesting it will suffer irreparable harm;
- (c) The grant of a stay will not substantially harm other parties to the proceedings; and
- (d) The request for the stay is timely in light of the circumstances of the case.

(3) The court may grant the request for a stay upon such terms and conditions, including the filing of security, as are necessary to prevent harm to other parties by the stay.

[1995 c 347 § 711.]

RCW 36.70C.110 Record for judicial review--Costs.

(1) Within forty-five days after entry of an order to submit the record, or within such a further time as the court allows or as the parties agree, the local jurisdiction shall submit to the court a certified copy of the record for judicial review of the land use decision, except that the petitioner shall prepare at the petitioner's expense and submit a verbatim transcript of any hearings held on the matter.

(2) If the parties agree, or upon order of the court, the record shall be shortened or summarized to avoid reproduction and transcription of portions of the record that are duplicative or not relevant to the issues to be reviewed by the court.

(3) The petitioner shall pay the local jurisdiction the cost of preparing the record before the local jurisdiction submits the record to the court. Failure by the petitioner to timely pay the local jurisdiction relieves the local jurisdiction of responsibility to submit the record and is grounds for dismissal of the petition.

(4) If the relief sought by the petitioner is granted in whole or in part the court shall equitably assess the cost of preparing the record among the parties. In assessing costs the court shall take into account the extent to which each party prevailed and the reasonableness of the parties' conduct in agreeing or not agreeing to shorten or summarize the record under subsection (2) of this section.

[1995 c 347 § 712.]

RCW 36.70C.120 Scope of review--Discovery.

(1) When the land use decision being reviewed was made by a quasi-judicial body or officer who made factual determinations in support of the decision and the parties to the quasi-judicial proceeding had an opportunity consistent with due process to make a record on the factual issues, judicial review of factual issues and the conclusions drawn from the factual issues shall be confined to the record created by the quasi-judicial body or officer, except as provided

in subsections (2) through (4) of this section.

(2) For decisions described in subsection (1) of this section, the record may be supplemented by additional evidence only if the additional evidence relates to:

(a) Grounds for disqualification of a member of the body or of the officer that made the land use decision, when such grounds were unknown by the petitioner at the time the record was created;

(b) Matters that were improperly excluded from the record after being offered by a party to the quasi-judicial proceeding; or

(c) Matters that were outside the jurisdiction of the body or officer that made the land use decision.

(3) For land use decisions other than those described in subsection (1) of this section, the record for judicial review may be supplemented by evidence of material facts that were not made part of the local jurisdiction's record.

(4) The court may require or permit corrections of ministerial errors or inadvertent omissions in the preparation of the record.

(5) The parties may not conduct pretrial discovery except with the prior permission of the court, which may be sought by motion at any time after service of the petition. The court shall not grant permission unless the party requesting it makes a prima facie showing of need. The court shall strictly limit discovery to what is necessary for equitable and timely review of the issues that are raised under subsections (2) and (3) of this section. If the court allows the record to be supplemented, the court shall require the parties to disclose before the hearing or trial on the merits the specific evidence they intend to offer. If any party, or anyone acting on behalf of any party, requests records under chapter 42.17 RCW relating to the matters at issue, a copy of the request shall simultaneously be given to all other parties and the court shall take such request into account in fashioning an equitable discovery order under this section.

[1995 c 347 § 713.]

RCW 36.70C.130 Standards for granting relief.

(1) The superior court, acting without a jury, shall review the record and such supplemental evidence as is permitted under RCW 36.70C.120. The court may grant relief only if the party seeking relief has carried the burden of establishing that one of the standards set forth in (a) through (f) of this subsection has been met. The standards are:

(a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;

(c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;

(d) The land use decision is a clearly erroneous application of the law to the facts;

(e) The land use decision is outside the authority or jurisdiction of the body or officer making the decision; or

(f) The land use decision violates the constitutional rights of the party seeking relief.

(2) In order to grant relief under this chapter, it is not necessary for the court to find that the local jurisdiction engaged in arbitrary and capricious conduct. A grant of relief by itself may not be deemed to establish liability for monetary damages or compensation.

[1995 c 347 § 714.]

RCW 36.70C.140 Decision of the court.

The court may affirm or reverse the land use decision under review or remand it for modification or further proceedings. If the decision is remanded for modification or further proceedings, the court may make such an order as it finds necessary to preserve the interests of the parties and the public, pending further proceedings or action by the local jurisdiction.

[1995 c 347 § 715.]

RCW 36.70C.900 Finding--Severability--Part headings and table of contents not law--1995 c 347.

See notes following RCW 36.70A.470.

**Chapter 36.71 RCW
PEDDLERS' AND HAWKERS' LICENSES**

Sections

36.71.010	Peddler's license--"Peddler" defined.
36.71.020	Peddler's license--Application for and issuance of license.
36.71.030	Peddler's license--Record of applications.
36.71.040	Peddler's license--Cancellation of license.
36.71.050	Peddler's license--Liability of deposit--Lien on.
36.71.060	Peddler's license--Penalty for peddling without license.
36.71.070	Hawkers, auctioneers, and barterers must procure license--Exceptions.
36.71.080	Hawkers, auctioneers, and barterers must procure license--Issuance of license.
36.71.090	Farmers, gardeners, etc., peddling own produce exempt from license requirements--Exception.

RCW 36.71.010 Peddler's license--"Peddler" defined.

The term "peddler" for the purpose of this chapter includes all persons, both principals and agents, who go from place to place and house to house, carrying for sale and offering for sale or exposal for sale, goods, wares, or merchandise except agricultural, horticultural, or farm products, which they may grow or raise, and except vendors of books, periodicals, or newspapers: PROVIDED, That nothing in this chapter shall apply to peddlers within the limits of any city or town which by ordinance regulates the sale of goods, wares, or merchandise by

peddlers.

[1963 c 4 § 36.71.010. Prior: 1929 c 110 § 1; 1909 c 214 § 1; RRS § 8353.]

RCW 36.71.020 Peddler's license--Application for and issuance of license.

Every peddler, before commencing business in any county of the state, shall apply in writing and under oath to the appropriate county official of the county in which he proposes to operate for a county license. The application must state the names and residences of the owners or parties in whose interest the business is to be conducted. The applicant at the same time shall file a true statement under oath of the quantity and value of the stock of goods, wares, and merchandise that is in the county for sale or to be kept or exposed for sale in the county, make a special deposit of five hundred dollars, and pay the county license fee as may be fixed under the authority of RCW 36.32.120(3).

The appropriate county official shall thereupon issue to the applicant a peddler's license, authorizing him to do business in the county for the term of one year from the date thereof. Every county license shall contain a copy of the application therefor, shall not be transferable, and shall not authorize more than one person to sell goods as a peddler, either by agent or clerk, or in any other way than his own proper person.

[1985 c 91 § 3; 1963 c 4 § 36.71.020. Prior: 1927 c 89 § 1; 1909 c 214 § 3; RRS § 8355.]

RCW 36.71.030 Peddler's license--Record of applications.

The appropriate county official of each county shall keep on file all applications for peddlers' licenses that are issued. All files and records shall be in convenient form and open to public inspection.

[1985 c 91 § 4; 1963 c 4 § 36.71.030. Prior: 1909 c 214 § 4; RRS § 8356.]

RCW 36.71.040 Peddler's license--Cancellation of license.

Upon the expiration and return of a county license, the appropriate county official shall cancel it, indorse thereon the cancellation, and place it on file. After holding the special deposit of the licensee for a period of ninety days from the date of cancellation, he shall return the deposit or such portion as may remain in his hands after satisfying the claims made against it.

[1985 c 91 § 5; 1963 c 4 § 36.71.040. Prior: 1909 c 214 § 5; RRS § 8357.]

RCW 36.71.050 Peddler's license--Liability of deposit--Lien on.

Each deposit made with the county shall be subject to all taxes legally chargeable thereto, to attachment and execution on behalf of the creditors of the licensee whose claims arise in connection with the business done under his license, and the county may be held to answer as trustee in any civil action in contract or tort brought against any licensee, and shall pay over,

under order of the court or upon execution, such amount of money as the licensee may be chargeable with upon the final determination of the case. Such deposit shall also be subject to the payment of any and all fines and penalties incurred by the licensee through violations of the provisions of RCW 36.71.010, 36.71.020, 36.71.030, 36.71.040 and 36.71.060, which shall be a lien upon the deposit and shall be collected in the manner provided by law.

[1985 c 91 § 6; 1963 c 4 § 36.71.050. Prior: 1909 c 214 § 6; RRS § 8358.]

RCW 36.71.060 Peddler's license--Penalty for peddling without license.

Every peddler who sells or offers for sale or exposes for sale, at public or private sale any goods, wares, or merchandise without a county license, shall be punished by imprisonment for not less than thirty days nor more than ninety days or by fine of not less than fifty dollars nor more than two hundred dollars or by both.

[1963 c 4 § 36.71.060. Prior: 1909 c 214 § 2; RRS § 8354.]

RCW 36.71.070 Hawkers, auctioneers, and barterers must procure license--Exceptions.

(1) If any person sells any goods, wares, or merchandise, at auction or public outcry, or barter goods, wares or merchandise from traveling boats, wagons, carts or vehicles of any kind, or from any pack, basket or other package carried on foot without first having obtained a license therefor from the board of county commissioners of the county in which such goods are sold or bartered, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than fifty dollars, and shall stand committed to the county jail of the county in which the conviction is had until such fine and cost of prosecution are paid, or discharged by due course of law: PROVIDED, That this section shall not be construed as to apply to any seagoing craft or to administrators or executors selling property of deceased persons, or to private individuals selling their household property, or furniture, or farming tools, implements, or livestock, or any produce grown or raised by them, either at public auction or private sale.

(2) Notwithstanding subsection (1) of this section, counties shall not license auctioneers that are licensed by the state under chapter 18.11 RCW.

[1984 c 189 § 6; 1963 c 4 § 36.71.070. Prior: 1879 p 130 § 1; 1873 p 437 § 1; RRS § 8341.]

RCW 36.71.080 Hawkers, auctioneers, and barterers must procure license--Issuance of license.

The county legislative authority may, by its order, direct the appropriate county official to issue a license to any person to do any business designated in RCW 36.71.070 for such sum as may be fixed under the authority of RCW 36.32.120(3).

[1985 c 91 § 7; 1963 c 4 § 36.71.080. Prior: 1873 p 438 § 3; RRS § 8342.]

RCW 36.71.090 Farmers, gardeners, etc., peddling own produce exempt from license requirements--Exception.

It shall be lawful for any farmer, gardener, or other person, without license, to sell, deliver, or peddle any fruits, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced, or manufactured by such person and no city or town shall pass or enforce any ordinance prohibiting the sale by or requiring license from the producers and manufacturers of farm produce and edibles as herein defined: PROVIDED, That nothing herein authorizes any person to sell, deliver, or peddle, without license, in any city or town, any dairy product, meat, poultry, eel, fish, mollusk, or shellfish where a license is required to engage legally in such activity in such city or town.

[1984 c 25 § 4; 1963 c 4 § 36.71.090. Prior: 1917 c 45 § 1; 1897 c 62 § 1; RRS § 8343.]

**Chapter 36.72 RCW
PRINTING**

Sections

- 36.72.071 All county officers to use official county newspaper.
- 36.72.075 Official county newspaper.
- 36.72.080 Forms for public blanks, compilation of.
- 36.72.090 Forms for public blanks, compilation of--Material to be provided by state.

RCW 36.72.071 All county officers to use official county newspaper.

All county officers shall cause all legal notices and delinquent tax lists to be advertised in the official county newspaper designated by the county legislative authority.

[1977 c 34 § 1.]

RCW 36.72.075 Official county newspaper.

At its first April meeting, the county legislative authority shall let a contract to a legal newspaper qualified under this section to serve as the official county newspaper for the term of one year beginning on the first day of July following. If there be at least one legal newspaper published in the county, the contract shall be let to a legal newspaper published in the county. If there be no legal newspaper published in the county, the county legislative authority shall let the contract to a legal newspaper published in an adjacent county and having general circulation in the county.

When two or more legal newspapers are qualified under the provisions of this section to be the official county newspaper, the county auditor shall advertise, at least five weeks before the meeting at which the county legislative authority shall let the contract for the official county newspaper, for bid proposals to be submitted by interested qualified legal newspapers.

Advertisement of the opportunity to bid shall be mailed to all qualified legal newspapers and shall be published once in the official county newspaper. The advertisement may designate the form which notices shall take, and may require that the successful bidder provide a bond for the correct and faithful performance of the contract.

The county legislative authority shall let the contract to the best and lowest responsible bidder, giving consideration to the question of circulation in awarding the contract, with a view to giving publication of notices the widest publicity.

[1977 c 34 § 2.]

RCW 36.72.080 Forms for public blanks, compilation of.

The state auditor, with the aid and advice of the attorney general shall compile the forms for all public blanks used in the counties of this state in conformity with the general statutes thereof. The various blanks shall be uniform throughout the state.

[1963 c 4 § 36.72.080. Prior: 1897 c 35 § 1; RRS § 4078.]

RCW 36.72.090 Forms for public blanks, compilation of--Material to be provided by state.

The material used in such blank forms and the printing and binding thereof shall be provided for by the state in the same manner and under the same rules and regulations as other public printing is now provided for under the general statutes of this state.

[1963 c 4 § 36.72.090. Prior: 1897 c 35 § 2; RRS § 4079.]

**Chapter 36.73 RCW
TRANSPORTATION BENEFIT DISTRICTS**

Sections

- 36.73.010 Intent.
- 36.73.020 Establishment of district by county.
- 36.73.030 Establishment of district by city.
- 36.73.040 General powers of district.
- 36.73.050 Establishment of district--Public hearing.
- 36.73.060 Authority to levy property tax.
- 36.73.070 Authority to issue general obligation bonds.
- 36.73.080 Local improvement districts authorized--Special assessments--Bonds.
- 36.73.090 Printing of bonds.
- 36.73.100 Use of bond proceeds.
- 36.73.110 Acceptance and use of gifts and grants.
- 36.73.120 Imposition of fees on building construction or land development--Limitations.
- 36.73.130 Power of eminent domain.
- 36.73.140 Authority to contract for street and highway improvements.
- 36.73.150 Department of transportation may fund improvement projects.

36.73.900 Liberal construction.

Notes:

Roads and bridges, service districts: Chapter 36.83 RCW.

RCW 36.73.010 Intent.

The legislature finds that the citizens of the state can benefit by cooperation of the public and private sectors in addressing transportation needs. This cooperation can be fostered through enhanced capability for cities, towns, and counties to make and fund transportation improvements necessitated by economic development.

It is the intent of the legislature to encourage joint efforts by the state, local governments, and the private sector to respond to the need for those transportation improvements on state highways, county roads, and city streets. This goal can be better achieved by allowing cities, towns, and counties to establish transportation benefit districts in order to respond to the special transportation needs and economic opportunities resulting from private sector development for the public good. The legislature also seeks to facilitate the equitable participation of private developers whose developments may generate the need for those improvements in the improvement costs.

[1987 c 327 § 1.]

RCW 36.73.020 Establishment of district by county.

The legislative authority of a county may establish one or more transportation benefit districts within the county for the purpose of acquiring, constructing, improving, providing, and funding any city street, county road, or state highway improvement within the district that is (1) consistent with state, regional, and local transportation plans, (2) necessitated by existing or reasonably foreseeable congestion levels attributable to economic growth, and (3) partially funded by local government or private developer contributions, or a combination of such contributions. Such transportation improvements shall be owned by the county of jurisdiction if located in an unincorporated area, by the city of jurisdiction if located in an incorporated area, or by the state in cases where the transportation improvement is or becomes a state highway; and all such transportation improvements shall be administered and maintained as other public streets, roads, and highways. The district may not include any area within the corporate limits of a city unless the city legislative authority has agreed to the inclusion pursuant to chapter 39.34 RCW. The agreement shall specify the area and such powers as may be granted to the benefit district.

The members of the county legislative authority, acting ex officio and independently, shall compose the governing body of the district: PROVIDED, That where a transportation benefit district includes any portion of an incorporated city, town, or another county, the district may be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. The county treasurer shall act as the ex officio treasurer of the district. The electors of the district shall all be registered voters residing within the district. For purposes of this section, the

term "city" means both cities and towns.

[1989 c 53 § 1; 1987 c 327 § 2.]

Notes:

Severability--1989 c 53: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 53 § 5.]

RCW 36.73.030 Establishment of district by city.

See RCW 35.21.225.

RCW 36.73.040 General powers of district.

A transportation benefit district is a quasi-municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

A transportation benefit district constitutes a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. Public works contract limits applicable to the jurisdiction that established the district shall apply to the district.

[1989 c 53 § 3; 1987 c 327 § 4.]

Notes:

Severability--1989 c 53: See note following RCW 36.73.020.

RCW 36.73.050 Establishment of district--Public hearing.

(1) A city or county legislative authority proposing to establish a transportation benefit district, or to modify the boundaries of an existing district, or to dissolve an existing district, shall conduct a hearing at the time and place specified in a notice published at least once, not less than ten days before the hearing, in a newspaper of general circulation within the proposed district. The legislative authority shall make provision for a district to be automatically dissolved when all indebtedness of the district has been retired and anticipated responsibilities have been satisfied. This notice shall be in addition to any other notice required by law to be published. The notice shall, where applicable, specify the functions or activities proposed to be provided or funded, or the additional functions or activities proposed to be provided or funded, by the district. Additional notice of the hearing may be given by mail, by posting within the proposed district, or in any manner the city or county legislative authority deems necessary to notify affected persons. All hearings shall be public and the city or county legislative authority shall hear objections from any person affected by the formation, modification of the boundaries, or dissolution of the district.

(2) Following the hearing held pursuant to subsection (1) of this section, the city or county legislative authority may establish a transportation benefit district, modify the boundaries or functions of an existing district, or dissolve an existing district, if the city or county legislative authority finds the action to be in the public interest and adopts an ordinance providing for the action. The ordinance establishing a district shall specify the functions or activities to be exercised or funded and establish the boundaries of the district. A district shall include only those areas which can reasonably be expected to benefit from improvements to be funded by the district. Functions or activities proposed to be provided or funded by the district may not be expanded beyond those specified in the notice of hearing, unless additional notices are made, further hearings on the expansion are held, and further determinations are made that it is in the public interest to so expand the functions or activities proposed to be provided or funded.

(3) At any time before the city or county legislative authority establishes a transportation benefit district pursuant to this section, all further proceedings shall be terminated upon the filing of a verified declaration of termination signed by the owners of real property consisting of at least sixty percent of the assessed valuation in the proposed district.

[1987 c 327 § 5.]

RCW 36.73.060 Authority to levy property tax.

(1) A transportation benefit district may levy an ad valorem property tax in excess of the one percent limitation upon the property within the district for a one-year period whenever authorized by the voters of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

(2) A district may provide for the retirement of voter-approved general obligation bonds, issued for capital purposes only, by levying bond retirement ad valorem property tax levies in excess of the one percent limitation whenever authorized by the voters of the district pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056.

[1987 c 327 § 6.]

RCW 36.73.070 Authority to issue general obligation bonds.

(1) To carry out the purpose of this chapter, a transportation benefit district may issue general obligation bonds, not to exceed an amount, together with any other outstanding nonvoter-approved general obligation indebtedness, equal to three-eighths of one percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A district may additionally issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, when authorized by the voters of the district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in RCW 36.73.060(2). The district may submit a single proposition to the voters that, if approved, authorizes both the issuance of

the bonds and the bond retirement property tax levies.

(2) General obligation bonds with a maturity in excess of forty years shall not be issued. The governing body of the transportation benefit district shall by resolution determine for each general obligation bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may include, but not be limited to: (a) A book entry system of recording the ownership of a bond whether or not physical bonds are issued; or (b) recording the ownership of a bond together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond and either the reissuance of the old bond or the issuance of a new bond to the new owner. Facsimile signatures may be used on the bonds and any coupons. Refunding general obligation bonds may be issued in the same manner as general obligation bonds are issued.

(3) Whenever general obligation bonds are issued to fund specific projects or enterprises that generate revenues, charges, user fees, or special assessments, the transportation benefit district which issues the bonds may specifically pledge all or a portion of the revenues, charges, user fees, or special assessments to refund the general obligation bonds. The district may also pledge any other revenues that may be available to the district.

[1987 c 327 § 7.]

RCW 36.73.080 Local improvement districts authorized--Special assessments--Bonds.

(1) A transportation benefit district may form a local improvement district to provide any transportation improvement it has the authority to provide, impose special assessments on all property specially benefited by the transportation improvements, and issue special assessment bonds or revenue bonds to fund the costs of the transportation improvement. Local improvement districts shall be created and assessments shall be made and collected pursuant to chapters 35.43, 35.44, 35.49, 35.50, 35.51, 35.53, and 35.54 RCW.

(2) The governing body of a transportation benefit district shall by resolution establish for each special assessment bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, if any, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may include, but not be limited to: (a) A book entry system of recording the ownership of a bond whether or not physical bonds are issued; or (b) recording the ownership of a bond together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond and either the reissuance of the old bond or the issuance of a new bond to the new owner. Facsimile signatures may be used on the bonds and any coupons. The maximum term of any special assessment bonds shall not exceed thirty years beyond the date of issue. Special assessment bonds issued pursuant to this section shall not be an indebtedness of the transportation benefit district issuing the bonds, and the interest and principal on the bonds shall only be payable from special assessments made

for the improvement for which the bonds were issued and any local improvement guaranty fund that the transportation benefit district has created. The owner or bearer of a special assessment bond or any interest coupon issued pursuant to this section shall not have any claim against the transportation benefit district arising from the bond or coupon except for the payment from special assessments made for the improvement for which the bonds were issued and any local improvement guaranty fund the transportation benefit district has created. The district issuing the special assessment bonds is not liable to the owner or bearer of any special assessment bond or any interest coupon issued pursuant to this section for any loss occurring in the lawful operation of its local improvement guaranty fund. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each special assessment bond issued pursuant to this section.

(3) Assessments shall reflect any credits given by a transportation benefit district for real property or property right donations made pursuant to RCW 47.14.030.

(4) The governing body may establish and pay moneys into a local improvement guaranty fund to guarantee special assessment bonds issued by the transportation benefit district.

[1987 c 327 § 8.]

RCW 36.73.090 Printing of bonds.

Where physical bonds are issued pursuant to RCW 36.73.070 or 36.73.080, the bonds shall be printed, engraved, or lithographed on good bond paper and the manual or facsimile signatures of both the treasurer and chairperson of the governing body shall be included on each bond.

[1987 c 327 § 9.]

RCW 36.73.100 Use of bond proceeds.

(1) The proceeds of any bond issued pursuant to RCW 36.73.070 or 36.73.080 may be used to pay costs incurred on such bond issue related to the sale and issuance of the bonds. Such costs include payments for fiscal and legal expenses, obtaining bond ratings, printing, engraving, advertising, and other similar activities.

(2) In addition, proceeds of bonds used to fund capital projects may be used to pay the necessary and related engineering, architectural, planning, and inspection costs.

[1987 c 327 § 10.]

RCW 36.73.110 Acceptance and use of gifts and grants.

A transportation benefit district may accept and expend or use gifts, grants, and donations.

[1987 c 327 § 11.]

RCW 36.73.120 Imposition of fees on building construction or land development--Limitations.

(1) A transportation benefit district may impose a fee or charge on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land only if done in accordance with chapter 39.92 RCW.

(2) Any fee or charge imposed under this section shall be used exclusively for transportation improvements constructed by a transportation benefit district. The fees or charges so imposed must be reasonably necessary as a result of the impact of development, construction, or classification or reclassification of land on identified transportation needs.

(3) When fees or charges are imposed by a district within which there is more than one city or both incorporated and unincorporated areas, the legislative authority for each city in the district and the county legislative authority for the unincorporated area must approve the imposition of such fees or charges before they take effect.

[1988 c 179 § 7; 1987 c 327 § 12.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 36.73.130 Power of eminent domain.

A transportation benefit district may exercise the power of eminent domain to obtain property for its authorized purposes in the manner as the city or county legislative authority that established the district.

[1987 c 327 § 13.]

RCW 36.73.140 Authority to contract for street and highway improvements.

A transportation benefit district has the same powers as a county or city to contract for street, road, or state highway improvement projects and to enter into reimbursement contracts provided for in chapter 35.72 RCW.

[1987 c 327 § 14.]

RCW 36.73.150 Department of transportation may fund improvement projects.

The department of transportation, counties, and cities may give funds to transportation benefit districts for the purposes of financing street, road, or highway improvement projects.

[1987 c 327 § 15.]

RCW 36.73.900 Liberal construction.

The rule of strict construction does not apply to this chapter, and this chapter shall be liberally construed to permit the accomplishment of its purposes.

[1987 c 327 § 16.]

Chapter 36.75 RCW
ROADS AND BRIDGES--GENERAL PROVISIONS

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RCW 36.75.010 Definitions.

As used in this title with relation to roads and bridges, the following terms mean:

(1) "Alley," a highway not designed for general travel and primarily used as a means of access to the rear of residences and business establishments;

(2) "Board," the board of county commissioners or the county legislative authority, however organized;

(3) "Center line," the line, marked or unmarked, parallel to and equidistant from the sides of a two-way traffic roadway of a highway except where otherwise indicated by painted lines or markers;

(4) "City street," every highway or part thereof, located within the limits of incorporated cities and towns, except alleys;

(5) "County engineer" includes the county director of public works;

(6) "County road," every highway or part thereof, outside the limits of incorporated cities and towns and which has not been designated as a state highway;

(7) "Department," the state department of transportation;

(8) "Director" or "secretary," the state secretary of transportation or his duly authorized assistant;

(9) "Pedestrian," any person afoot;

(10) "Private road or driveway," every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons;

(11) "Highway," every way, lane, road, street, boulevard, and every way or place in the state of Washington open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns;

(12) "Railroad," a carrier of persons or property upon vehicles, other than streetcars, operated upon stationary rails, the route of which is principally outside incorporated cities and towns;

(13) "Roadway," the paved, improved, or proper driving portion of a highway designed or ordinarily used for vehicular travel;

(14) "Sidewalk," property between the curb lines or the lateral lines of a roadway, and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a highway and dedicated to use by pedestrians;

(15) "State highway," includes every highway as herein defined, or part thereof, that has

been designated as a state highway, or branch thereof, by legislative enactment.

[1984 c 7 § 26; 1975 c 62 § 1; 1969 ex.s. c 182 § 1; 1963 c 4 § 36.75.010. Prior: 1937 c 187 § 1; RRS § 6450-1.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

Severability--1975 c 62: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 c 62 § 52.]

RCW 36.75.020 County roads--County legislative authority as agent of state--Standards.

All of the county roads in each of the several counties shall be established, laid out, constructed, altered, repaired, improved, and maintained by the legislative authority of the respective counties as agents of the state, or by private individuals or corporations who are allowed to perform such work under an agreement with the county legislative authority. Such work shall be done in accordance with adopted county standards under the supervision and direction of the county engineer.

[1982 c 145 § 6; 1963 c 4 § 36.75.020. Prior: 1943 c 82 § 1; 1937 c 187 § 2; Rem. Supp. 1943 § 6450-2.]

RCW 36.75.030 State and county cooperation.

The state department of transportation and the governing officials of any county may enter into reciprocal public highway improvement and maintenance agreements, providing for cooperation either in the county assisting the department in the improvement or maintenance of state highways, or the department assisting the county in the improvement or maintenance of county roads, under any circumstance where a necessity appears therefor or where economy in public highway improvement and maintenance will be best served.

[1984 c 7 § 27; 1963 c 4 § 36.75.030. Prior: 1939 c 181 § 11; RRS § 6450-2a.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.75.035 County may fund improvements to state highways.

A county pursuant to chapter 36.88 RCW, or a service district as provided for in chapter 36.83 RCW, may, with the approval of the state department of transportation, improve or fund the improvement of any state highway within its boundaries. The county may fund improvements under this section by any means authorized by law, but may not make any expenditure for the purposes of this section from a county road fund under chapter 36.82 RCW. Nothing in this section shall limit the authority of a county to fund cooperative improvement and maintenance agreements with the department of transportation, authorized by RCW 36.75.030 or 47.28.140.

[1985 c 400 § 1.]

Notes:

County road improvement districts and service districts may improve state highways: RCW 36.83.010 and 36.88.010.

RCW 36.75.040 Powers of county commissioners.

The board of county commissioners of each county, in relation to roads and bridges, shall have the power and it shall be its duty to:

(1) Acquire in the manner provided by law property real and personal and acquire or erect structures necessary for the administration of the county roads of such county;

(2) Maintain a county engineering office and keep record of all proceedings and orders pertaining to the county roads of such county;

(3) Acquire land for county road purposes by purchase, gift, or condemnation, and exercise the right of eminent domain as by law provided for the taking of land for public use by counties of this state;

(4) Perform all acts necessary and proper for the administration of the county roads of such county as by law provided;

(5) In its discretion rent or lease any lands, improvements or air space above or below any county road or unused county roads to any person or entity, public or private: PROVIDED, That the said renting or leasing will not interfere with vehicular traffic along said county road or adversely affect the safety of the traveling public: PROVIDED FURTHER, That any such sale, lease or rental shall be by public bid in the manner provided by law: AND PROVIDED FURTHER, That nothing herein shall prohibit any county from granting easements of necessity.

[1969 ex.s. c 182 § 15; 1963 c 4 § 36.75.040. Prior: 1937 c 187 § 3; RRS § 6450-3.]

RCW 36.75.050 Powers--How exercised.

The powers and duties vested in or imposed upon the boards with respect to establishing, examining, surveying, constructing, altering, repairing, improving, and maintaining county roads, shall be exercised under the supervision and direction of the county road engineer.

The board shall by resolution, and not otherwise, order the survey, establishment, construction, alteration, or improvement of county roads; the county road engineer shall prepare all necessary maps, plans, and specifications therefor, showing the right of way widths, the alignments, gradients, and standards of construction.

[1963 c 4 § 36.75.050. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4.]

RCW 36.75.060 County road districts.

For the purpose of efficient administration of the county roads of each county the board may, but not more than once in each year, form their respective counties, or any part thereof, into

suitable and convenient road districts, not exceeding nine in number, and cause a description thereof to be entered upon their records.

Unless the board decides otherwise by majority vote, there shall be at least one road district in each county commissioner's district embracing territory outside of cities and towns and no road district shall extend into more than one county commissioner's district.

[1969 ex.s. c 182 § 3; 1963 c 4 § 36.75.060. Prior: 1937 c 187 § 5; RRS § 6450-5.]

RCW 36.75.065 Community revitalization financing--Public improvements.

In addition to other authority that a road district possesses, a road district may provide any public improvement as defined under RCW 39.89.020, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW 39.89.050.

This section does not limit the authority of a road district to otherwise participate in the public improvements if that authority exists elsewhere.

[2001 c 212 § 16.]

NOTES:

Severability--2001 c 212: See RCW 39.89.902.

RCW 36.75.070 Highways worked seven years are county roads.

All public highways in this state, outside incorporated cities and towns and not designated as state highways, which have been used as public highways for a period of not less than seven years, where they have been worked and kept up at the expense of the public, are county roads.

[1963 c 4 § 36.75.070. Prior: 1955 c 361 § 2; prior: 1945 c 125 § 1, part; 1937 c 187 § 10, part; Rem. Supp. 1945 § 6450-10, part.]

RCW 36.75.080 Highways used ten years are county roads.

All public highways in this state, outside incorporated cities and towns and not designated as state highways which have been used as public highways for a period of not less than ten years are county roads: PROVIDED, That no duty to maintain such public highway nor any liability for any injury or damage for failure to maintain such public highway or any road signs thereon shall attach to the county until the same shall have been adopted as a part of the county road system by resolution of the county commissioners.

[1963 c 4 § 36.75.080. Prior: 1955 c 361 § 3; prior: 1945 c 125 § 1, part; 1937 c 187 § 10, part; Rem. Supp. 1945 § 6450-10, part.]

RCW 36.75.090 Abandoned state highways.

All public highways in this state which have been a part of the route of a state highway

and have been or may hereafter be no longer necessary as such, if situated outside of the limits of incorporated cities or towns, shall, upon certification thereof by the state department of transportation to the legislative authority of the county in which any portion of the highway is located, become a county road of the county, and if situated within the corporate limits of any city or town shall upon certification thereof by the state department of transportation to the mayor of the city or town in which any portion of the highway is located become a street of the city or town. Upon the certification the secretary of transportation shall execute a deed, which shall be duly acknowledged, conveying the abandoned highway or portion thereof to the county or city as the case may be.

[1984 c 7 § 28; 1977 ex.s. c 78 § 4; 1963 c 4 § 36.75.090. Prior: 1955 c 361 § 4; prior: 1953 c 57 § 1; 1945 c 125 § 1, part; 1937 c 187 § 10, part; Rem. Supp. 1945 § 6450-10, part.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.75.100 Informalities not fatal.

No informalities in the records in laying out, establishing, or altering any public highways existing on file in the offices of the various county auditors of this state or in the records of the department or the transportation commission, may be construed to invalidate or vacate the public highways.

[1984 c 7 § 29; 1963 c 4 § 36.75.100. Prior: 1937 c 187 § 11; RRS § 6450-11.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.75.110 True locations to be determined--Survey.

Whenever the board declares by resolution that the true location, course, or width of any county road is uncertain and that the same should be determined, it shall direct the county road engineer to make examination and survey thereof.

This shall embrace an examination and survey of the original petition, report, and field notes on the establishment of such road; a survey of the present traveled roadway; all topography within a reasonable distance and having a bearing on the true location of such road; the distance from the center line of the traveled roadway to the nearest section and quarter section corners; a map of sufficient scale accurately showing the above with field notes thereon; a map on the same scale showing the original field notes, such field notes to be transposed and the same meridian used on both maps.

[1963 c 4 § 36.75.110. Prior: 1937 c 187 § 12; RRS § 6450-12.]

RCW 36.75.120 Action to determine true location.

When the true location, course, or width of a county road, which was prior thereto

uncertain, has been reported by the examining engineer, the board shall file an action in the superior court of such county for the determination thereof. All persons affected by the determination of the true location, course, or width insofar as the same may vary from the originally established location, course, or width shall be made parties defendant in such action and service had and return made as in the case of civil actions. Upon the hearing the court shall consider the survey, maps, and all data with reference to the investigation of the examining engineer and may demand such further examination as it may deem necessary and any objection of any party defendant may be heard and considered. The court shall determine the true location, course, and width of the road and may in its discretion assess the cost of such action against the county to be paid from the county road fund.

[1963 c 4 § 36.75.120. Prior: 1937 c 187 § 13; RRS § 6450-13.]

RCW 36.75.130 Approaches to county roads.

No person shall be permitted to build or construct any approach to any county road without first obtaining permission therefor from the board.

[1963 c 4 § 36.75.130. Prior: 1943 c 174 § 1; Rem. Supp. 1943 § 6450-95.]

RCW 36.75.140 Approaches to county roads--Rules regarding construction.

The boards of the several counties of the state may adopt reasonable rules for the construction of approaches which, when complied with, shall entitle a person to build or construct an approach from any abutting property to any county road. The rules may include provisions for the construction of culverts under the approaches, the depth of fills over the culverts and for such other drainage facilities as the board deems necessary. The construction of approaches, culverts, fills, or such other drainage facilities as may be required, shall be under the supervision of the county road engineer, and all such construction shall be at the expense of the person benefited by the construction.

[1969 ex.s. c 182 § 4; 1963 c 4 § 36.75.140. Prior: 1943 c 174 § 2; Rem. Supp. 1943 § 6450-96.]

RCW 36.75.150 Approaches to county roads--Penalty.

Any person violating any of the provisions of RCW 36.75.130 and 36.75.140 shall be guilty of a misdemeanor.

[1963 c 4 § 36.75.150. Prior: 1943 c 174 § 3; Rem. Supp. 1943 § 6450-97.]

RCW 36.75.160 Power of county commissioners as to roads, bridges, and other structures crossing boundary lines.

The board of county commissioners of any county may erect and construct or acquire by purchase, gift, or condemnation, any bridge, trestle, or any other structure which crosses any

stream, body of water, gulch, navigable water, swamp or other topographical formation requiring such structure for the continuation or connection of any county road if such topographical formation constitutes the boundary of a city, town, another county or the state of Washington or another state or a county, city or town of such other state.

The board of such county may join with such city, town, other county, the state of Washington, or other state, or a county, city or town of such other state in paying for, erecting, constructing, acquiring by purchase, gift, or condemnation any such bridge, trestle, or other structure, and the purchase or condemnation of right of way therefor.

The board of any county may construct, maintain, and operate any county road which forms the boundary line between another county within the state or another county in any other state or which through its meandering crosses such boundary; and acquire by purchase or condemnation any lands or rights within this state, either within or without its county, necessary for such boundary road; and enter into joint contracts with authorities of adjoining counties for the construction, operation, and maintenance of such boundary roads. The power of condemnation herein granted may be exercised jointly by two counties in the manner provided in RCW 36.75.170 for bridges, or it may be exercised by a single county in the manner authorized by law.

[2000 c 155 § 1; 1963 c 4 § 36.75.160. Prior: 1943 c 82 § 3; 1937 c 187 § 26; Rem. Supp. 1943 § 6450-26.]

RCW 36.75.170 Power of county commissioners as to roads, bridges, and other structures crossing boundary lines--Resolution to acquire or construct.

The board may by original resolution entered upon its minutes declare its intention to pay for and erect or construct, or acquire by purchase, gift, or condemnation, any bridge, trestle, or other structure upon any county road which crosses any stream, body of water, gulch, navigable water, swamp or other topographical formation constituting a boundary, or to join therein with any other county, city or town, or with this state, or with any other state, or with any county, city or town of any other state, in the erection, or construction, or acquisition of any such structure, and declare that the same is a public necessity, and direct the county road engineer to report upon such project, dividing any just proportional cost thereof.

In the event two counties or any county and any city wish to join in paying for the erection or acquisition of any such structure, the resolution provided in this section shall be a joint resolution of the governing authorities of the counties and cities and they shall further, by such resolution, designate an engineer employed by one county to report upon the proposed erection or acquisition.

[1963 c 4 § 36.75.170. Prior: 1937 c 187 § 27; RRS § 6450-27.]

RCW 36.75.180 Power of county commissioners as to roads, bridges, and other structures crossing boundary lines--Freeholders' petition to acquire or construct.

Ten or more freeholders of any county may petition the board for the erection and construction or acquisition by purchase, gift, or condemnation of any bridge, trestle, or any other

structure in the vicinity of their residence, and upon any county road which crosses any stream, body of water, gulch, navigable waters, swamp or other topographical formation constituting a boundary by joining with any other county, city or town, or the state of Washington, or with any other state or with any county, city or town of any other state, setting forth and describing the location proposed for the erection of such bridge, trestle, or other structure, and stating that the same is a public necessity. The petition shall be accompanied by a bond with the same requirements, conditions, and amount and in the same manner as in case of a freeholders' petition for the establishing of a county road. Upon the filing of such petition and bond and being satisfied that the petition has been signed by freeholders residing in the vicinity of such proposed bridge, trestle, or other structure, the board shall direct the county road engineer to report upon the project, dividing any just proportional cost thereof.

In the event two counties or any county and any city or town are petitioned to join in paying for the erection or acquisition of such structure, the board of county commissioners of the counties or the board of county commissioners of the county and governing authorities of the city or town shall act jointly in the selection of the engineer who shall report upon such acquisition or erection.

[1963 c 4 § 36.75.180. Prior: 1937 c 187 § 28; RRS § 6450-28.]

RCW 36.75.190 Engineer's report--Hearing--Order.

Upon report by the examining engineer for the erection and construction upon any county road, or for acquisition by purchase, gift or condemnation of any bridge, trestle, or any other structure crossing any stream, body of water, gulch, navigable water, swamp or other topographical formation, which constitutes a boundary, publication shall be made and joint hearing had upon such report in the same manner and upon the same procedure as in the case of resolution or petition for the laying out and establishing of county roads. If upon the hearing the governing authorities jointly order the erection and construction or acquisition of such bridge, trestle, or other structure, they may jointly acquire land necessary therefor by purchase, gift, or condemnation in the manner as provided for acquiring land for county roads, and shall advertise calls for bids, require contractor's deposit and bond, award contracts, and supervise construction as by law provided and in the same manner as required in the case of the construction of county roads.

Any such bridges, trestles or other structures may be operated free, or may be operated as toll bridges, trestles, or other structures under the provisions of the laws of this state relating thereto.

[1963 c 4 § 36.75.190. Prior: 1937 c 187 § 29; RRS § 6450-29.]

RCW 36.75.200 Bridges on city or town streets.

The boards of the several counties may expend funds from the county road fund for the construction, improvement, repair, and maintenance of any bridge upon any city street within any city or town in such county where such city street and bridge are essential to the

continuation of the county road system of the county. Such construction, improvement, repair, or maintenance shall be ordered by resolution and proceedings conducted in respect thereto in the same manner as provided for the laying out and establishing of county roads by counties, and for the preparation of maps, plans, and specifications, advertising and award of contracts therefor.

[1963 c 4 § 36.75.200. Prior: 1937 c 187 § 30; RRS § 6450-30.]

RCW 36.75.203 Responsibility of city to maintain county road forming a municipal boundary.

If the centerline of a portion of a county road is part of a corporate boundary of a city or town as of May 21, 1985, and that portion of county road has no connection to the county road system, maintenance of all affected portions of the road shall be the responsibility of such city or town after a petition requesting the same has been made to the city or town by the county legislative authority.

[1985 c 429 § 2.]

RCW 36.75.205 Street as extension of road in town of less than one thousand.

Whenever any street in any town, having a population of less than one thousand persons, forms an extension of a county road of the county in which such town is located, and where the board of county commissioners of such county and the governing body of such town, prior to the commencement of any work, have mutually agreed and each adopted a resolution setting forth the nature and scope of the work to be performed and the share of the cost or labor which each shall bear, such county may expend county road funds for construction, improvement, repair, or maintenance of such street.

[1963 c 4 § 36.75.205. Prior: 1959 c 83 § 1.]

RCW 36.75.207 Agreements for planning, establishment, construction, and maintenance of city streets by counties--Use of county road fund--Payment by city--Contracts, bids.

See RCW 35.77.020 through 35.77.040.

RCW 36.75.210 Roads crossing boundaries.

Whenever a county road is established within any county, and such county road crosses the boundary of the county, the board of the county within which the major portion of the road is located may expend the county road fund of such county in laying out, establishing, constructing, altering, repairing, improving, and maintaining that portion of the road lying outside the county, in the manner provided by law for the expenditure of county funds for the construction, alteration, repair, improvement, and maintenance of county roads within the county.

The board of any county may construct, maintain, and operate any county road which forms the boundary line between another county within the state or another county in any other state or which through its meandering crosses such boundary; and acquire by purchase or condemnation any lands or rights within this state, either within or without its county, necessary for such boundary road; and enter into joint contracts with authorities of adjoining counties for the construction, operation, and maintenance of such boundary roads. The power of condemnation herein granted may be exercised jointly by two counties in the manner provided for bridges, or it may be exercised by a single county in the manner authorized by law.

[2000 c 155 § 2; 1963 c 4 § 36.75.210. Prior: 1937 c 187 § 23; RRS § 6450-23. FORMER PART OF SECTION: 1943 c 82 § 3, part; 1937 c 187 § 26, part; Rem. Supp. 1943 § 6450-26, part, now codified in RCW 36.75.160.]

RCW 36.75.220 Connecting road across segment of third county.

Whenever two counties are separated by an intervening portion of a third county not exceeding one mile in width, and each of such counties has constructed or shall construct a county road to the boundary thereof, and the boards of the two counties deem it beneficial to such counties to connect the county roads by the construction and maintenance of a county road across the intervening portion of the third county, it shall be lawful for the boards of the two counties to expend jointly the county road funds of their respective counties in acquiring right of way for the construction, improvement, repair, and maintenance of such connecting county road and any necessary bridges thereon, in the manner provided by law for the expenditure of county road funds for the construction, improvement, repair, and maintenance of county roads lying within a county.

[1963 c 4 § 36.75.220. Prior: 1937 c 187 § 24; RRS § 6450-24.]

RCW 36.75.230 Acquisition of land under RCW 36.75.210 and 36.75.220.

For the purpose of carrying into effect RCW 36.75.210 and 36.75.220 and under the circumstances therein set out the boards may acquire land necessary for the right of way for any portion of a county road lying outside such county or counties by gift or purchase or by condemnation in the manner provided for the taking of property for public use by counties.

[1963 c 4 § 36.75.230. Prior: 1937 c 187 § 25, part; RRS § 6450-25, part.]

RCW 36.75.240 Sidewalks and pedestrian paths or walks--Bicycle paths, lanes, routes, and roadways--Standards.

The boards may expend funds credited to the county road fund from any county or road district tax levied for the construction of county roads for the construction of sidewalks, bicycle paths, lanes, routes, and roadways, and pedestrian allocated paths or walks. Bicycle facilities constructed or modified after June 10, 1982, shall meet or exceed the standards of the state department of transportation.

[1982 c 55 § 2; 1974 ex.s. c 141 § 7; 1963 c 4 § 36.75.240. Prior: 1937 c 187 § 25, part; RRS § 6450-25, part.]

Notes:

Pavement marking standards: RCW 47.36.280.

RCW 36.75.243 Curb ramps for physically handicapped.

See RCW 35.68.075, 35.68.076.

RCW 36.75.250 State may intervene if maintenance neglected.

If by any agreement with the federal government or any agency thereof or with the state or any agency thereof, a county has agreed to maintain certain county roads or any portion thereof and the maintenance is not being performed to the satisfaction of the federal government or the department, reasonably consistent with original construction, notice thereof may be given by the department to the legislative authority of the county, and if the county legislative authority does not within ten days provide for the maintenance, the department may perform the maintenance, and the state treasurer shall pay the cost thereof on vouchers submitted by the department and deduct the cost thereof from any sums in the motor vehicle fund credited or to be credited to the county in which the county road is located.

[1984 c 7 § 30; 1963 c 4 § 36.75.250. Prior: 1937 c 187 § 46; RRS § 6450-46.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.75.255 Street improvements--Provision of supplies or materials.

Any county may assist a street abutter in improving the street serving the abutter's premises by providing asphalt, concrete, or other supplies or materials. The furnishing of supplies or materials or paying to the abutter the cost thereof and the providing of inspectors and other incidental personnel shall not render the street improvements a public work or improvement subject to competitive bidding. The legislative authority of such county shall approve any such assistance at a public meeting and shall maintain a public register of any such assistance setting forth the value, nature, purpose, date and location of the assistance and the name of the beneficiary.

[1983 c 103 § 2.]

RCW 36.75.260 Annual report to secretary of transportation.

Each county legislative authority shall on or before May 31st of each year submit such records and reports to the secretary of transportation, on forms furnished by the department, as are necessary to enable the secretary to compile an annual report on county highway operations.

[1999 c 204 § 2; 1984 c 7 § 31; 1977 c 75 § 31; 1963 c 4 § 36.75.260. Prior: 1943 c 82 § 8; 1937 c 187 § 58; Rem.

Supp. 1943 § 6450-58.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.75.270 Limitation of type or weight of vehicles authorized--Penalty.

The board of county commissioners of each county may by resolution limit or prohibit classes or types of vehicles on any county road or bridge and may limit the weight of vehicles which may travel thereon. Any such resolution shall be effective for a definite period of time which shall be stated in the resolution. If such resolution is published at least once in a newspaper of general circulation in the county and if signs indicating such closure or limitation of traffic have been posted on such road or bridge, any person violating such resolution shall be guilty of a misdemeanor.

[1963 c 4 § 36.75.270. Prior: 1949 c 156 § 8; Rem. Supp. 1949 § 6450-8g.]

Notes:

Local restrictions or limitations of weight: RCW 46.44.080.

RCW 36.75.280 Centralized repair and storage of machinery, equipment, supplies, etc.

All county road machinery, equipment, stores, and supplies, excepting stockpiles and other road building material, shall while not in use be stored and repaired at one centralized point in each county: PROVIDED, That if the geography, topography, distance, or other valid economic considerations require more than one place for storage or repairs, the county commissioners may, by unanimous vote, authorize the same.

[1963 c 4 § 36.75.280. Prior: 1949 c 156 § 4; Rem. Supp. 1949 § 6450-8d.]

RCW 36.75.290 General penalty.

It shall be a misdemeanor for any person to violate any of the provisions of this title relating to county roads and bridges unless such violation is by this title or other law of this state declared to be a felony or gross misdemeanor.

[1963 c 4 § 36.75.290. Prior: 1943 c 82 § 13, part; 1937 c 187 § 66, part; Rem. Supp. 1943 § 6450-66, part.]

RCW 36.75.300 Primitive roads--Classification and designation.

The legislative authority of each county may by resolution classify and designate portions of the county roads as primitive roads where the designated road portion:

- (1) Is not classified as part of the county primary road system, as provided for in RCW 36.86.070;
- (2) Has a gravel or earth driving surface; and

(3) Has an average annual daily traffic of one hundred or fewer vehicles.

Any road designated as a primitive road shall be marked with signs indicating that it is a primitive road, as provided in the manual of uniform traffic control devices, at all places where the primitive road portion begins or connects with a highway other than another primitive road. No design or signing or maintenance standards or requirements, other than the requirement that warning signs be placed as provided in this section, apply to primitive roads.

The design of a primitive road, and the location, placing, or failing to place road signs, other than the requirement that warning signs be placed as provided in this section, shall not be considered in any action for damages brought against a county, or against a county employee or county employees, or both, arising from vehicular traffic on the primitive road.

[1985 c 369 § 2; 1980 c 45 § 1.]

Chapter 36.76 RCW ROADS AND BRIDGES--BONDS

Sections

36.76.080	Bonds authorized--Election.
36.76.090	How to be held--Issuance of bonds.
36.76.100	Notice of election.
36.76.110	Disposition of proceeds--City assistance.
36.76.120	Payment of principal and interest.
36.76.130	Act cumulative.
36.76.140	Toll bridge bonds authorized--Adjoining counties.

RCW 36.76.080 Bonds authorized--Election.

The legislative authority of any county may, whenever a majority thereof so decides, submit to the voters of their county the question whether the legislative authority shall be authorized to issue negotiable road bonds of the county in an amount subject to the limitations on indebtedness provided for in RCW 39.36.020(2), for the purpose of constructing a new road or roads, or improving established roads within the county, or for aiding in so doing, as herein prescribed.

The word "improvement" wherever used in this section and RCW 36.76.090, 36.76.100, 36.76.110, 36.76.120, and 36.76.130 shall embrace any undertaking for any or all of such purposes. The word "road" shall embrace all highways, roads, streets, avenues, bridges, and other public ways.

The provisions of this section and RCW 36.76.090, 36.76.100, 36.76.110, 36.76.120, and 36.76.130 shall apply not only to roads which are or shall be under the general control of the county, but also to all parts of state roads in such county and to all roads which are situated or are to be constructed wholly or partly within the limits of any incorporated city or town therein, provided the county legislative authority finds that they form or will become a part of the public

highway system of the county, and will connect the existing roads therein. Such finding may be made by the county legislative authority at any stage of the proceedings before the actual delivery of the bonds.

The constructing or improving of any and all such roads, or the aiding therein, is declared to be a county purpose.

The question of the issuance of bonds for any undertaking which relates to a number of different roads or parts thereof, whether intended to supply the whole expenditure or to aid therein, may be submitted to the voters as a single proposition in all cases where such course is consistent with the provisions of the state Constitution. If the county legislative authority, in submitting a proposition relating to different roads or parts thereof, finds that such proposition has for its object the furtherance and accomplishment of the construction of a system of public and county highways in such county, and constitutes and has for its object a single purpose, such finding shall be presumed to be correct, and upon the issuance of the bonds the presumption shall become conclusive.

No proposition for bonds shall be submitted which proposes that more than forty percent of the proceeds thereof shall be expended within any city or town or within any number of cities and towns.

[1983 c 167 § 90; 1971 c 76 § 2; 1970 ex.s. c 42 § 22; 1963 c 4 § 36.76.080. Prior: 1913 c 25 § 1; RRS § 5592.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.76.090 How to be held--Issuance of bonds.

The election shall be held as provided in RCW 39.36.050. If three-fifths of the legal ballots cast on the question of issuing bonds for the improvement contemplated in RCW 36.76.080 are in favor of the bond issue, the county legislative authority must issue the general obligation bonds. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW.

[1984 c 186 § 31; 1983 c 167 § 91; 1970 ex.s. c 56 § 53; 1969 ex.s. c 232 § 29; 1963 c 4 § 36.76.090. Prior: 1913 c 25 § 2; RRS § 5593.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 36.76.100 Notice of election.

The notice of this election shall state which road or roads are to be built or improved. The notice need not describe the road or roads with particularity, but it shall be sufficient either to describe them by termini and with a general statement as to their course, or to use any other appropriate language sufficient to show the purpose intended to be accomplished. The county legislative authority may, at its option, give such other or further notice as it may deem advisable.

[1984 c 186 § 32; 1963 c 4 § 36.76.100. Prior: 1913 c 25 § 4; RRS § 5595.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

RCW 36.76.110 Disposition of proceeds--City assistance.

When the bonds are sold, the money arising therefrom shall be immediately paid into the treasury of the county, and shall be drawn only for the improvement for which they were issued, under the general direction of the board: PROVIDED, That if the improvement includes in whole or in part the constructing or improving of one or more roads, or any part or parts thereof, within the limits of an incorporated city or town, and if the county commissioners find that the amount of the proceeds of the bonds intended to be expended for the improvements within such corporate limits will probably not be sufficient to defray the entire expense of the improvement therein, and if they further find it to be equitable that the city or town should bear the remainder of the expense, they may postpone any expenditure therefor from the proceeds of the bonds until the city or town makes provision by ordinance for proceeding with the improvement within its corporate limits at its own expense insofar as concerns the cost thereof over and above the amount of bond proceeds available therefor.

In such case it shall be lawful for the county commissioners to consent, under such general directions as they shall impose, that the proper authorities of the city or town shall have actual charge of making the proposed improvement within the corporate limits. The city or town shall acquire any needed property or rights and do the work by contract or otherwise in accordance with its charter or ordinances, but the same shall be subject to the approval of the county commissioners insofar as concerns any payment therefor from the proceeds of the bonds.

In such case, as the work progresses and money is needed to pay therefor, the county commissioners shall, from time to time, by proper order, specifying the amount and purpose, direct the county treasurer to turn over to the city or town treasurer such part or parts of the proceeds of the bonds as may be justly applicable to such improvement or part thereof within such city or town, and any money so received by the city or town treasurer shall be inviolably applied to the purpose specified. When that portion of the entire improvement which lies within any such city or town can readily be separated into parts, the procedure authorized by this section may be pursued separately as to any one or more of such parts of the general improvement.

Nothing contained in this section shall be construed to render the county liable for any greater part of the expense of any improvement or part thereof within any city or town than the proper amount of the proceeds of such bonds, or to prevent the city or town from raising any part of the cost of any such improvement or part thereof, over and above the amount arising from the proceeds of the bonds, by assessment upon property benefited, or by contribution from any of its general or special funds in accordance with the provisions of the charter or laws governing such city or town. The provisions of this section, other than the direction for the payment into the county treasury of the money arising from the sale of the bonds, need not be complied with until

after the issuance of the bonds and the validity of the bonds shall not be dependent upon such compliance.

[1963 c 4 § 36.76.110. Prior: 1913 c 25 § 5; RRS § 5596.]

RCW 36.76.120 Payment of principal and interest.

The county legislative authority must ascertain and levy annually a tax sufficient to pay the interest on all such bonds whenever it becomes due and to meet the annual maturities of principal. The county treasurer must pay out of any money accumulated from the taxes levied to pay the interest as aforesaid, the interest upon all such bonds when it becomes due as provided on the bond or, if coupons are attached to a bond, upon presentation at the place of payment of the proper coupon. Any interest payments or coupons so paid must be reported to the county legislative authority at its first meeting thereafter. Whenever interest is payable at any place other than the city in which the county treasurer keeps his office, the county treasurer shall seasonably remit to the state fiscal agent the amount of money required for the payment of any interest which is about to fall due. When any such bonds or any interest is paid, the county treasurer shall suitably and indelibly cancel them.

[1984 c 186 § 33; 1983 c 167 § 92; 1963 c 4 § 36.76.120. Prior: 1913 c 25 § 3; RRS § 5594.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.76.130 Act cumulative.

*This act shall not be construed as repealing or affecting any other act relating to the issuance of bonds for road or other purposes, but shall be construed as conferring additional power and authority.

[1963 c 4 § 36.76.130. Prior: 1913 c 25 § 7; RRS § 5598.]

Notes:

***Reviser's note:** "This act" [1913 c 25] consists of RCW 36.76.080, 36.76.090, 36.76.100, 36.76.110, 36.76.120, and 36.76.130.

RCW 36.76.140 Toll bridge bonds authorized--Adjoining counties.

The county legislative authority may, by majority vote, and by submission to the voters under the same procedure required in RCW 36.76.090 and 36.76.100, issue general obligation bonds for the purpose of contributing money, or the bonds themselves, to the department to help finance the construction of toll bridges across topographical formations constituting boundaries between the county and an adjoining county, or a toll bridge across topographical formation located wholly within an adjoining county, which in the discretion of the county legislative authority, directly or indirectly benefits the county. The bonds may be transferred to the department to be sold by it for the purposes outlined herein. The bonds may bear interest at a rate or rates as authorized by the county legislative authority. Such indebtedness is subject to the

limitations on indebtedness provided for in RCW 39.36.020(2).

[1984 c 7 § 32; 1971 c 76 § 3; 1970 ex.s. c 56 § 54; 1969 ex.s. c 232 § 30; 1963 c 4 § 36.76.140. Prior: 1955 c 194 § 1.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

Chapter 36.77 RCW ROADS AND BRIDGES--CONSTRUCTION

Sections

36.77.010	Maps, plans, and specifications.
36.77.020	Approval--Call for bids.
36.77.030	Opening of bids--Deposit.
36.77.040	Award of contract--Bond--Low bidder claiming error.
36.77.065	Day labor construction projects or programs--"County road construction budget" defined--Amounts--Violations.
36.77.070	Publication of information on day labor projects--Penalty--Prosecution.
36.77.075	County roads--Small works roster.

RCW 36.77.010 Maps, plans, and specifications.

Whenever it is ordered by resolution of the board that any county road shall be laid out and established and altered, widened, or otherwise constructed or improved, the county road engineer employed by the county shall prepare such maps, plans, and specifications as shall be necessary and sufficient. A copy of such maps, plans, and specifications shall be approved by the board of county commissioners with its approval endorsed thereon, and such copy shall be filed with the clerk of the board.

[1963 c 4 § 36.77.010. Prior: 1959 c 67 § 2; prior: 1937 c 187 § 32, part; RRS § 6450-32, part.]

RCW 36.77.020 Approval--Call for bids.

Upon approval of such maps, plans, and specifications and the filing thereof the board shall, if it determines that the work shall be done by contract, advertise a call for bids upon such construction work by publication in the official county paper and also one trade paper of general circulation in the county, in one issue of each such paper at least once in each week for two consecutive weeks prior to the time set in the call for bids for the opening of bids. All bids shall be submitted under sealed cover before the time set for the opening of bids.

[1963 c 4 § 36.77.020. Prior: 1959 c 67 § 3; prior: 1937 c 187 § 32, part; RRS § 6450-32, part.]

RCW 36.77.030 Opening of bids--Deposit.

At the time and place fixed in the call for bids, such bids as have been submitted shall be publicly opened and read. No bid may be considered unless it is accompanied by a bid deposit in the form of a surety bond, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

[1985 c 369 § 3; 1963 c 4 § 36.77.030. Prior: 1959 c 67 § 4; prior: 1937 c 187 § 32, part; RRS § 6450-32, part.]

RCW 36.77.040 Award of contract--Bond--Low bidder claiming error.

The board shall proceed to award the contract to the lowest and best bidder but may reject any or all bids if in its opinion good cause exists therefor. The board shall require from the successful bidder a contractor's bond in the amount and with the conditions imposed by law. Should the bidder to whom the contract is awarded fail to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and placed in the county road fund and the contract awarded to the next lowest and best bidder. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the board.

[1996 c 18 § 4; 1963 c 4 § 36.77.040. Prior: 1959 c 67 § 5; prior: 1937 c 187 § 32, part; RRS § 6450-32, part.]

RCW 36.77.065 Day labor construction projects or programs--"County road construction budget" defined--Amounts--Violations.

The board may cause any county road to be constructed or improved by day labor as provided in this section.

(1) As used in this section, "county road construction budget" means the aggregate total of those costs as defined by the budgeting, accounting, and reporting system for counties and cities and other local governments authorized under RCW 43.09.200 and 43.09.230 as prescribed in the state auditor's budget, accounting, and reporting manual's (BARS) road and street construction accounts 541.00 through 541.90 in effect April 1, 1975: PROVIDED, That such costs shall not include those costs assigned to the preliminary engineering account 541.11, right of way accounts 541.20 through 541.25, ancillary operations account 541.80, and ferries account 541.81 in the budget, accounting, and reporting manual.

(2) For counties with a population that equals or exceeds fifty thousand people, the total amount of day labor construction programs one county may perform annually shall total no more than the amounts determined in the following manner:

(a) Any county with a total annual county road construction budget of four million dollars or more may accumulate a day labor road construction budget equal to no more than eight hundred thousand dollars or fifteen percent of the county's total annual county road

construction budget, whichever is greater.

(b) Any county with a total annual county road construction budget of one million five hundred thousand dollars or more and less than four million dollars may accumulate a day labor road construction budget equal to not more than five hundred twenty-five thousand dollars or twenty percent of the county's total annual county road construction budget, whichever is greater.

(c) Any county with a total annual county road construction budget of five hundred thousand dollars or more and less than one million five hundred thousand dollars may accumulate a day labor road construction budget equal to two hundred fifty thousand dollars or thirty-five percent of the county's total annual county road construction budget, whichever is greater.

(d) Any county with a total annual county road construction budget less than five hundred thousand dollars may accumulate a day labor road construction budget equal to two hundred fifty thousand dollars: PROVIDED, That any county with a total annual road construction budget of less than five hundred thousand dollars may, by resolution of the board at the time the county road construction budget is adopted, elect to construct or improve county roads by day labor in an amount not to exceed thirty-five thousand dollars on any one project, including labor, equipment, and materials; such election to be in lieu of the two hundred fifty thousand dollar limit provided for in this section, except that any project means a complete project and the division of any project into units of work or classes of work so as to permit construction by day labor is not authorized.

(3) For counties with a population of less than fifty thousand people, the total amount of day labor construction programs one county may perform annually may total no more than the amounts determined in the following manner:

(a) A county with a total annual county road construction budget of four million dollars or more may accumulate a day labor road construction budget equal to not more than eight hundred eighty thousand dollars or twenty-five percent of the county's total annual county road construction budget, whichever is greater;

(b) A county with a total annual county road construction budget of one million five hundred thousand dollars or more and less than four million dollars may accumulate a day labor road construction budget equal to not more than five hundred seventy-seven thousand dollars or thirty percent of the county's total annual county road construction budget, whichever is greater;

(c) A county with a total annual county road construction budget of five hundred thousand dollars or more and less than one million five hundred thousand dollars may accumulate a day labor road construction budget equal to two hundred seventy-five thousand dollars or forty-five percent of the county's total annual county road construction budget, whichever is greater;

(d) A county with a total annual county road construction budget less than five hundred thousand dollars may accumulate a day labor road construction budget equal to two hundred seventy-five thousand dollars. However, such a county may, by resolution of the board at the time the county road construction budget is adopted, elect instead to construct or improve county roads by day labor in an amount not to exceed thirty-eight thousand five hundred dollars on any

one project, including labor, equipment, and materials. That election is in lieu of the two hundred seventy-five thousand dollar limit provided for in this section. As used in this section, "any project" means a complete project, and a county may not divide a project into units of work or classes of work so as to permit construction by day labor.

(4) Any county that adopts a county road construction budget unreasonably exceeding that county's actual road construction expenditures for the same budget year which has the effect of permitting the county to exceed the day labor amounts established in this section is in violation of the county road administration board's standards of good practice under RCW 36.78.020 and is in violation of this section. Any county, whose expenditure for day labor for road construction projects unreasonably exceeds the limits specified in this section, is in violation of the county road administration board's standards of good practice under RCW 36.78.020 and is in violation of this section.

(5) Notwithstanding any other provision in this section, whenever the construction work or improvement is the installation of electrical traffic control devices, highway illumination equipment, electrical equipment, wires, or equipment to convey electrical current, in an amount exceeding ten thousand dollars for any one project including labor, equipment, and materials, such work shall be performed by contract as in this chapter provided. This section means a complete project and does not permit the construction of any project by day labor by division of the project into units of work or classes of work.

[2001 c 108 § 1; 1980 c 40 § 1.]

NOTES:

Effective date--1980 c 40: "This act shall take effect on January 1, 1981." [1980 c 40 § 3.]

RCW 36.77.070 Publication of information on day labor projects--Penalty--Prosecution.

If the board determines that any construction should be performed by day labor, and the estimated cost of the work exceeds twenty-five hundred dollars, it shall cause to be published in one issue of a newspaper of general circulation in the county, a brief description of the work to be done and the county road engineer's estimate of the cost thereof. At the completion of such construction, the board shall cause to be published in one issue of such a newspaper a similar brief description of the work together with an accurate statement of the true and complete cost of performing such construction by day labor.

Failure to make the required publication shall subject each county commissioner to a fine of one hundred dollars for which he shall be liable individually and upon his official bond and the prosecuting attorney shall prosecute for violation of the provisions of this section and RCW 36.77.065.

[1983 c 3 § 81; 1963 c 4 § 36.77.070. Prior: 1949 c 156 § 9, part; 1943 c 82 § 4, part; 1937 c 187 § 34, part; Rem. Supp. 1949 § 6450-34, part.]

RCW 36.77.075 County roads--Small works roster.

In lieu of the procedure for awarding contracts that is provided in RCW 36.77.020 through 36.77.040, a county may award contracts for public works projects on county roads using the small works roster process under RCW 39.04.155.

[2000 c 138 § 208; 1991 c 363 § 81.]

Notes:

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Chapter 36.78 RCW
ROADS AND BRIDGES--COUNTY ROAD ADMINISTRATION BOARD

Sections

36.78.010	Definitions--"Board."
36.78.020	Definitions--"Standards of good practice."
36.78.030	Board created--Number--Appointment--Terms--Vacancies.
36.78.040	Composition of board--Qualifications of members.
36.78.050	Meetings--Rules and regulations--Election of chair.
36.78.060	Executive director.
36.78.070	Duties of board.
36.78.080	Members to serve without compensation--Reimbursement for travel expenses.
36.78.090	Certificates of good practice--Withholding of motor vehicle tax distribution.
36.78.100	Conditional certificates.
36.78.110	Expenses to be paid from motor vehicle fund--Disbursement procedure.

Notes:

Board duties

generally: RCW 46.68.120.

motor vehicle fund, distribution of amount to counties--Factors of distribution formula for RCW 46.68.120(4)

funds: RCW 46.68.122.

population, road cost, money need, computed--Allocation percentage adjustment, when: RCW 46.68.124.

RCW 36.78.010 Definitions--"Board."

"Board" shall mean the county road administration board created by this chapter.

[1965 ex.s. c 120 § 1.]

RCW 36.78.020 Definitions--"Standards of good practice."

"Standards of good practice" shall mean general and uniform practices formulated and adopted by the board relating to the administration of county roads and the safe and efficient movement of people and goods over county roads, which shall apply to engineering, design procedures, maintenance, traffic control, safety, planning, programming, road classification, road inventories, budgeting and accounting procedures, management practices, equipment policies,

personnel policies, and effective use of transportation-related information technology.

[1993 c 65 § 1; 1991 c 363 § 82; 1965 ex.s. c 120 § 2.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.78.030 Board created--Number--Appointment--Terms--Vacancies.

There is created hereby a county road administration board consisting of nine members who shall be appointed by the executive committee of the Washington state association of counties. Prior to July 1, 1965 the executive committee of the Washington state association of counties shall appoint the first members of the county road administration board: Three members to serve one year; three members to serve two years; and three members to serve three years from July 1, 1965. Upon expiration of the original terms subsequent appointments shall be made by the same appointing authority for three year terms except in the case of a vacancy, in which event the appointment shall be only for the remainder of the unexpired term in which the vacancy has occurred.

[1971 ex.s. c 85 § 5; 1965 ex.s. c 120 § 3.]

RCW 36.78.040 Composition of board--Qualifications of members.

Six members of the county road administration board shall be county legislative authority members and three members shall be county engineers. If any member, during the term for which he or she is appointed ceases to be either a member of a county legislative authority or a county engineer, as the case may be, his or her membership on the county road administration board is likewise terminated. Three members of the board shall be from counties with a population of one hundred twenty-five thousand or more. Four members shall be from counties with a population of from twelve thousand to less than one hundred twenty-five thousand. Two members shall be from counties with a population of less than twelve thousand. Not more than one member of the board shall be from any one county.

[1991 c 363 § 83; 1965 ex.s. c 120 § 4.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.78.050 Meetings--Rules and regulations--Election of chair.

The board shall meet at least once quarterly and shall from time to time adopt rules and regulations for its own government and as may be necessary for it to discharge its duties and exercise its powers under this chapter. The board shall elect a chair from its own membership who shall hold office for one year. Election as chair does not affect the member's right to vote on all matters before the board.

[1993 c 65 § 2; 1965 ex.s. c 120 § 5.]

RCW 36.78.060 Executive director.

The county road administration board shall appoint an executive director who shall be the chief administrative officer of the board and shall be responsible for carrying out the policies adopted by the board. The executive director is exempt from the provisions of state civil service law, chapter 41.06 RCW, and shall serve at the pleasure of the county road administration board. The executive director's salary shall be set by the board.

[1990 c 266 § 1; 1965 ex.s. c 120 § 6.]

RCW 36.78.070 Duties of board.

The county road administration board shall:

(1) Establish by rule, standards of good practice for the administration of county roads and the efficient movement of people and goods over county roads;

(2) Establish reporting requirements for counties with respect to the standards of good practice adopted by the board;

(3) Receive and review reports from counties and reports from its executive director to determine compliance with legislative directives and the standards of good practice adopted by the board;

(4) Advise counties on issues relating to county roads and the safe and efficient movement of people and goods over county roads and assist counties in developing uniform and efficient transportation-related information technology resources;

(5) Report annually before the fifteenth day of January, and throughout the year as appropriate, to the state department of transportation and to the chairs of the legislative transportation committee and the house and senate transportation committees, and to other entities as appropriate on the status of county road administration in each county, including one copy to the staff of each of the committees. The annual report shall contain recommendations for improving administration of the county road programs;

(6) Administer the rural arterial program established by chapter 36.79 RCW and the program funded by the county arterial preservation account established by RCW 46.68.090, as well as any other programs provided for in law.

[1999 c 269 § 1; 1993 c 65 § 3; 1990 c 266 § 2; 1987 c 505 § 19; 1983 1st ex.s. c 49 § 19; 1977 ex.s. c 235 § 4; 1965 ex.s. c 120 § 7.]

Notes:

Effective date--1999 c 269: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999." [1999 c 269 § 18.]

Severability--Effective date--1983 1st ex.s. c 49: See RCW 36.79.900 and 36.79.901.

RCW 36.78.080 Members to serve without compensation--Reimbursement for travel expenses.

Members of the county road administration board shall receive no compensation for their service on the board, but shall be reimbursed for travel expenses incurred while attending meetings of the board or while engaged on other business of the board when authorized by the board in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

[1975-'76 2nd ex.s. c 34 § 80; 1975 1st ex.s. c 1 § 1; 1969 ex.s. c 182 § 5; 1965 ex.s. c 120 § 8.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 36.78.090 Certificates of good practice--Withholding of motor vehicle tax distribution.

(1) Before May 1st of each year the board shall transmit to the state treasurer certificates of good practice on behalf of the counties which during the preceding calendar year:

(a) Have submitted to the state department of transportation or to the board all reports required by law or regulation of the board; and

(b) Have reasonably complied with provisions of law relating to county road administration and with the standards of good practice as formulated and adopted by the board.

(2) The board shall not transmit to the state treasurer a certificate of good practice on behalf of any county failing to meet the requirements of subsection (1) of this section, but the board shall in such case and before May 1st, notify the county and the state treasurer of its reasons for withholding the certificate.

(3) The state treasurer, upon receiving a notice that a certificate of good practice will not be issued on behalf of a county, or that a previously issued certificate of good practice has been revoked, shall, effective the first day of the month after that in which notice is received, withhold from such county its share of motor vehicle fuel taxes distributable pursuant to RCW 46.68.120 until the board thereafter issues on behalf of such county a certificate of good practice or a conditional certificate. After withholding or revoking a certificate of good practice with respect to any county, the board may thereafter at any time issue such a certificate or a conditional certificate when the board is satisfied that the county has complied or is diligently attempting to comply with the requirements of subsection (1) of this section.

(4) The board may, upon notice and a hearing, revoke a previously issued certificate of good practice or substitute a conditional certificate therefor when, after issuance of a certificate of good practice, any county fails to meet the requirements of subsection (1) (a) and (b) of this section, but the board shall in such case notify the county and the state treasurer of its reasons for the revocation or substitution.

(5) Motor vehicle fuel taxes withheld from any county pursuant to this section shall not be distributed to any other county, but shall be retained in the motor vehicle fund to the credit of the county originally entitled thereto. Whenever the state treasurer receives from the board a certificate of good practice issued on behalf of such county he shall distribute to such county all of the funds theretofore retained in the motor vehicle fund to the credit of such county.

[1984 c 7 § 33; 1977 ex.s. c 257 § 1; 1965 ex.s. c 120 § 9.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.78.100 Conditional certificates.

Whenever the board finds that a county has failed to submit the reports required by RCW 36.78.090, or has failed to comply with provisions of law relating to county road administration or has failed to meet the standards of good practice as formulated and adopted by the board, the board may in lieu of withholding or revoking a certificate of good practice issue and transmit to the state treasurer on behalf of such county a conditional certificate which will authorize the continued distribution to such county all or a designated portion of its share of motor vehicle fuel taxes. The issuance of such a conditional certificate shall be upon terms and conditions as shall be deemed by the board to be appropriate. In the event a county on whose behalf a conditional certificate is issued fails to comply with the terms and conditions of such certificate, the board may forthwith cancel or modify such certificate notifying the state treasurer thereof. In such case the state treasurer shall thereafter withhold from such county all or the designated portion of its share of the motor vehicle fuel taxes as provided in RCW 36.78.090.

[1977 ex.s. c 257 § 2; 1965 ex.s. c 120 § 10.]

RCW 36.78.110 Expenses to be paid from motor vehicle fund--Disbursement procedure.

All expenses incurred by the board including salaries of employees shall be paid upon voucher forms provided by the office of financial management or pursuant to a regular payroll signed by the chairman and the executive director of the board. All expenses of the board shall be paid out of that portion of the motor vehicle fund allocated to the counties and withheld for use by the department of transportation and the county road administration board under the provisions of RCW 46.68.120(1), as now or hereafter amended.

[1990 c 266 § 3; 1979 c 151 § 42; 1965 ex.s. c 120 § 11.]

**Chapter 36.79 RCW
ROADS AND BRIDGES--RURAL ARTERIAL PROGRAM**

Sections

36.79.010	Definitions.
36.79.020	Rural arterial trust account.
36.79.030	Apportionment of rural arterial trust account funds--Regions established.
36.79.040	Apportionment of rural arterial trust account funds--Apportionment formula.
36.79.050	Apportionment of rural arterial trust account funds--Establishment of apportionment percentages.
36.79.060	Powers and duties of board.

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36.79.070	Board may contract with department of transportation for staff services and facilities.
36.79.080	Six-year program for rural arterial improvements--Selection of priority improvement projects.
36.79.090	Six-year program for rural arterial improvements--Review and revision by board.
36.79.100	Rural arterial improvements--Coordination with municipal and state projects.
36.79.110	Coordination of transportation improvement board and county road administration board.
36.79.120	Rural arterial trust account--Matching funds.
36.79.130	Recommended budget for expenditures from rural arterial trust account--Inclusion in transportation budget.
36.79.140	Expenditures from rural arterial trust account--Approval by board.
36.79.150	Allocation of funds to rural arterial projects--Subsequent application for increased allocation--Withholding of funds for noncompliance.
36.79.160	Payment of rural arterial trust account funds.
36.79.170	County may appeal decision of board--Hearing.
36.79.900	Severability--1983 1st ex.s. c 49.
36.79.901	Effective date--1983 1st ex.s. c 49.

RCW 36.79.010 Definitions.

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Rural arterial program" means improvement projects on those county roads in rural areas classified as rural arterials and collectors in accordance with the federal functional classification system and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas.

(2) "Rural area" means every area of the state outside of areas designated as urban areas by the state transportation commission with the approval of the secretary of the United States department of transportation in accordance with federal law.

(3) "Board" means the county road administration board created by RCW 36.78.030.

[1997 c 81 § 1; 1988 c 26 § 1; 1983 1st ex.s. c 49 § 1.]

RCW 36.79.020 Rural arterial trust account.

There is created in the motor vehicle fund the rural arterial trust account. All moneys deposited in the motor vehicle fund to be credited to the rural arterial trust account shall be expended for (1) the construction and improvement of county rural arterials and collectors, (2) the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas, and (3) those expenses of the board associated with the administration of the rural arterial program.

[1997 c 81 § 2; 1988 c 26 § 2; 1983 1st ex.s. c 49 § 2.]

RCW 36.79.030 Apportionment of rural arterial trust account funds--Regions established.

For the purpose of apportioning rural arterial trust account funds, the state is divided into five regions as follows:

(1) The Puget Sound region includes those areas within the counties of King, Pierce, and Snohomish.

(2) The northwest region includes those areas within the counties of Clallam, Jefferson, Island, Kitsap, San Juan, Skagit, and Whatcom.

(3) The northeast region includes those areas within the counties of Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman.

(4) The southeast region includes those areas within the counties of Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Klickitat, Walla Walla, and Yakima.

(5) The southwest region includes those areas within the counties of Clark, Cowlitz, Grays Harbor, Lewis, Mason, Pacific, Skamania, Thurston, and Wahkiakum.

[1983 1st ex.s. c 49 § 3.]

RCW 36.79.040 Apportionment of rural arterial trust account funds--Apportionment formula.

Funds available for expenditure by the board pursuant to RCW 36.79.020 shall be apportioned to the five regions for expenditure upon county arterials in rural areas in the following manner:

(1) One-third in the ratio which the land area of the rural areas of each region bears to the total land area of all rural areas of the state;

(2) Two-thirds in the ratio which the mileage of county arterials and collectors in rural areas of each region bears to the total mileage of county arterials and collectors in all rural areas of the state.

The board shall adjust the schedule for apportionment of such funds to the five regions in the manner provided in this section before the commencement of each fiscal biennium.

[1997 c 81 § 3; 1983 1st ex.s. c 49 § 4.]

RCW 36.79.050 Apportionment of rural arterial trust account funds--Establishment of apportionment percentages.

At the beginning of each fiscal biennium, the board shall establish apportionment percentages for the five regions defined in RCW 36.79.030 in the manner prescribed in RCW 36.79.040 for that biennium. The apportionment percentages shall be used once each calendar quarter by the board to apportion funds credited to the rural arterial trust account that are available for expenditure for rural arterial and collector projects and for construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas. The funds so apportioned shall remain apportioned until expended on construction projects in accordance with rules of the board. Within each region, funds shall be allocated by the board to counties for the construction of specific rural arterial and collector projects and construction of replacement bridges funded by the federal bridge replacement program on access

roads in rural areas in accordance with the procedures set forth in this chapter.

[1997 c 81 § 4; 1988 c 26 § 3; 1983 1st ex.s. c 49 § 5.]

RCW 36.79.060 Powers and duties of board.

The board shall:

(1) Adopt rules necessary to implement the provisions of this chapter relating to the allocation of funds in the rural arterial trust account to counties;

(2) Adopt reasonably uniform design standards for county rural arterials and collectors that meet the requirements for trucks transporting commodities.

[1998 c 245 § 31; 1997 c 81 § 5; 1988 c 26 § 4; 1983 1st ex.s. c 49 § 6.]

RCW 36.79.070 Board may contract with department of transportation for staff services and facilities.

The board may contract with the department of transportation to furnish any necessary staff services and facilities required in the administration of the rural arterial program. The cost of such services that are attributable to the rural arterial program, together with travel expenses in accordance with RCW 43.03.050 and 43.03.060 of the members and all other lawful expenses of the board that are attributable to the rural arterial program, shall be paid from the rural arterial trust account in the motor vehicle fund.

[1983 1st ex.s. c 49 § 7.]

RCW 36.79.080 Six-year program for rural arterial improvements--Selection of priority improvement projects.

In preparing their respective six-year programs relating to rural arterial improvements, counties shall select specific priority improvement projects for each functional class of arterial based on the rating of each arterial section proposed to be improved in relation to other arterial sections within the same functional class, taking into account the following:

- (1) Its structural ability to carry loads imposed upon it;
- (2) Its capacity to move traffic at reasonable speeds;
- (3) Its adequacy of alignment and related geometrics;
- (4) Its accident experience; and
- (5) Its fatal accident experience.

The six-year construction programs shall remain flexible and subject to annual revision as provided in RCW 36.81.121.

[1983 1st ex.s. c 49 § 8.]

RCW 36.79.090 Six-year program for rural arterial improvements--Review and

revision by board.

Upon receipt of a county's revised six-year program, the board as soon as practicable shall review and may revise the construction program as it relates to rural arterials and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas for which rural arterial trust account moneys are requested as necessary to conform to (1) the priority rating of the proposed project, based upon the factors in RCW 36.79.080, in relation to proposed projects in all other rural arterial construction programs submitted by the counties and within each region; and (2) the amount of rural arterial trust account funds that the board estimates will be apportioned to the region.

[1988 c 26 § 5; 1983 1st ex.s. c 49 § 10.]

RCW 36.79.100 Rural arterial improvements--Coordination with municipal and state projects.

Whenever a rural arterial enters a city or town, the proper city or town and county officials shall jointly plan the improvement of the arterial in their respective long-range plans. Whenever a rural arterial connects with and will be substantially affected by a programmed construction project on a state highway, the proper county officials shall jointly plan the development of such arterial with the department of transportation district administrator. The board shall adopt rules encouraging the system development of county-city arterials in rural areas and rural arterials with state highways.

[1983 1st ex.s. c 49 § 9.]

RCW 36.79.110 Coordination of transportation improvement board and county road administration board.

The county road administration board and the transportation improvement board shall jointly adopt rules to assure coordination of their respective programs especially with respect to projects proposed by the group of incorporated cities outside the boundaries of federally approved urban areas, and to encourage the system development of county-city arterials in rural areas.

[1988 c 167 § 7; 1983 1st ex.s. c 49 § 11.]

Notes:

Savings--Severability--1988 c 167: See notes following RCW 47.26.121.

RCW 36.79.120 Rural arterial trust account--Matching funds.

Counties receiving funds from the rural arterial trust account for construction of arterials and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas shall provide such matching funds as established by rules recommended by the board, subject to review, revision, and final approval by the state transportation commission. Matching requirements shall be established after appropriate studies

by the board, taking into account financial resources available to counties to meet arterial needs.

[1988 c 26 § 6; 1983 1st ex.s. c 49 § 12.]

RCW 36.79.130 Recommended budget for expenditures from rural arterial trust account--Inclusion in transportation budget.

Not later than November 1st of each even-numbered year the board shall prepare and present to the state transportation commission a recommended budget for expenditures from the rural arterial trust account during the ensuing biennium. The budget shall contain an estimate of the revenues to be credited to the rural arterial trust account.

The state transportation commission shall review the budget as recommended, revise the budget as it deems proper, and include the budget as revised as a separate section of the transportation budget which it shall submit to the governor pursuant to chapter 43.88 RCW.

[1983 1st ex.s. c 49 § 13.]

RCW 36.79.140 Expenditures from rural arterial trust account--Approval by board.

At the time the board reviews the six-year program of each county each even-numbered year, it shall consider and shall approve for inclusion in its recommended budget, as required by RCW 36.79.130, the portion of the rural arterial construction program scheduled to be performed during the biennial period beginning the following July 1st. Subject to the appropriations actually approved by the legislature, the board shall as soon as feasible approve rural arterial trust account funds to be spent during the ensuing biennium for preliminary proposals in priority sequence as established pursuant to RCW 36.79.090. Only those counties that during the preceding twelve months have spent all revenues collected for road purposes only for such purposes, including removal of barriers to fish passage and accompanying streambed and stream bank repair as specified in RCW 36.82.070, and including traffic law enforcement, as are allowed to the state by Article II, section 40 of the state Constitution are eligible to receive funds from the rural arterial trust account, except that: (1) Counties with a population of less than eight thousand are exempt from this eligibility restriction; (2) counties expending revenues collected for road purposes only on other governmental services after authorization from the voters of that county under RCW 84.55.050 are also exempt from this eligibility restriction; and (3) this restriction shall not apply to any moneys diverted from the road district levy under chapter 39.89 RCW. The board shall authorize rural arterial trust account funds for the construction project portion of a project previously authorized for a preliminary proposal in the sequence in which the preliminary proposal has been completed and the construction project is to be placed under contract. At such time the board may reserve rural arterial trust account funds for expenditure in future years as may be necessary for completion of preliminary proposals and construction projects to be commenced in the ensuing biennium.

The board may, within the constraints of available rural arterial trust funds, consider additional projects for authorization upon a clear and conclusive showing by the submitting county that the proposed project is of an emergent nature and that its need was unable to be

anticipated at the time the six-year program of the county was developed. The proposed projects shall be evaluated on the basis of the priority rating factors specified in RCW 36.79.080.

[2001 c 221 § 2; 2001 c 212 § 26; 1997 c 81 § 6; 1991 c 363 § 84; 1990 c 42 § 104; 1984 c 113 § 1; 1983 1st ex.s. c 49 § 14.]

NOTES:

Reviser's note: This section was amended by 2001 c 212 § 26 and by 2001 c 221 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose--Intent--2001 c 221: "The legislature recognizes that projects that remove impediments to fish passage can greatly increase access to spawning and rearing habitat for depressed, threatened, and endangered fish stocks. Although counties are authorized to use county road funds to replace culverts and other barriers to fish passage, and may conduct streambed and stream bank restoration and stabilization work in conjunction with removal of these fish barriers, counties are reluctant to spend county road funds beyond the county right-of-way because it is unclear whether the use of road funds for this purpose is authorized. The purpose of this act is to clarify that streambed and stream bank restoration and stabilization activities conducted in conjunction with removal of existing barriers to fish passage within county rights-of-way constitute a county road purpose even if this work extends beyond the county right-of-way. The legislature intends this act to be permissive legislation. Nothing in this act is intended to create or impose a legal duty upon counties for salmon recovery work beyond the county right-of-way." [2001 c 221 § 1.]

Severability--2001 c 212: See RCW 39.89.902.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Purpose--Headings--Severability--Effective dates--Application--Implementation--1990 c 42: See notes following RCW 82.36.025.

RCW 36.79.150 Allocation of funds to rural arterial projects--Subsequent application for increased allocation--Withholding of funds for noncompliance.

(1) Whenever the board approves a rural arterial project it shall determine the amount of rural arterial trust account funds to be allocated for such project. The allocation shall be based upon information contained in the six-year plan submitted by the county seeking approval of the project and upon such further investigation as the board deems necessary. The board shall adopt reasonable rules pursuant to which rural arterial trust account funds allocated to a project may be increased upon a subsequent application of the county constructing the project. The rules adopted by the board shall take into account, but shall not be limited to, the following factors: (a) The financial effect of increasing the original allocation for the project upon other rural arterial projects either approved or requested; (b) whether the project for which an additional allocation is requested can be reduced in scope while retaining a usable segment; (c) whether the original cost of the project shown in the applicant's six-year program was based upon reasonable engineering estimates; and (d) whether the requested additional allocation is to pay for an expansion in the scope of work originally approved.

(2) The board shall not allocate funds, nor make payments under RCW 36.79.160, to any county or city identified by the governor under RCW 36.70A.340.

[1991 sp.s. c 32 § 31; 1983 1st ex.s. c 49 § 15.]

Notes:

Section headings not law--1991 sp.s. c 32: See RCW 36.70A.902.

RCW 36.79.160 Payment of rural arterial trust account funds.

(1) Upon completion of a preliminary proposal, the county submitting the proposal shall submit to the board its voucher for payment of the trust account share of the cost. Upon the completion of an approved rural arterial construction project, the county constructing the project shall submit to the board its voucher for the payment of the trust account share of the cost. The chairman of the board or his designated agent shall approve such voucher when proper to do so, for payment from the rural arterial trust account to the county submitting the voucher.

(2) The board may adopt rules providing for the approval of payments of funds in the rural arterial trust account to a county for costs of preliminary proposal, and costs of construction of an approved project from time to time as work progresses. These payments shall at no time exceed the rural arterial trust account share of the costs of construction incurred to the date of the voucher covering the payment.

[1983 1st ex.s. c 49 § 17.]

RCW 36.79.170 County may appeal decision of board--Hearing.

The legislative body of any county feeling aggrieved by any action or decision of the board with respect to this chapter may appeal to the secretary of transportation by filing a notice of appeal within ninety days after the action or decision of the board. The notice shall specify the action or decision of which complaint is made. The secretary shall fix a time for a hearing on the appeal at the earliest convenient time and shall notify the county auditor and the chairman of the board by certified mail at least twenty days before the date of the hearing. At the hearing the secretary shall receive evidence from the county filing the appeal and from the board. After the hearing the secretary shall make such order as in the secretary's judgment is just and proper.

[1983 1st ex.s. c 49 § 18.]

RCW 36.79.900 Severability--1983 1st ex.s. c 49.

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

[1983 1st ex.s. c 49 § 32.]

RCW 36.79.901 Effective date--1983 1st ex.s. c 49.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1983.

[1983 1st ex.s. c 49 § 33.]

Chapter 36.80 RCW
ROADS AND BRIDGES--ENGINEER

Sections

36.80.010	Employment of road engineer.
36.80.015	Office at county seat.
36.80.020	Qualifications--Bond.
36.80.030	Duties of engineer.
36.80.040	Records to be kept.
36.80.050	Highway plat book.
36.80.060	Engineer to maintain records of expenditures for equipment, etc.--Inventory.
36.80.070	Plans and specifications to be prepared.
36.80.080	Cost-audit examination by state auditor--Expense.

Notes:

County engineer defined for diking, drainage, or sewerage improvement district purposes: RCW 85.08.010.

Diking or drainage improvement district, engineer as supervisor: RCW 85.20.050.

Duties relating to

agreements on planning, establishing, constructing, etc., of city streets: RCW 35.77.020, 35.77.030.

diking, drainage and sewerage improvement districts: Chapters 85.08, 85.16 RCW.

flood control zone districts: Chapter 86.15 RCW.

RCW 36.80.010 Employment of road engineer.

The county legislative authority of each county with a population of eight thousand or more shall employ a full-time county road engineer. The county legislative authority of each other county shall employ a county engineer on either a full-time or part-time basis, or may contract with another county for the engineering services of a county road engineer from such other county.

[1997 c 147 § 1; 1991 c 363 § 85; 1984 c 11 § 1; 1980 c 93 § 1; 1969 ex.s. c 182 § 6; 1963 c 4 § 36.80.010. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.80.015 Office at county seat.

The county road engineer shall keep his office at the county seat in such room or rooms as are provided by the county, and he shall be furnished with all necessary cases and other suitable articles, and also with all blank books and blanks necessary to the proper discharge of his official duties. The records and books in the county road engineer's office shall be public records, and shall at all proper times be open to the inspection and examination of the public.

[1963 c 4 § 36.80.015. Prior: 1955 c 9 § 1; prior: 1895 c 77 § 10; RRS § 4148.]

RCW 36.80.020 Qualifications--Bond.

He shall be a registered and licensed professional civil engineer under the laws of this state, duly qualified and experienced in highway and road engineering and construction. He shall serve at the pleasure of the board.

Before entering upon his employment, every county road engineer shall give an official bond to the county in such amount as the board shall determine, conditioned upon the fact that he will faithfully perform all the duties of his employment and account for all property of the county entrusted to his care.

[1969 ex.s. c 182 § 7; 1963 c 4 § 36.80.020. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

RCW 36.80.030 Duties of engineer.

The county road engineer shall examine and certify to the board all estimates and all bills for labor, materials, provisions, and supplies with respect to county roads, prepare standards of construction of roads and bridges, and perform such other duties as may be required by order of the board.

He shall have supervision, under the direction of the board, of establishing, laying out, constructing, altering, improving, repairing, [and] maintaining all county roads of the county.

[1969 ex.s. c 182 § 8; 1963 c 4 § 36.80.030. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

RCW 36.80.040 Records to be kept.

The office of county engineer shall be an office of record; the county road engineer shall record and file in his or her office, all matters concerning the public roads, highways, bridges, ditches, or other surveys of the county, with the original papers, documents, petitions, surveys, repairs, and other papers, in order to have the complete history of any such road, highway, bridge, ditch, or other survey; and shall number each construction or improvement project. The county engineer is not required to retain and file financial documents retained and filed in other departments in the county.

[1995 c 194 § 8; 1969 ex.s. c 182 § 9; 1963 c 4 § 36.80.040. Prior: 1907 c 160 § 4; RRS § 4147.]

RCW 36.80.050 Highway plat book.

He shall keep a highway plat book in his office in which he shall have accurately platted all public roads and highways established by the board.

[1963 c 4 § 36.80.050. Prior: 1907 c 160 § 2; RRS § 4149.]

RCW 36.80.060 Engineer to maintain records of expenditures for equipment, etc.--Inventory.

The county road engineer shall maintain in his office complete and accurate records of all expenditures for (1) administration, (2) bond and warrant retirement, (3) maintenance, (4) construction, (5) purchase and operation of road equipment, and (6) purchase or manufacture of materials and supplies, and shall maintain a true and complete inventory of all road equipment. The state auditor, with the advice and assistance of the county road administration board, shall prescribe forms and types of records to be maintained by the county road engineers.

[1969 ex.s. c 182 § 10; 1963 c 4 § 36.80.060. Prior: 1949 c 156 § 2; Rem. Supp. 1949 § 6450-8b.]

RCW 36.80.070 Plans and specifications to be prepared.

All road construction work, except minor construction work, which by its nature does not require plans and specifications, whether performed pursuant to contract or by day labor, shall be in accordance with plans and specifications prepared therefor by or under direct supervision of the county road engineer.

[1969 ex.s. c 182 § 11; 1963 c 4 § 36.80.070. Prior: 1949 c 156 § 3; Rem. Supp. 1949 § 6450-8c.]

RCW 36.80.080 Cost-audit examination by state auditor--Expense.

The state auditor shall annually make a cost-audit examination of the books and records of the county road engineer and make a written report thereon to the county legislative authority. The expense of the examination shall be paid from the county road fund.

[1995 c 301 § 69; 1985 c 120 § 3; 1984 c 7 § 34; 1963 c 4 § 36.80.080. Prior: 1957 c 146 § 1.]

Notes:

Effective date--1985 c 120 § 3: "Section 3 of this act shall take effect July 1, 1987." [1985 c 120 § 4.]
Severability--1984 c 7: See note following RCW 47.01.141.

**Chapter 36.81 RCW
ROADS AND BRIDGES--ESTABLISHMENT**

Sections

36.81.010	Resolution of intention and necessity.
36.81.020	Freeholders' petition--Bond.
36.81.030	Deeds and waivers.
36.81.040	Action on petition.
36.81.050	Engineer's report.
36.81.060	Survey map, field notes and profiles.
36.81.070	Notice of hearing on report.
36.81.080	Hearing--Road established by resolution.
36.81.090	Expense of proceedings.

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- 36.81.100 County road on or over dikes.
- 36.81.110 County road on or over dikes--Condemnation for dike roads.
- 36.81.121 Perpetual advanced six-year plans for coordinated transportation program, expenditures--Nonmotorized transportation--Railroad right-of-way.
- 36.81.122 Provisions for bicycle paths, lanes, routes, roadways and improvements to be included in annual revision or extension of comprehensive road programs--Exception.
- 36.81.130 Procedure specified for establishment, construction, and maintenance.
- 36.81.140 Columbia Basin project road systems--Establishment by plat.

Notes:

Alternate date for budget hearing: RCW 36.40.071.

Bicycles; pavement marking standards: RCW 47.36.280.

State highways in urban areas, allocation of funds, planning, bond issue, etc.: Chapter 47.26 RCW.

Urban arterials, planning, construction by cities and towns, transportation improvement board, funds, bond issue, etc.: Chapter 47.26 RCW.

RCW 36.81.010 Resolution of intention and necessity.

The board may by original resolution entered upon its minutes declare its intention to establish any county road in the county and declare that it is a public necessity and direct the county road engineer to report upon such project.

[1963 c 4 § 36.81.010. Prior: 1937 c 187 § 19; RRS § 6450-19.]

RCW 36.81.020 Freeholders' petition--Bond.

Ten or more freeholders of any county may petition the board for the establishment of a county road in the vicinity of their residence, setting forth and describing the general course and terminal points of the proposed improvement and stating that the same is a public necessity. The petition must be accompanied by a bond in the penal sum of three hundred dollars, payable to the county, executed by one or more persons as principal or principals, with two or more sufficient sureties, conditioned that the petitioners will pay into the county road fund of the county all costs and expenses incurred by the county in examining and surveying the proposed road and in the proceedings thereon in case the road is not established by reason of its being impracticable or there not being funds therefor.

[1963 c 4 § 36.81.020. Prior: 1937 c 187 § 20, part; RRS § 6450-20, part.]

RCW 36.81.030 Deeds and waivers.

The board may require the petitioners to secure deeds and waivers of damages for the right of way from the landowners, and, in such case, before an examination or survey by the county road engineer is ordered, such deeds and waivers shall be filed with the board.

[1963 c 4 § 36.81.030. Prior: 1937 c 187 § 20, part; RRS § 6450-20, part.]

RCW 36.81.040 Action on petition.

Upon the filing of the petition and bond and being satisfied that the petition has been signed by freeholders residing in the vicinity of the proposed road, the board shall direct the county road engineer to report upon the project.

[1963 c 4 § 36.81.040. Prior: 1937 c 187 § 20, part; RRS § 6450-20, part.]

RCW 36.81.050 Engineer's report.

Whenever directed by the board to report upon the establishment of a county road the engineer shall make an examination of the road and if necessary a survey thereof. After examination, if the engineer deems the road to be impracticable, he shall so report to the board without making any survey, or he may examine or examine and survey any other practicable route which would serve such purpose. Whenever he considers any road as proposed or modified as practicable, he shall report thereon in writing to the board giving his opinion: (1) As to the necessity of the road; (2) as to the proper terminal points, general course and length thereof; (3) as to the proper width of right of way therefor; (4) as to the estimated cost of construction, including all necessary bridges, culverts, clearing, grubbing, drainage, and grading; (5) and such other facts as he may deem of importance to be considered by the board.

[1963 c 4 § 36.81.050. Prior: 1937 c 187 § 21, part; RRS § 6450-21, part.]

RCW 36.81.060 Survey map, field notes and profiles.

The county road engineer shall file with his report a correctly prepared map of the road as surveyed, which map must show the tracts of land over which the road passes, with the names, if known, of the several owners thereof, and he shall file therewith his field notes and profiles of such survey.

[1963 c 4 § 36.81.060. Prior: 1937 c 187 § 21, part; RRS § 6450-21, part.]

RCW 36.81.070 Notice of hearing on report.

The board shall fix a time and place for hearing the report of the engineer and cause notice thereof to be published once a week for two successive weeks in the county official newspaper and to be posted for at least twenty days at each termini of the proposed road.

The notice shall set forth the termini of the road as set out in the resolution of the board, or the freeholders' petition, as the case may be, and shall state that all persons interested may appear and be heard at such hearing upon the report and recommendation of the engineer either to proceed or not to proceed with establishing the road.

[1963 c 4 § 36.81.070. Prior: 1937 c 187 § 22, part; RRS § 6450-22, part.]

RCW 36.81.080 Hearing--Road established by resolution.

On the day fixed for the hearing or any day to which the hearing has been adjourned, upon proof to its satisfaction made by affidavit of due publication and posting of the notice of hearing, the board shall consider the report and any and all evidence relative thereto, and if the board finds that the proposed county road is a public necessity and practicable it may establish it by proper resolution.

[1963 c 4 § 36.81.080. Prior: 1937 c 187 § 22, part; RRS § 6450-22, part.]

RCW 36.81.090 Expense of proceedings.

The cost and expense of the road, together with cost of proceedings thereon and of right of way and any quarries or other land acquired therefor, and the maintenance of the road shall be paid out of the county road fund. When the costs are assessed against the principals on the bond given in connection with a petition for the improvement, the county auditor shall file a cost bill with the county treasurer who shall proceed to collect it.

[1963 c 4 § 36.81.090. Prior: (i) 1937 c 187 § 22, part; RRS § 6450-22, part. (ii) 1937 c 187 § 20, part; RRS § 6450-20, part.]

RCW 36.81.100 County road on or over dikes.

The board of any county may establish county roads over, across or along any dike maintained by any diking, or diking and drainage, district in the manner provided by law for establishing county roads over or across private property, and shall determine and offer the amount of damages, if any, to the district and to the owners of the land upon which the dike is constructed and maintained: PROVIDED, That every such county road must be so constructed, maintained, and used as not to impair the use of the dike.

[1963 c 4 § 36.81.100. Prior: 1937 c 187 § 15; RRS § 6450-15.]

RCW 36.81.110 County road on or over dikes--Condemnation for dike roads.

If any offer of damages to any diking, or diking and drainage, district is not accepted in the manner provided by law, it shall be deemed rejected, and the board by order, shall direct condemnation proceedings to procure the right of way to be instituted in the superior court of the county by the prosecuting attorney in the manner provided by law for the taking of private property for public use, and to that end the board may institute and maintain in the name of the county such proceedings against the diking, or diking and drainage, district and the owners of any land on which the dike is located and that have failed to accept the offer of damages made by the board: PROVIDED, That no taxes or assessments shall be charged or collected by any diking, or diking and drainage, district for any county road as provided in this section.

[1963 c 4 § 36.81.110. Prior: 1937 c 187 § 16; RRS § 6450-16.]

RCW 36.81.121 Perpetual advanced six-year plans for coordinated transportation

program, expenditures--Nonmotorized transportation--Railroad right-of-way.

(1) At any time before adoption of the budget, the legislative authority of each county, after one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years. If the county has adopted a comprehensive plan pursuant to chapter 35.63 or 36.70 RCW, the inherent authority of a charter county derived from its charter, or chapter 36.70A RCW, the program shall be consistent with this comprehensive plan.

The program shall include proposed road and bridge construction work and other transportation facilities and programs deemed appropriate, and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. Copies of the program shall be filed with the county road administration board and with the state secretary of transportation not more than thirty days after its adoption by the legislative authority. The purpose of this section is to assure that each county shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated transportation program. The program may at any time be revised by a majority of the legislative authority but only after a public hearing thereon.

(2) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a county will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for nonmotorized transportation purposes.

(3) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a county shall act to preserve railroad right-of-way in the event the railroad ceases to operate in the county's jurisdiction.

(4) The six-year plan for each county shall specifically set forth those projects and programs of regional significance for inclusion in the transportation improvement program within that region.

[1997 c 188 § 1. Prior: 1994 c 179 § 2; 1994 c 158 § 8; 1990 1st ex.s. c 17 § 58; 1988 c 167 § 8; 1983 1st ex.s. c 49 § 20; prior: 1975 1st ex.s. c 215 § 2; 1975 1st ex.s. c 21 § 3; 1967 ex.s. c 83 § 26; 1963 c 4 § 36.81.121; prior: 1961 c 195 § 1.]

Notes:

Captions not law--Severability--Effective date--1994 c 158: See RCW 47.80.902 through 47.80.904.

Severability--Part, section headings not law--1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Savings--Severability--1988 c 167: See notes following RCW 47.26.121.

Severability--Effective date--1983 1st ex.s. c 49: See RCW 36.79.900 and 36.79.901.

Severability--Effective dates--1967 ex.s. c 83: See RCW 47.26.900 and 47.26.910.

Highways, roads, streets in urban areas, urban arterials, development: Chapter 47.26 RCW.

Long range arterial construction planning, counties and cities to prepare data: RCW 47.26.170.

RCW 36.81.122 Provisions for bicycle paths, lanes, routes, roadways and improvements to be included in annual revision or extension of comprehensive road programs--Exception.

The annual revision and extension of comprehensive road programs pursuant to RCW 36.81.121 shall include consideration of and, wherever reasonably practicable, provisions for bicycle paths, lanes, routes, and roadways: PROVIDED, That no provision need be made for such a path, lane, route, or roadway where the cost of establishing it would be excessively disproportionate to the need or probable use.

[1974 ex.s. c 141 § 9.]

RCW 36.81.130 Procedure specified for establishment, construction, and maintenance.

The laying out, construction, and maintenance of all county roads shall hereafter be in accordance with the following procedure:

On or before the first Monday in October of each year each county road engineer shall file with the county legislative authority a recommended plan for the laying out, construction, maintenance, and special maintenance of county roads for the ensuing fiscal year. Such recommended plan need not be limited to but shall include the following items: Recommended projects, including capital expenditures for ferries, docks, and related facilities, and their priority; the estimated cost of all work, including labor and materials for each project recommended; a statement as to whether such work is to be done by the county forces or by publicly advertised contract; a list of all recommended repairs to and purchases of road equipment, together with the estimated costs thereof. Amounts to be expended for maintenance and special maintenance shall be recommended, but details of these proposed expenditures shall not be made. The recommended plan shall conform as nearly as practicable to the county's long range road program.

After filing of the road engineer's recommended plan, the county legislative authority shall consider the same. Revisions and changes may be made until a plan which is agreeable to a majority of the members of the county legislative authority has been adopted: PROVIDED, That such revisions shall conform as nearly as practicable to the county's long range road program. Any appropriations contained in the county road budget shall be void unless the county's road plan was adopted prior to such appropriation.

The final road plan for the fiscal year shall not thereafter be changed except by unanimous vote of the county legislative authority.

[1991 c 363 § 86; 1975 1st ex.s. c 21 § 4; 1963 c 4 § 36.81.130. Prior: 1949 c 156 § 7; Rem. Supp. 1949 § 6450-8f.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.81.140 Columbia Basin project road systems--Establishment by plat.

When plats or blocks of farm units have been or are filed under the provisions of chapter 89.12 RCW which contain a system of county roads, or when a supplemental plat of a system of

county roads to serve such a plat is filed in connection therewith, the filing period and formal approval by the board of county commissioners shall constitute establishment as county roads: PROVIDED, That the board of county commissioners have obtained the individual rights-of-way by deed or as otherwise provided by law.

[1963 c 4 § 36.81.140. Prior: 1953 c 199 § 1.]

Chapter 36.82 RCW ROADS AND BRIDGES--FUNDS--BUDGET

Sections

36.82.010	"County road fund" created.
36.82.020	County road fund--Limitation upon expenditures.
36.82.040	General tax levy for road fund--Exceptions.
36.82.050	Receipts from motor vehicle fund to road fund.
36.82.060	Federal reimbursement to road fund.
36.82.070	Purpose for which road fund can be used.
36.82.075	Use of county road funds in cooperative agreement with conservation district.
36.82.080	Purpose for which road fund can be used--Payment of bond or warrant interest and principal.
36.82.090	Anticipation warrants against road fund.
36.82.100	Purchases of road material extraction equipment--Sale of surplus materials.
36.82.110	Voluntary contributions for improvements to county roads--Standards.
36.82.120	Purchases of road material extraction equipment--Proceeds to road fund.
36.82.140	Forest roads may be maintained from road fund.
36.82.145	Bicycle paths, lanes, routes, etc., may be constructed, maintained or improved from county road fund--Standards.
36.82.160	County road budget--Road budget to be prepared--Estimates of expenditures.
36.82.170	County road budget--Budget as adopted filed with department of transportation.
36.82.180	County road budget--Preliminary supplemental budget.
36.82.190	County road budget--Notice of hearing on supplemental budget.
36.82.200	County road budget--Hearing, adoption, supplemental budget.
36.82.210	Disposition of fines and forfeitures for violations.

NOTES:

Bicycles; pavement marking standards: RCW 47.36.280.

Employee safety award program, funds affected: RCW 36.32.460.

RCW 36.82.010 "County road fund" created.

There is created in each county of the state a county fund to be known as the "county road fund." Any funds which accrue to any county for use upon county roads, shall be credited to and deposited in the county road fund.

[1969 ex.s. c 182 § 12; 1963 c 4 § 36.82.010. Prior: 1943 c 82 § 2, part; 1937 c 187 § 6, part; Rem. Supp. 1943 § 6450-6, part.]

RCW 36.82.020 County road fund--Limitation upon expenditures.

Any funds accruing to and to be deposited in the county road fund arising from any levy in any road district shall be expended for proper county road purposes.

[1991 c 363 § 87; 1963 c 4 § 36.82.020. Prior: 1943 c 82 § 2, part; 1937 c 187 § 6, part; Rem. Supp. 1943 § 6450-6, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.82.040 General tax levy for road fund--Exceptions.

For the purpose of raising revenue for establishing, laying out, constructing, altering, repairing, improving, and maintaining county roads, bridges, and wharves necessary for vehicle ferriage and for other proper county purposes, the board shall annually at the time of making the levy for general purposes make a uniform tax levy throughout the county, or any road district thereof, of not to exceed two dollars and twenty-five cents per thousand dollars of assessed value of the last assessed valuation of the taxable property in the county, or road district thereof, unless other law of the state requires a lower maximum levy, in which event such lower maximum levy shall control. All funds accruing from such levy shall be credited to and deposited in the county road fund except that revenue diverted under RCW 36.33.220 shall be placed in a separate and identifiable account within the county current expense fund and except that revenue diverted under chapter 39.89 RCW shall be expended as provided under chapter 39.89 RCW.

[2001 c 212 § 27; 1973 1st ex.s. c 195 § 41; 1971 ex.s. c 25 § 2; 1963 c 4 § 36.82.040. Prior: 1937 c 187 § 7; RRS § 6450-7.]

NOTES:

Severability--2001 c 212: See RCW 39.89.902.

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability--1971 ex.s. c 25: See note following RCW 36.33.220.

RCW 36.82.050 Receipts from motor vehicle fund to road fund.

Any funds accruing to the credit of any county from the motor vehicle fund shall be paid monthly to the county treasurer and deposited in the county road fund.

[1963 c 4 § 36.82.050. Prior: 1937 c 187 § 8, part; RRS § 6450-8, part.]

RCW 36.82.060 Federal reimbursement to road fund.

Any funds accruing to any county by way of reimbursement by the federal government for expenditures made from the county road fund of such county for any proper county road purpose shall be credited to and deposited in the county road fund.

[1963 c 4 § 36.82.060. Prior: 1937 c 187 § 8, part; RRS § 6450-8, part.]

RCW 36.82.070 Purpose for which road fund can be used.

Any money paid to any county road fund may be used for the construction, alteration, repair, improvement, or maintenance of county roads and bridges thereon and for wharves necessary for ferriage of motor vehicle traffic, and for ferries, and for the acquiring, operating, and maintaining of machinery, equipment, quarries, or pits for the extraction of materials, and for the cost of establishing county roads, acquiring rights-of-way therefor, and expenses for the operation of the county engineering office, and for any of the following programs when directly related to county road purposes: (1) Insurance; (2) self-insurance programs; and (3) risk management programs; and for any other proper county road purpose. Such expenditure may be made either independently or in conjunction with the state or any city, town, or tax district within the county. County road purposes also include the removal of barriers to fish passage related to county roads, and include but are not limited to the following activities associated with the removal of these barriers: Engineering and technical services; stream bank stabilization; streambed restoration; the placement of weirs, rock, or woody debris; planting; and channel modification. County road funds may be used beyond the county right-of-way for activities clearly associated with removal of fish passage barriers that are the responsibility of the county. Activities related to the removal of barriers to fish passage performed beyond the county right-of-way must not exceed twenty-five percent of the total cost of activities related to fish barrier removal on any one project, and the total annual cost of activities related to the removal of barriers to fish passage performed beyond the county rights-of-way must not exceed one-half of one percent of a county's annual road construction budget. The use of county road funds beyond the county right-of-way for activities associated with the removal of fish barriers is permissive, and wholly within the discretion of the county legislative authority. The use of county road funds beyond the county right-of-way for such activities does not create or impose a legal duty upon a county for salmon recovery work beyond the county right-of-way.

[2001 c 221 § 3; 1997 c 189 § 1; 1963 c 4 § 36.82.070. Prior: 1943 c 82 § 5, part; 1937 c 187 § 53, part; Rem. Supp. 1943 § 6450-53, part.]

NOTES:

Removal of fish barriers--2001 2nd sp.s. c 14: "Notwithstanding the limitations of RCW 36.82.070 and 2001 c 221 s 3, county road funds may be used during this biennium beyond the county right-of-way for activities clearly associated with removal of fish passage barriers that are the responsibility of the county in the amount deemed appropriate by the county." [2001 2nd sp.s. c 14 § 609.]

Purpose--Intent--2001 c 221: See note following RCW 36.79.140.

RCW 36.82.075 Use of county road funds in cooperative agreement with conservation district.

Whenever a county legislative authority enters into a cooperative agreement with a conservation district as provided in chapter 89.08 RCW, the agreement may specify that the county will participate in the cost of any project which can be anticipated to result in a substantial reduction of the amount of soil deposited in a specifically described roadside ditch normally maintained by the county. The amount of participation by the county through the county road fund shall not exceed fifty percent of the project cost and shall be limited to those engineering and construction costs incurred during the initial construction or reconstruction of

the project.

[1985 c 369 § 9.]

RCW 36.82.080 Purpose for which road fund can be used--Payment of bond or warrant interest and principal.

The payment of interest or principal on general obligation county road bonds, or retirement of registered warrants both as to principal and interest when such warrants have been issued for a proper county road purpose, are declared to be a proper county road purpose.

[1979 ex.s. c 30 § 4; 1963 c 4 § 36.82.080. Prior: 1943 c 82 § 5, part; 1937 c 187 § 53, part; Rem. Supp. 1943 § 6450-53, part.]

RCW 36.82.090 Anticipation warrants against road fund.

The board may expend funds from the county road fund or register warrants against the county road fund in anticipation of funds to be paid to the county from the motor vehicle fund.

[1963 c 4 § 36.82.090. Prior: 1943 c 82 § 6; 1937 c 187 § 54; Rem. Supp. 1943 § 6450-54.]

RCW 36.82.100 Purchases of road material extraction equipment--Sale of surplus materials.

The boards of the several counties may purchase and operate, out of the county road fund, rock crushing, gravel, or other road building material extraction equipment.

Any crushed rock, gravel, or other road building material extracted and not directly used or needed by the county in the construction, alteration, repair, improvement, or maintenance of its roads may be sold at actual cost of production by the board to the state or any other county, city, town, or other political subdivision to be used in the construction, alteration, repair, improvement, or maintenance of any state, county, city, town or other proper highway, road or street purpose: PROVIDED, That in counties of less than twelve thousand five hundred population as determined by the 1950 federal census, the boards of commissioners, during such times as the crushing, loading or mixing equipment is actually in operation, or from stockpiles, may sell at actual cost of production such surplus crushed rock, gravel, or other road building material to any other person for private use where the place of contemplated use of such crushed rock, gravel or other road building material is more than fifteen miles distant from the nearest private source of such materials within the county, distance being computed by the closest traveled route: AND PROVIDED FURTHER, That the purchaser presents, at or before the time of delivery to him, a treasurer's receipt for payment for such surplus crushed rock, gravel, or any other road building material.

[1963 c 4 § 36.82.100. Prior: 1953 c 172 § 1; 1937 c 187 § 44, part; RRS § 6450-44, part.]

RCW 36.82.110 Voluntary contributions for improvements to county

roads--Standards.

Upon voluntary contribution and payment by any person for the actual cost thereof, such person or legislative authority upon the approval of maps, plans, specifications and guaranty bonds as may be required, may place crushed rock gravel or other road building material or make improvements upon any county road. Such work shall be done in accordance with adopted county standards under the supervision of and direction of the county engineer.

[1982 c 145 § 7; 1963 c 4 § 36.82.110. Prior: 1937 c 187 § 44, part; RRS § 6450-44, part.]

RCW 36.82.120 Purchases of road material extraction equipment--Proceeds to road fund.

All proceeds from the sale or placing of any crushed rock, gravel or other road building material shall be deposited in the county road fund to be expended under the same provisions as are by law imposed upon the funds used to produce the crushed rock, gravel, or other road building material extracted and sold.

[1963 c 4 § 36.82.120. Prior: 1937 c 187 § 44, part; RRS § 6450-44, part.]

RCW 36.82.140 Forest roads may be maintained from road fund.

The board may maintain any forest roads within its county and expend for the maintenance thereof funds accruing to the county road fund.

[1963 c 4 § 36.82.140. Prior: 1937 c 187 § 45; RRS § 6450-45.]

RCW 36.82.145 Bicycle paths, lanes, routes, etc., may be constructed, maintained or improved from county road fund--Standards.

Any funds deposited in the county road fund may be used for the construction, maintenance, or improvement of bicycle paths, lanes, routes, and roadways, and for improvements to make existing streets and roads more suitable and safe for bicycle traffic. Bicycle facilities constructed or modified after June 10, 1982, shall meet or exceed the standards of the state department of transportation.

[1982 c 55 § 3; 1974 ex.s. c 141 § 8.]

RCW 36.82.160 County road budget--Road budget to be prepared--Estimates of expenditures.

Each county legislative authority, with the assistance of the county road engineer, shall prepare and file with the county auditor on or before the second Monday in August in each year, detailed and itemized estimates of all expenditures required in the county for the ensuing fiscal year. In the preparation and adoption of the county road budget the legislative authority shall determine and budget sums to become available for the following county road purposes: (1)

Administration; (2) bond and warrant retirement; (3) maintenance; (4) construction; (5) operation of equipment rental and revolving fund; and (6) such other items relating to the county road budget as may be required by the county road administration board; and the respective amounts as adopted for these several items in the final budget for the ensuing calendar year shall not be altered or exceeded except as by law provided.

[1991 c 363 § 88; 1969 ex.s. c 182 § 14; 1963 c 4 § 36.82.160. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.82.170 County road budget--Budget as adopted filed with department of transportation.

Upon the final adoption of the county road budgets of the several counties, the county legislative authorities shall file a copy thereof in the office of the department of transportation.

[1984 c 7 § 36; 1963 c 4 § 36.82.170. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.82.180 County road budget--Preliminary supplemental budget.

If any funds are paid to any county from the motor vehicle fund in excess of the amount estimated by the department of transportation and the excess funds have not been included by the county legislative authority in the then current county road budget or if funds become available from other sources upon a matching basis or otherwise and it is impracticable to adhere to the provisions of the county road budget, the legislative authority may by unanimous consent, consider and adopt a preliminary supplemental budget covering the excess funds for the remainder of the current fiscal year.

[1984 c 7 § 37; 1963 c 4 § 36.82.180. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.82.190 County road budget--Notice of hearing on supplemental budget.

The county legislative authority shall then publish a notice setting day of hearing for the adoption of the final supplemental budget covering the excess funds, designating the time and place of hearing and that anyone may appear thereat and be heard for or against any part of the preliminary supplemental budget. The notice shall be published once a week for two consecutive weeks immediately following the adoption of the preliminary supplemental budget in the official

newspaper of the county. The county legislative authority shall provide a sufficient number of copies of the preliminary supplemental budget to meet reasonable public demands and they shall be available not later than two weeks immediately preceding the hearing.

[1985 c 469 § 50; 1963 c 4 § 36.82.190. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

RCW 36.82.200 County road budget--Hearing, adoption, supplemental budget.

The board shall hold such hearing at the time and place designated in the notice, and it may be continued from day to day until concluded but not to exceed a total of five days. Upon the conclusion of the hearing the board shall fix and determine the supplemental budget and by resolution adopt it as finally determined and enter it in detail in the official minutes of the board, a copy of which supplemental budget shall be forwarded to the director.

[1995 c 301 § 70; 1963 c 4 § 36.82.200. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

RCW 36.82.210 Disposition of fines and forfeitures for violations.

All fines and forfeitures collected for violation of any of the provisions of chapters 36.75, and 36.77 to 36.87 RCW, inclusive, when the violation thereof occurred outside of any incorporated city or town shall be distributed and paid into the proper funds for the following purposes: One-half shall be paid into the county road fund of the county in which the violation occurred; one-fourth into the state fund for the support of state parks and parkways; and one-fourth into the highway safety fund: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

All fines and forfeitures collected for the violation of any of such provisions when the violation thereof occurred inside any incorporated city or town shall be distributed and paid into the proper funds for the following purposes: One-half shall be paid into the city street fund of such incorporated city or town for the construction and maintenance of city streets; one-fourth into the state fund for the support of state parks and parkways; and one-fourth into the highway safety fund: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

[1987 c 202 § 211; 1969 ex.s. c 199 § 21; 1963 c 4 § 36.82.210. Prior: 1949 c 75 § 2; 1937 c 187 § 67; Rem. Supp. 1949 § 6450-67.]

Notes:

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

Chapter 36.83 RCW

ROADS AND BRIDGES--SERVICE DISTRICTS

Sections

- 36.83.010 Service districts authorized--Bridge and road improvements--Powers--Governing body.
- 36.83.020 Establishment--Notice, hearing--Termination of proceedings--Modification of boundaries--Dissolution.
- 36.83.030 Excess ad valorem property taxes authorized.
- 36.83.040 General obligation bonds, excess property tax levies authorized--Limitations.
- 36.83.050 Local improvement districts authorized--Assessments--Special assessment bonds and revenue bonds--Limitations.
- 36.83.060 Bonds--Form.
- 36.83.070 Bonds--Use of proceeds.
- 36.83.080 Gifts, grants, and donations.
- 36.83.090 Eminent domain.
- 36.83.100 Commissioners--Appointment--Terms--Vacancies--Compensation--Powers.
- 36.83.110 Election to retain commissioners--Referendum petition.
- 36.83.120 Removal of commissioner.
- 36.83.130 Improvements--Ownership.
- 36.83.140 Local service district fund.
- 36.83.900 Liberal construction.

Notes:

Transportation benefit districts: Chapter 36.73 RCW.

RCW 36.83.010 Service districts authorized--Bridge and road improvements--Powers--Governing body.

The legislative authority of a county may establish one or more service districts within the county for the purpose of providing and funding capital and maintenance costs for any bridge or road improvement or for providing and funding capital costs for any state highway improvement a county or a road district has the authority to provide. A service district may not include any area within the corporate limits of a city or town unless the city or town governing body adopts a resolution approving inclusion of the area within its limits. A service district is a quasi municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

A service district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. All projects constructed by a service district pursuant to the provisions of this chapter shall be competitively bid and contracted.

A board of three commissioners appointed by the county legislative authority or county executive pursuant to this chapter shall be the governing body of a service district. The county treasurer shall act as the ex officio treasurer of the service district. The electors of a service

district are all registered voters residing within the district.

[1996 c 292 § 1; 1985 c 400 § 2; 1983 c 130 § 1.]

Notes:

County may fund improvements to state highways: RCW 36.75.035.

RCW 36.83.020 Establishment--Notice, hearing--Termination of proceedings--Modification of boundaries--Dissolution.

(1) A county legislative authority proposing to establish a service district shall conduct a hearing at the time and place specified in a notice published at least once, not less than ten days prior to the hearing, in a newspaper of general circulation within the proposed service district. This notice shall be in addition to any other notice required by law to be published. The notice shall specify the functions or activities proposed to be provided or funded by the service district. Additional notice of the hearing may be given by mail, posting within the proposed service district, or in any manner the county legislative authority deems necessary to notify affected persons. All hearings shall be public and the county legislative authority shall hear objections from any person affected by the formation, modification of the boundaries, or dissolution of the service district.

(2) Following the hearing held pursuant to subsection (1) of this section, the county legislative authority may establish a service district if the county legislative authority finds the action to be in the public interest and adopts an ordinance or resolution providing for the establishment of the service district. The legislation establishing a service district shall specify the functions or activities to be exercised or funded and establish the boundaries of the service district. Functions or activities proposed to be provided or funded by the service district may not be expanded beyond those specified in the notice of hearing, except as provided in subsection (4) of this section.

(3) At any time prior to the county legislative authority establishing a service district pursuant to this section, all further proceedings shall be terminated upon the filing of a verified declaration of termination signed by a majority of the registered voters of the proposed service district.

(4) With the approval of the county legislative authority, the governing body of a service district may modify the boundaries of, expand or otherwise modify the functions of, or dissolve the service district after providing notice and conducting a public hearing or hearings in the manner provided in subsection (1) of this section. The governing body must make a determination that the proposed action is in the public interest and adopt a resolution providing for the action.

[1996 c 292 § 2; 1983 c 130 § 2.]

RCW 36.83.030 Excess ad valorem property taxes authorized.

(1) A service district may levy an ad valorem property tax, in excess of the one percent

limitation, upon the property within the district for a one-year period whenever authorized by the voters of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

(2) A service district may provide for the retirement of voter approved general obligation bonds, issued for capital purposes only, by levying bond retirement ad valorem property tax levies, in excess of the one percent limitation, whenever authorized by the voters of the district pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056.

[1983 c 130 § 3.]

RCW 36.83.040 General obligation bonds, excess property tax levies authorized--Limitations.

(1) To carry out the purpose of this chapter, a service district may issue general obligation bonds, not to exceed an amount, together with any other outstanding nonvoter approved general obligation indebtedness, equal to three-eighths of one percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A service district may additionally issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, when authorized by the voters of the service district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in RCW 36.83.030(2). The service district may submit a single proposition to the voters which, if approved, authorizes both the issuance of the bonds and the bond retirement property tax levies.

(2) General obligation bonds with a maturity in excess of forty years shall not be issued. The governing body of the service district shall by resolution determine for each general obligation bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may include, but not be limited to: (a) A book entry system of recording the ownership of a bond whether or not physical bonds are issued; or (b) recording the ownership of a bond together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond and either the reissuance of the old bond or the issuance of a new bond to the new owner. Facsimile signatures may be used on the bonds and any coupons. Refunding general obligation bonds may be issued in the same manner as general obligation bonds are issued.

(3) Whenever general obligation bonds are issued to fund specific projects or enterprises that generate revenues, charges, user fees, or special assessments, the service district which issues the bonds may specifically pledge all or a portion of the revenues, charges, user fees, or special assessments to refund the general obligation bonds.

[1983 c 130 § 4.]

RCW 36.83.050 Local improvement districts authorized--Assessments--Special assessment bonds and revenue bonds--Limitations.

(1) A service district may form a local improvement district or utility local improvement district to provide any local improvement it has the authority to provide, impose special assessments on all property specially benefited by the local improvements, and issue special assessment bonds or revenue bonds to fund the costs of the local improvement. Improvement districts shall be created and assessments shall be made and collected pursuant to chapters 35.43, 35.44, 35.49, 35.50, 35.53, and 35.54 RCW.

(2) The governing body of a service district shall by resolution establish for each special assessment bond issue the amount, date, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, if any, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may include, but not be limited to: (a) A book entry system of recording the ownership of a bond whether or not physical bonds are issued; or (b) recording the ownership of a bond together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond and either the reissuance of the old bond or the issuance of a new bond to the new owner. Facsimile signatures may be used on the bonds and any coupons. The maximum term of any special assessment bonds shall not exceed thirty years beyond the date of issue. Special assessment bonds issued pursuant to this section shall not be an indebtedness of the service district issuing the bonds, and the interest and principal on the bonds shall only be payable from special assessments made for the improvement for which the bonds were issued and any local improvement guaranty fund that the service district has created. The owner or bearer of a special assessment bond or any interest coupon issued pursuant to this section shall not have any claim against the service district arising from the bond or coupon except for the payment from special assessments made for the improvement for which the bonds were issued and any local improvement guaranty fund the service district has created. The service district issuing the special assessment bonds is not liable to the owner or bearer of any special assessment bond or any interest coupon issued pursuant to this section for any loss occurring in the lawful operation of its local improvement guaranty fund. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each special assessment bond issued pursuant to this section.

(3) The governing body may establish and pay moneys into a local improvement guaranty fund to guarantee special assessment bonds issued by the service district.

(4) The governing body of a service district shall provide for the payment of both the special assessments which are imposed and a portion of the utility income from the utility improvement into a special fund established for the payment of the revenue bonds to defray the cost of the utility local improvement district whenever it desires to create a utility local improvement district and issue revenue bonds to fund the local improvement.

[1983 c 130 § 5.]

RCW 36.83.060 Bonds--Form.

Where physical bonds are issued pursuant to RCW 36.83.040 or 36.83.050, the bonds shall be printed, engraved, or lithographed on good bond paper and the manual or facsimile signatures of both the treasurer and chairperson of the governing body shall be included on each bond.

[1983 c 130 § 6.]

RCW 36.83.070 Bonds--Use of proceeds.

(1) The proceeds of any bond issued pursuant to RCW 36.83.040 or 36.83.050 may be used to pay costs incurred on such bond issue related to the sale and issuance of the bonds. Such costs include payments for fiscal and legal expenses, obtaining bond ratings, printing, engraving, advertising, and other similar activities.

(2) In addition, proceeds of bonds used to fund capital projects may be used to pay the necessary and related engineering, architectural, planning, and inspection costs.

[1983 c 130 § 7.]

RCW 36.83.080 Gifts, grants, and donations.

A service district may accept and expend or use gifts, grants, and donations.

[1983 c 130 § 8.]

RCW 36.83.090 Eminent domain.

A service district may exercise the power of eminent domain to obtain property for its authorized purposes in the manner counties exercise the powers of eminent domain.

[1983 c 130 § 9.]

RCW 36.83.100

Commissioners--Appointment--Terms--Vacancies--Compensation--Powers.

If the county legislative authority establishes a road and bridge service district, it shall promptly appoint three persons who are residents of the territory included in that service district to serve as the commissioners of the service district. For counties having an elected executive, the executive shall appoint those commissioners subject to confirmation by the legislative authority of the county. The commissioners first appointed shall be designated to serve for terms of one, two, and three years, respectively, from the date of their appointment. Thereafter, service district commissioners shall be appointed for a term of office of five years. Vacancies must be filled for any unexpired term in the same manner as the original appointment. No member of the legislative authority of the county in which a service district is created may be a commissioner of that service district, except that, if the boundaries of the service district are included within or

coterminous with the boundaries of a county commissioner or council district, the county commissioner or councilmember elected from that commissioner or council district may be appointed to serve as a commissioner of the service district. A commissioner shall hold office until his or her successor has been appointed and qualified, unless sooner removed from office for cause in accordance with this chapter or removed by referendum in accordance with RCW 36.83.110. A certificate of the appointment or reappointment of any commissioner must be filed with the county auditor, and such certificate is conclusive evidence of the due and proper appointment of the commissioner. The commissioners of the service district shall receive no compensation for their services, in any capacity, but are entitled to reimbursement for reasonable and necessary expenses, including travel expenses, incurred in the discharge of their duties.

The powers of each service district are vested in the commissioners of the service district. Two commissioners constitute a quorum of the service district for the purpose of conducting its business and exercising its powers and for all other purposes. The commissioners of the service district shall organize itself and select its chair, vice-chair, and secretary, who shall serve one-year terms but may be selected for additional terms. When the office of any officer becomes vacant, the commissioners of the service district shall select a new officer from among the commissioners for the balance of the term of office.

[1996 c 292 § 3.]

RCW 36.83.110 Election to retain commissioners--Referendum petition.

Any registered voter residing within the boundaries of the road and bridge service district may file a referendum petition to call an election to retain any or all commissioners. Any referendum petition to call such election shall be filed with the county auditor no later than one year before the end of a commissioner's term. Within ten days of the filing of a petition, the county auditor shall confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question: "Shall (name of commissioner) be retained as a road and bridge service district commissioner?" and the question shall be posed separately for each commissioner. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner shall have thirty days in which to secure on petition forms the signatures of not less than twenty-five percent of the registered voters residing within the boundaries of the service district and file the signed petitions with the county auditor. Each petition form shall contain the ballot title. The county auditor shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the county auditor shall submit the referendum measure to the registered voters residing in the service district in a special election no later than one hundred twenty days after the signed petition has been filed with the county auditor. The special election may be conducted by mail ballot as provided for in chapter 29.36 RCW.

The office of any commissioner for whom there is not a majority vote to retain shall be declared vacant.

[1996 c 292 § 4.]

RCW 36.83.120 Removal of commissioner.

For neglect of duty or misconduct in office, a commissioner of a service district may be removed by the county legislative authority after conducting a hearing. The commissioner must be given a copy of the charges at least ten days prior to the hearing and must have an opportunity to be heard in person or by counsel. If a commissioner is removed, a record of the proceedings, together with the charges and findings, must be filed in the office of the county auditor.

[1996 c 292 § 5.]

RCW 36.83.130 Improvements--Ownership.

Any road or bridge improvements financed in whole by funds of a service district, including but not limited to proceeds of bonds issued by a service district, shall be owned by that service district. Improvements financed jointly by a service district and the county or city within which the improvements are located may be owned jointly by the service district and that county or city pursuant to an interlocal agreement.

[1996 c 292 § 6.]

RCW 36.83.140 Local service district fund.

If a service district is formed, there shall be created in the office of the county treasurer, as ex officio treasurer of the service district, a local service district fund with such accounts as the treasurer may find convenient or as the state auditor or the governing body of the service district may direct, into which shall be deposited all revenues received by or on behalf of the service district from tax levies, gifts, donations and any other source. The fund shall be designated "(name of county) (road/bridge) service district No. . . . fund."

[1996 c 292 § 7.]

RCW 36.83.900 Liberal construction.

The rule of strict construction does not apply to this chapter, and this chapter shall be liberally construed to permit the accomplishment of its purposes.

[1983 c 130 § 10.]

**Chapter 36.85 RCW
ROADS AND BRIDGES--RIGHTS-OF-WAY**

Sections

- 36.85.010 Acquisition--Condemnation.
- 36.85.020 Aviation site not exempt from condemnation.
- 36.85.030 Acceptance of federal grants over public lands.
- 36.85.040 Acceptance of federal grants over public lands--Prior acceptances ratified.

RCW 36.85.010 Acquisition--Condemnation.

Whenever it is necessary to secure any lands for a right-of-way for any county road or for the drainage thereof or to afford unobstructed view toward any intersection or point of possible danger to public travel upon any county road or for any borrow pit, gravel pit, quarry, or other land for the extraction of material for county road purposes, or right-of-way for access thereto, the board may acquire such lands on behalf of the county by gift, purchase, or condemnation. When the board so directs, the prosecuting attorney of the county shall institute proceedings in condemnation to acquire such land for a county road in the manner provided by law for the condemnation of land for public use by counties. All cost of acquiring land for right-of-way or for other purposes by purchase or condemnation shall be paid out of the county road fund of the county and chargeable against the project for which acquired.

[1963 c 4 § 36.85.010. Prior: 1937 c 187 § 9; RRS § 6450-9.]

RCW 36.85.020 Aviation site not exempt from condemnation.

Whenever any county has established a public highway, which, in whole or in part, abuts upon and adjoins any aviation site in such county, no property shall be exempt from condemnation for such highway by reason of the same having been or being dedicated, appropriated, or otherwise reduced or held to public use.

[1963 c 4 § 36.85.020. Prior: 1925 ex.s. c 41 § 1; RRS § 905-2.]

RCW 36.85.030 Acceptance of federal grants over public lands.

The boards in their respective counties may accept the grant of rights-of-way for the construction of public highways over public lands of the United States, not reserved for public uses, contained in section 2477 of the Revised Statutes of the United States. Such rights-of-way shall henceforward not be less than sixty feet in width unless a lesser width is specified by the United States. Acceptance shall be by resolution of the board spread upon the records of its proceedings: PROVIDED, That nothing herein contained shall be construed to invalidate the acceptance of such grant by general public use and enjoyment, heretofore or hereafter had.

[1963 c 4 § 36.85.030. Prior: 1937 c 187 § 17; RRS § 6450-17.]

RCW 36.85.040 Acceptance of federal grants over public lands--Prior acceptances ratified.

Prior action of boards purporting to accept the grant of rights-of-way under section 2477 of the Revised Statutes of the United States for the construction of public highways over public lands of the United States, as provided in RCW 36.85.030, is hereby approved, ratified and confirmed and all such public highways shall be deemed duly laid out county roads and boards of county commissioners may at any time by recorded resolution cause any of such county roads to be opened and improved for public travel.

[1963 c 4 § 36.85.040. Prior: 1937 c 187 § 18; RRS § 6450-18.]

Chapter 36.86 RCW ROADS AND BRIDGES--STANDARDS

Sections

36.86.010	Standard width of right-of-way prescribed.
36.86.020	Minimum standards of construction.
36.86.030	Amendment of standards--Filing.
36.86.040	Uniform standard for signs, signals, guideposts--Railroad grade crossings.
36.86.050	Monuments at government survey corners.
36.86.060	Restrictions on use of oil at intersections or entrances to county roads.
36.86.070	Classification of roads in accordance with designations under federal functional classification system.
36.86.080	Application of design standards to construction and reconstruction.
36.86.090	Logs dumped on right-of-way--Removal--Confiscation.
36.86.100	Railroad grade crossings--Obstructions.

RCW 36.86.010 Standard width of right-of-way prescribed.

From and after April 1, 1937, the width of thirty feet on each side of the center line of county roads, exclusive of such additional width as may be required for cuts and fills, is the necessary and proper right-of-way width for county roads, unless the board of county commissioners, shall, in any instance, adopt and designate a different width. This shall not be construed to require the acquisition of increased right-of-way for any county road already established and the right-of-way for which has been secured.

[1963 c 4 § 36.86.010. Prior: 1937 c 187 § 14; RRS § 6450-14.]

RCW 36.86.020 Minimum standards of construction.

In the case of roads, the minimum width between shoulders shall be fourteen feet with eight feet of surfacing, and in the case of bridges, which includes all decked structures, the minimum standard shall be for H-10 loading in accordance with the standards of the state department of transportation. When the standards have been prepared by the county road engineer, they shall be submitted to the county legislative authority for approval, and when

approved shall be used for all road and bridge construction and improvement in the county.

[1984 c 7 § 38; 1963 c 4 § 36.86.020. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.86.030 Amendment of standards--Filing.

Road and bridge standards may be amended from time to time by resolution of the county legislative authority, but no standard may be approved by the legislative authority with any minimum requirement less than that specified in this chapter. Two copies of the approved standards shall be filed with the department of transportation for its use in examinations of county road work.

[1984 c 7 § 39; 1963 c 4 § 36.86.030. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.86.040 Uniform standard for signs, signals, guideposts--Railroad grade crossings.

The county legislative authority shall erect and maintain upon the county roads such suitable and proper signs, signals, signboards, and guideposts and appropriate stop, caution, warning, restrictive, and directional signs and markings as it deems necessary or as may be required by law. All such markings shall be in accordance with the uniform state standard of color, design, erection, and location adopted and designed by the Washington state department of transportation. In respect to existing and future railroad grade crossings over county roads the legislative authority shall install and maintain standard, nonmechanical railroad approach warning signs on both sides of the railroad upon the approaches of the county road. All such signs shall be located a sufficient distance from the crossing to give adequate warning to persons traveling on county roads.

[1984 c 7 § 40; 1963 c 4 § 36.86.040. Prior: 1955 c 310 § 1; 1937 c 187 § 37; RRS § 6450-37.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.86.050 Monuments at government survey corners.

The board and the road engineer, at the time of establishing, constructing, improving, or paving any county road, shall fix permanent monuments at the original positions of all United States government monuments at township corners, section corners, quarter section corners, meander corners, and witness markers, as originally established by the United States government

survey, whenever any such original monuments or markers fall within the right-of-way of any county road, and shall aid in the reestablishment of any such corners, monuments, or markers destroyed or obliterated by the construction of any county road heretofore established, by permitting inspection of the records in the office of the board and the county engineering office.

[1963 c 4 § 36.86.050. Prior: 1937 c 187 § 36; RRS § 6450-36.]

RCW 36.86.060 Restrictions on use of oil at intersections or entrances to county roads.

No oil or other material shall be used in the treatment of any county road or private road or driveway, of such consistency, viscosity or nature or in such quantities and in such proximity to the entrance to or intersection with any state highway or county road, the roadway of which is surfaced with cement concrete or asphaltic concrete, that such oil or other material is or will be tracked by vehicles thereby causing a coating or discoloration of such cement concrete or asphaltic concrete roadway. Any person violating the provisions of this section shall be guilty of a misdemeanor.

[1963 c 4 § 36.86.060. Prior: 1937 c 187 § 43; RRS § 6450-43.]

RCW 36.86.070 Classification of roads in accordance with designations under federal functional classification system.

From time to time the legislative authority of each county shall classify and designate as the county primary road system such county roads as are designated rural minor collector, rural major collector, rural minor arterial, rural principal arterial, urban collector, urban minor arterial, and urban principal arterial in the federal functional classification system.

[1982 c 145 § 2; 1963 c 4 § 36.86.070. Prior: 1949 c 165 § 1; Rem. Supp. 1949 § 6450-8h.]

RCW 36.86.080 Application of design standards to construction and reconstruction.

Upon the adoption of uniform design standards the legislative authority of each county shall apply the same to all new construction within, and as far as practicable and feasible to reconstruction of old roads comprising, the county primary road system. No deviation from such design standards as to such primary system may be made without the approval of the state aid engineer for the department of transportation.

[1982 c 145 § 3; 1963 c 4 § 36.86.080. Prior: 1949 c 165 § 4; Rem. Supp. 1949 § 6450-8k.]

RCW 36.86.090 Logs dumped on right-of-way--Removal--Confiscation.

Logs dumped on any county road right-of-way or in any county road drainage ditch due to hauling equipment failure, or for any other reason, shall be removed within ten days. Logs remaining within any county road right-of-way for a period of thirty days shall be confiscated and removed or disposed of as directed by the boards of county commissioners in the respective

counties. Confiscated logs may be sold by the county commissioners and the proceeds thereof shall be deposited in the county road fund.

[1963 c 4 § 36.86.090. Prior: 1951 c 143 § 1.]

RCW 36.86.100 Railroad grade crossings--Obstructions.

Each railroad company shall keep its right of way clear of all brush and timber in the vicinity of a railroad grade crossing with a county road for a distance of one hundred feet from the crossing in such a manner as to permit a person upon the road to obtain an unobstructed view in both directions of an approaching train. The county legislative authority shall cause brush and timber to be cleared from the right of way of county roads in the proximity of a railroad grade crossing for a distance of one hundred feet from the crossing in such a manner as to permit a person traveling upon the road to obtain an unobstructed view in both directions of an approaching train. It is unlawful to erect or maintain a sign, signboard, or billboard within a distance of one hundred feet from the point of intersection of the road and railroad grade crossing located outside the corporate limits of any city or town unless, after thirty days notice to the Washington utilities and transportation commission and the railroad operating the crossing, the county legislative authority determines that it does not obscure the sight distance of a person operating a vehicle or train approaching the grade crossing.

When a person who has erected or who maintains such a sign, signboard, or billboard or when a railroad company permits such brush or timber in the vicinity of a railroad grade crossing with a county road or permits the surface of a grade crossing to become inconvenient or dangerous for passage and who has the duty to maintain it, fails, neglects, or refuses to remove or cause to be removed such brush, timber, sign, signboard, or billboard, or maintain the surface of the crossing, the utilities and transportation commission upon complaint of the county legislative authority or upon complaint of any party interested, or upon its own motion, shall enter upon a hearing in the manner now provided for hearings with respect to railroad-highway grade crossings, and make and enforce proper orders for the removal of the brush, timber, sign, signboard or billboard, or maintenance of the crossing. Nothing in this section prevents the posting or maintaining thereon of highway or road signs or traffic devices giving directions or distances for the information of the public when the signs conform to the "Manual for Uniform Traffic Control Devices" issued by the state department of transportation. The county legislative authority shall inspect highway grade crossings and make complaint of the violation of any provisions of this section.

[1983 c 19 § 1; 1963 c 4 § 36.86.100. Prior: 1955 c 310 § 6.]

Notes:

Railroad crossings, obstructions: RCW 47.32.140.

Chapter 36.87 RCW

ROADS AND BRIDGES--VACATION

Sections

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36.87.030	Freeholders' petition--Action on petition.
36.87.040	Engineer's report.
36.87.050	Notice of hearing on report.
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36.87.080	Majority vote required.
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36.87.140	Retention of easement for public utilities and services.
36.87.900	Severability--1969 ex.s. c 185.

RCW 36.87.010 Resolution of intention to vacate.

When a county road or any part thereof is considered useless, the board by resolution entered upon its minutes, may declare its intention to vacate and abandon the same or any portion thereof and shall direct the county road engineer to report upon such vacation and abandonment.

[1969 ex.s. c 185 § 1; 1963 c 4 § 36.87.010. Prior: 1937 c 187 § 48; RRS § 6450-48.]

RCW 36.87.020 County road frontage owners' petition--Bond, cash deposit, or fee.

Owners of the majority of the frontage on any county road or portion thereof may petition the county legislative authority to vacate and abandon the same or any portion thereof. The petition must show the land owned by each petitioner and set forth that such county road is useless as part of the county road system and that the public will be benefited by its vacation and abandonment. The legislative authority may (1) require the petitioners to make an appropriate cash deposit or furnish an appropriate bond against which all costs and expenses incurred in the examination, report, and proceedings pertaining to the petition shall be charged; or (2) by ordinance or resolution require the petitioners to pay a fee adequate to cover such costs and expenses.

[1991 c 363 § 89; 1985 c 369 § 4; 1963 c 4 § 36.87.020. Prior: 1937 c 187 § 49, part; RRS § 6450-49, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.87.030 Freeholders' petition--Action on petition.

On the filing of the petition and bond and on being satisfied that the petition has been signed by petitioners residing in the vicinity of the county road or portion thereof, the board shall direct the county road engineer to report upon such vacation and abandonment.

[1963 c 4 § 36.87.030. Prior: 1937 c 187 § 49, part; RRS § 6450-49, part.]

RCW 36.87.040 Engineer's report.

When directed by the board the county road engineer shall examine any county road or portion thereof proposed to be vacated and abandoned and report his opinion as to whether the county road should be vacated and abandoned, whether the same is in use or has been in use, the condition of the road, whether it will be advisable to preserve it for the county road system in the future, whether the public will be benefited by the vacation and abandonment, and all other facts, matters, and things which will be of importance to the board, and also file his cost bill.

[1963 c 4 § 36.87.040. Prior: 1937 c 187 § 50; RRS § 6450-50.]

RCW 36.87.050 Notice of hearing on report.

Notice of hearing upon the report for vacation and abandonment of a county road shall be published at least once a week for two consecutive weeks preceding the date fixed for the hearing, in the county official newspaper and a copy of the notice shall be posted for at least twenty days preceding the date fixed for hearing at each termini of the county road or portion thereof proposed to be vacated or abandoned.

[1963 c 4 § 36.87.050. Prior: 1937 c 187 § 51, part; RRS § 6450-51, part.]

RCW 36.87.060 Hearing.

(1) On the day fixed for the hearing, the county legislative authority shall proceed to consider the report of the engineer, together with any evidence for or objection against such vacation and abandonment. If the county road is found useful as a part of the county road system it shall not be vacated, but if it is not useful and the public will be benefited by the vacation, the county legislative authority may vacate the road or any portion thereof. Its decision shall be entered in the minutes of the hearing.

(2) As an alternative, the county legislative authority may appoint a hearing officer to conduct a public hearing to consider the report of the engineer and to take testimony and evidence relating to the proposed vacation. Following the hearing, the hearing officer shall prepare a record of the proceedings and a recommendation to the county legislative authority concerning the proposed vacation. Their decision shall be made at a regular or special public meeting of the county legislative authority.

[1985 c 369 § 5; 1963 c 4 § 36.87.060. Prior: 1937 c 187 § 51, part; RRS § 6450-51, part.]

RCW 36.87.070 Expense of proceeding.

If the county legislative authority has required the petitioners to make a cash deposit or furnish a bond, upon completion of the hearing, it shall certify all costs and expenses incurred in the proceedings to the county treasurer and, regardless of its final decision, the county legislative authority shall recover all such costs and expenses from the bond or cash deposit and release any balance to the petitioners.

[1985 c 369 § 6; 1963 c 4 § 36.87.070. Prior: 1937 c 187 § 51, part; RRS § 6450-51, part.]

RCW 36.87.080 Majority vote required.

No county road shall be vacated and abandoned except by majority vote of the board properly entered, or by operation of law, or judgment of a court of competent jurisdiction.

[1969 ex.s. c 185 § 2; 1963 c 4 § 36.87.080. Prior: 1937 c 187 § 51, part; RRS § 6450-51, part.]

RCW 36.87.090 Vacation of road unopened for five years--Exceptions.

Any county road, or part thereof, which remains unopen for public use for a period of five years after the order is made or authority granted for opening it, shall be thereby vacated, and the authority for building it barred by lapse of time: PROVIDED, That this section shall not apply to any highway, road, street, alley, or other public place dedicated as such in any plat, whether the land included in such plat is within or without the limits of an incorporated city or town, or to any land conveyed by deed to the state or to any county, city or town for highways, roads, streets, alleys, or other public places.

[1963 c 4 § 36.87.090. Prior: 1937 c 187 § 52; RRS § 6450-52.]

RCW 36.87.100 Classification of roads for which public expenditures made--Compensation of county.

Any board of county commissioners may, by ordinance, classify all county roads for which public expenditures were made in the acquisition, improvement or maintenance of the same, according to the type and amount of expenditures made and the nature of the county's property interest in the road; and may require persons benefiting from the vacation of county roads within some or all of the said classes to compensate the county as a condition precedent to the vacation thereof.

[1969 ex.s. c 185 § 4.]

RCW 36.87.110 Classification of roads for which no public expenditures made--Compensation of county.

Any board of county commissioners may, by ordinance, separately classify county roads

for which no public expenditures have been made in the acquisition, improvement or maintenance of the same, according to the nature of the county's property interest in the road; and may require persons benefiting from the vacation of county roads within some or all of the said classes to compensate the county as a condition precedent to the vacation thereof.

[1969 ex.s. c 185 § 5.]

RCW 36.87.120 Appraised value as basis for compensation--Appraisal costs.

Any ordinance adopted pursuant to this chapter may require that compensation for the vacation of county roads within particular classes shall equal all or a percentage of the appraised value of the vacated road as of the effective date of the vacation. Costs of county appraisals of roads pursuant to such ordinances shall be deemed expenses incurred in vacation proceedings, and shall be paid in the manner provided by RCW 36.87.070.

[1969 ex.s. c 185 § 6.]

RCW 36.87.130 Vacation of roads abutting bodies of water prohibited unless for public purposes or industrial use.

No county shall vacate a county road or part thereof which abuts on a body of salt or fresh water unless the purpose of the vacation is to enable any public authority to acquire the vacated property for port purposes, boat moorage or launching sites, or for park, viewpoint, recreational, educational or other public purposes, or unless the property is zoned for industrial uses.

[1969 ex.s. c 185 § 7.]

RCW 36.87.140 Retention of easement for public utilities and services.

Whenever a county road or any portion thereof is vacated the legislative body may include in the resolution authorizing the vacation a provision that the county retain an easement in respect to the vacated land for the construction, repair, and maintenance of public utilities and services which at the time the resolution is adopted are authorized or are physically located on a portion of the land being vacated: PROVIDED, That the legislative body shall not convey such easement to any public utility or other entity or person but may convey a permit or franchise to a public utility to effectuate the intent of this section. The term "public utility" as used in this section shall include utilities owned, operated, or maintained by every gas company, electrical company, telephone company, telegraph company, and water company whether or not such company is privately owned or owned by a governmental entity.

[1975 c 22 § 1.]

RCW 36.87.900 Severability--1969 ex.s. c 185.

If any provision of this act, or its application to any person, property or road is held invalid, the validity of the remainder of the act, or the application of the provision to other persons, property or roads shall not be affected.

[1969 ex.s. c 185 § 8.]

Chapter 36.88 RCW COUNTY ROAD IMPROVEMENT DISTRICTS

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Notes:

Assessments and charges against state lands: Chapter 79.44 RCW.

Deferral of special assessments: Chapter 84.38 RCW.

Local improvements, supplemental authority: Chapter 35.51 RCW.

RCW 36.88.010 Districts authorized--Purposes.

All counties have the power to create county road improvement districts for the

acquisition of rights of way and improvement of county roads, existing private roads that will become county roads as a result of this improvement district process and, with the approval of the state department of transportation, state highways; for the construction or improvement of necessary drainage facilities, bulkheads, retaining walls, and other appurtenances therefor, bridges, culverts, sidewalks, curbs and gutters, escalators, or moving sidewalks; and for the draining or filling of drainage potholes or swamps. Such counties have the power to levy and collect special assessments against the real property specially benefited thereby for the purpose of paying the whole or any part of the cost of such acquisition of rights of way, construction, or improvement.

[1985 c 400 § 3; 1985 c 369 § 7; 1965 c 60 § 1; 1963 c 84 § 1; 1963 c 4 § 36.88.010. Prior: 1959 c 134 § 1; 1951 c 192 § 1.]

Notes:

Reviser's note: This section was amended by 1985 c 369 § 7 and by 1985 c 400 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

County may fund improvements to state highways: RCW 36.75.035.

RCW 36.88.015 Additional purposes.

All counties have the power to create county road improvement districts for the construction, installation, improvement, operation, and maintenance of street and road lighting systems for any county roads, and subject to the approval of the state department of transportation, for state highways, and for safeguards to protect the public from hazards of open canals, flumes, or ditches, and the counties have the power to levy and collect special assessments against the real property specially benefited thereby for the purpose of paying the whole or any part of the cost of the construction, installation, or improvement together with the expense of furnishing electric energy, maintenance, and operation.

[1984 c 7 § 41; 1965 c 60 § 2; 1963 c 84 § 2; 1963 c 4 § 36.88.015. Prior: 1959 c 75 § 4; 1953 c 152 § 1.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 36.88.020 Formation of district--How initiated.

County road improvement districts may be initiated either by resolution of the board of county commissioners or by petition signed by the owners according to the records of the office of the county auditor of property to an aggregate amount of the majority of the lineal frontage upon the contemplated improvement and of the area within the limits of the county road improvement district to be created therefor.

[1963 c 4 § 36.88.020. Prior: 1951 c 192 § 2.]

RCW 36.88.030 Formation of district--By resolution of intention--Procedure.

In case the board of county commissioners shall desire to initiate the formation of a county road improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed road improvement district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, notifying the owners of property therein to appear at a meeting of the board at the time specified in such resolution, and directing the county road engineer to submit to the board at or prior to the date fixed for such hearing a diagram or print showing thereon the lots, tracts and parcels of land and other property which will be specially benefited thereby and the estimated amount of the cost and expense of such improvement to be borne by each lot, tract or parcel of land or other property, and also designating thereon all property which is being purchased under contract from the county. The resolution of intention shall be published in at least two consecutive issues of a newspaper of general circulation in such county, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of county commissioners.

Notice of the adoption of the resolution of intention shall be given each owner or reputed owner of any lot, tract or parcel of land or other property within the proposed improvement district by mailing said notice to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon at least fifteen days before the date fixed for the public hearing. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date and place of the hearing before the board of county commissioners, and shall contain the directions hereinafter provided for voting upon the formation of the proposed improvement district.

The clerk of the board shall prepare and mail, together with the notice above referred to, a ballot for each owner or reputed owner of any lot, tract or parcel of land within the proposed improvement district. This ballot shall contain the following proposition:

"Shall county road improvement district No. . . .
. be formed?
Yes.
No.

and, in addition, shall contain appropriate spaces for the signatures of the property owners, and a description of their property, and shall have printed thereon the direction that all ballots must be signed to be valid and must be returned to the clerk of the board of county commissioners not later than five o'clock p.m. of a day which shall be one week after the date of the public hearing.

The notice of adoption of the resolution of intention shall also contain the above directions, and, in addition thereto, shall state the rules by which the election shall be governed.

[1970 ex.s. c 66 § 2; 1963 c 84 § 3; 1963 c 4 § 36.88.030. Prior: 1951 c 192 § 3.]

RCW 36.88.035 Notice must contain statement that assessments may vary from estimates.

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a county road improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

[1989 c 243 § 5.]

RCW 36.88.040 Formation of district--By resolution of intention--Election--Rules.

The election provided herein for cases where the improvement is initiated by resolution shall be governed by the following rules: (1) All ballots must be signed by the owner or reputed owner of property within the proposed district according to the records of the county auditor; (2) each ballot must be returned to the clerk of the board not later than one week after the public hearing; (3) each property owner shall have one vote for each full dollar of estimated assessment against his property as determined by the preliminary estimates and assessment roll; (4) the valid ballots shall be tabulated and a majority of the votes cast shall determine whether the formation of the district shall be approved or rejected.

[1963 c 4 § 36.88.040. Prior: 1951 c 192 § 4.]

RCW 36.88.050 Formation of district--By petition--Procedure.

In case any such road improvement shall be initiated by petition, such petition shall set forth the nature and territorial extent of such proposed improvement, and the fact that the signers thereof are the owners, according to the records of the county auditor of property to an aggregate amount of a majority of the lineal frontage upon the improvement to be made and of the area within the limits of the assessment district to be created therefor.

Upon the filing of such petition the board shall determine whether the same shall be sufficient and whether the property within the proposed district shall be sufficiently developed and if the board shall find the district to be sufficiently developed and the petition to be sufficient, it shall proceed to adopt a resolution setting forth the nature and territorial extent of the improvement petitioned for, designating the number of the proposed improvement district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, notifying the owners of property therein to appear at a meeting of the board at the time specified in such resolution, and directing the county road engineer to submit to the board at or

prior to the date fixed for such hearing a diagram or print showing thereon the lots, tracts and parcels of land and other property which will be specially benefited thereby and the estimated amount of the cost and expense of such improvement to be borne by each lot, tract or parcel of land or other property, and also designating thereon all property which is being purchased under contract from the county. The resolution of intention shall be published in at least two consecutive issues of a newspaper of general circulation in such county, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of county commissioners.

Notice of the adoption of the resolution of intention shall be given each owner or reputed owner of any lot, tract or parcel of land or other property within the proposed improvement district by mailing said notice to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon at least fifteen days before the date fixed for the public hearing. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date and place of the hearing before the board of county commissioners, and the fact that property owners may withdraw their names from the petition or add their names thereto at any time prior to five o'clock p.m. of the day before the hearing.

[1963 c 4 § 36.88.050. Prior: 1951 c 192 § 5.]

RCW 36.88.060 Formation of district--Hearing--Resolution creating district.

Whether the improvement is initiated by petition or resolution the board shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing, the board may make such changes in the boundaries of the district or such modifications in the plans for the proposed improvement as shall be deemed necessary: PROVIDED, That the board may neither so alter the improvement as to increase the estimated cost by an amount greater than ten percent above that stated in the notice, nor increase the proportionate share of the cost to be borne by assessments from the proportion stated in the notice, nor change the boundaries of the district to include property not previously included therein without first passing a new resolution of intention and giving a new notice to property owners, in the manner and form and within the time herein provided for the original notice.

At said hearing, the board shall select the method of assessment, ascertain whether the plan of improvement or construction is feasible and whether the benefits to be derived therefrom by the property within the proposed district, together with the amount of any county road fund participation, exceed the costs and expense of the formation of the proposed district and the contemplated construction or improvement and shall make a written finding thereon. In case the proceedings have been initiated by petition, the board shall find whether the petition including all additions thereto or withdrawals therefrom made prior to five o'clock p.m. of the day before the hearing is sufficient within the boundaries of the district so established at said hearing by the board. If said petition shall be found insufficient the board shall by resolution declare the

proceedings terminated. In case the proceedings have been initiated by resolution if the board shall find the improvement to be feasible, it shall continue the hearing until a day not more than fifteen days after the date for returning ballots for the purpose of determining the results of said balloting.

After the hearing the board may proceed to adopt a resolution creating the district and ordering the improvement. Such resolution shall establish such district as the ". . . . county road improvement district No. . . ." Such resolution shall describe the nature and territorial extent of the improvement to be made and the boundaries of the improvement district, shall describe the method of assessment to be used, shall declare the estimated cost and the proportion thereof to be borne by assessments, and shall contain a finding as to the result of the balloting by property owners in case the improvement shall have been initiated by resolution.

Upon the adoption of the resolution establishing the district, the board shall have jurisdiction to proceed with the improvement. The board's findings on the sufficiency of petitions or on the results of the balloting shall be conclusive upon all persons.

[1963 c 84 § 4; 1963 c 4 § 36.88.060. Prior: 1951 c 192 § 6.]

RCW 36.88.062 Formation of district--Committee or hearing officer may conduct hearings--Report to legislative authority.

In lieu of the county legislative authority holding the hearing under RCW 36.88.060 to create the road improvement district, the county legislative authority may adopt an ordinance providing for a committee of the county legislative authority or an officer to conduct the hearings. The committee or hearing officer shall report recommendations on the resolution to the full county legislative authority for final action, which need not hold a hearing on the proposed assessment role and shall either adopt or reject the recommendations.

[1994 c 71 § 3.]

RCW 36.88.065 Formation of district--Alternative method.

If the county legislative authority desires to initiate the formation of a county road improvement district by resolution, it may elect to follow either the procedure set forth in chapter 35.43 RCW or the procedure set forth in RCW 36.88.030, and shall indicate the procedure selected in the resolution of intention.

[1985 c 369 § 10.]

RCW 36.88.070 Diagram only preliminary determination.

The diagram or print herein directed to be submitted to the board shall be in the nature of a preliminary determination upon the method, and estimated amounts, of assessments to be levied upon the property specially benefited by such improvement and shall in no case be construed as being binding or conclusive as to the amount of any assessments which may

ultimately be levied.

[1963 c 4 § 36.88.070. Prior: 1951 c 192 § 7.]

RCW 36.88.072 Waivers of protest--Recording--Limits on enforceability.

If an owner of property enters into an agreement with a county waiving the property owner's right under RCW 36.88.030, 36.88.040, 36.88.050, 36.88.060, and 36.88.065 to protest formation of a road improvement district, the agreement must specify the improvements to be financed by the district and shall set forth the effective term of the agreement, which shall not exceed ten years. The agreement must be recorded with the auditor of the county in which the property is located. It is against public policy and void for an owner, by agreement, as a condition imposed in connection with proposed property development, or otherwise, to waive rights to object to the property owner's individual assessment (including the determination of special benefits allocable to the property), or to appeal to the superior court the decision of the county council affirming the final assessment roll.

[1988 c 179 § 12.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 36.88.074 Preformation expenditures.

The county engineer or other designated official may contract with owners of real property to provide for payment by the owners of the cost of the preparation of engineering plans, surveys, studies, appraisals, legal services, and other expenses associated with improvements to be financed in whole or in part by a local improvement district (not including the cost of actual construction of such improvements), that the owners elect to undertake. The contract may provide for reimbursement to the owner of such costs from the proceeds of bonds issued by the district after formation of a district under this chapter, from assessments paid to the district as appropriate, or by a credit in the amount of such costs against future assessments assessed against such property. Such reimbursement shall be made to the owner of the property at the time of reimbursement. The contract shall also provide that such costs shall not be reimbursed to the owner if a district to construct the specified improvements (as the project may be amended) is not formed within six years of the date of the contract. The contract shall provide that any preformation work shall be conducted only under the direction of the county engineer or other appropriate county authority.

[1988 c 179 § 13.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 36.88.076 Credits for other assessments.

A county ordering a road improvement upon which special assessments on property specifically benefited by the improvements are levied and collected, may provide as part of the ordinance creating the road improvement district that moneys paid or the cost of facilities constructed by a property owner in the district in satisfaction of obligations under chapter 39.92 RCW, shall be credited against assessments due from the owner of such property at the time the credit is made, if those moneys paid or facilities constructed directly defray the cost of the specified improvements under the district and if credit for such amounts is reflected in the final assessment roll confirmed for the district.

[1988 c 179 § 14.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 36.88.078 Assessment reimbursement accounts.

A county ordering a road improvement upon which special assessments on property specifically benefited by the improvement are levied and collected, may provide as part of the ordinance creating the road improvement district that the payment of an assessment levied for the district on underdeveloped properties may be made by owners of other properties within the district if they so elect, subject to terms of reimbursement set forth in the ordinance. The terms for reimbursement shall require the owners of underdeveloped properties on whose behalf payments of assessments have been made to reimburse all such assessment payments to the party who made them when those properties are developed or redeveloped, together with interest at a rate specified in the ordinance. The ordinance may provide that reimbursement shall be made on a one-time, lump sum basis, or may provide that reimbursement shall be made over a period not to exceed five years. The ordinance may provide that reimbursement shall be made no later than the time of dissolution of the district, or may provide that no reimbursement is due if the underdeveloped properties are not developed or redeveloped before the dissolution of the district. Reimbursement amounts due from underdeveloped properties under this section are liens upon the underdeveloped properties in the same manner and with like effect as assessments made under this chapter. For the purposes of this section, "underdeveloped properties" may include those properties that, in the discretion of the county legislative authority, (1) are undeveloped or are not developed to their highest and best use, and (2) are likely to be developed or redeveloped before the dissolution of the district.

[1988 c 179 § 15.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 36.88.080 Property included in district--Method of assessment--Assessment limited by benefit.

Every resolution ordering any improvement mentioned in this chapter, payment for which shall be in whole or in part by special assessments shall establish a road improvement district which shall embrace as near as may be all the property specially benefited by such improvement and the board shall apply thereto such method of assessment as shall be deemed most practical and equitable under the conditions prevailing: PROVIDED, That no assessment as determined by the board of commissioners shall be levied which shall be greater than the special benefits derived from the improvements.

[1963 c 84 § 5; 1963 c 4 § 36.88.080. Prior: 1951 c 192 § 8.]

RCW 36.88.085 Exemption of farm and agricultural land from special benefit assessments.

See RCW 84.34.300 through 84.34.380 and 84.34.922.

RCW 36.88.090 Assessment roll--Hearing--Notice--Objections--New hearing.

Whenever the assessment roll for any county road improvement district has been prepared, such roll shall be filed with the clerk of the county legislative authority. The county legislative authority shall thereupon by resolution set the date for hearing upon such roll before a board of equalization and direct the clerk to give notice of such hearing and the time and place thereof.

Such notice shall specify such time and place of hearing on such roll and shall notify all persons who may desire to object thereto to make such objection in writing and to file the same with the clerk of the county legislative authority at or prior to the date fixed for such hearing; and that at the time and place fixed and at such other times as the hearing may be continued to, the county legislative authority will sit as a board of equalization for the purpose of considering such roll and at such hearing will consider such objections made thereto, or any part thereof, and will correct, revise, raise, lower, change, or modify such roll or any part thereof, or set aside such roll in order that such assessment be made de novo as to such body shall appear just and equitable and then proceed to confirm the same by resolution.

Notice of the time and place of hearing under such assessment roll shall be given to the owner or reputed owner of the property whose name appears thereon, by mailing a notice thereof at least fifteen days before the date fixed for the hearing to such owner or reputed owner at the address of such owner as shown on the tax rolls of the county treasurer; and in addition thereto such notice shall be published at least two times in a newspaper of general circulation in the county. At least fifteen days must elapse between the date of the first publication of the notice and the date fixed for such hearing. However, mosquito control districts are only required to give notice by publication.

The board of equalization, at the time fixed for hearing objections to the confirmation of

the roll, or at such time or times as the hearing may be adjourned to, has power to correct, revise, raise, lower, change, or modify the roll or any part thereof, and to set aside the roll in order that the assessment be made de novo as to the board appears equitable and just, and then shall confirm the same by resolution. All objections shall be in writing and filed with the board and shall state clearly the grounds objected to, and objections not made within the time and in the manner described in this section shall be conclusively presumed to have been waived.

Whenever any such roll is amended so as to raise any assessments appearing thereon, or to include property subject to assessment which has been omitted from the assessment roll for any reason, a new hearing, and a new notice of hearing upon such roll, as amended, shall be given as in the case of an original hearing. At the conclusion of such hearing the board may confirm the same or any portion thereof by resolution and certify the same to the treasurer for collection. Whenever any property has been entered originally on such roll, and the assessment upon such property shall not be raised, no objections to it may be considered by the board or by any court on appeal, unless such objections are made in writing at or prior to the date fixed for the original hearing upon such roll.

[1985 c 369 § 8; 1972 ex.s. c 62 § 1; 1963 c 4 § 36.88.090. Prior: 1951 c 192 § 9.]

RCW 36.88.095 Assessment roll--Committee or officer may conduct hearing--Recommendations to legislative authority--Appeals.

In lieu of the county legislative authority holding the hearing on assessment roll under RCW 36.88.090 as the board of equalization, the county legislative authority may adopt an ordinance providing for a committee of the county legislative authority or an officer to conduct the hearing on the assessment roll as the board of equalization.

A committee or an officer that sits as a board of adjustment [equalization] shall conduct a hearing on the proposed assessment roll and shall make recommendations to the full county legislative authority, which need not hold a hearing on the proposed assessment roll and shall either adopt or reject the recommendations. The ordinance shall provide for an appeal procedure by which a property owner may protest his or her assessment that is proposed by the committee or officer to the full county legislative authority and the full county legislative authority may reject or accept any appealed protested assessment and if accepted shall modify the assessment roll accordingly.

[1994 c 71 § 4.]

RCW 36.88.100 Appeal--Reassessment.

The decision of the board upon any objections made within the time and in the manner herein prescribed may be reviewed by the superior court upon an appeal taken thereto in the manner provided for taking appeals from objections in local improvement districts of cities and towns.

The board shall have the same powers of reassessment and shall proceed to make such reassessments in the same manner and subject to the same limitations as are provided by law for

the making of reassessments in local improvement districts of cities and towns.

[1963 c 4 § 36.88.100. Prior: 1951 c 192 § 10.]

RCW 36.88.110 Assessment roll--Conclusive.

Whenever any assessment roll for construction or improvements shall have been confirmed by the board, as provided in this chapter, the regularity, validity and correctness of the proceedings relating to such construction or improvement and to the assessment therefor, including the action of the board on such assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties and cannot in any manner be contested or questioned in any proceeding whatsoever by any person not filing written objection to such roll in the manner and within the time provided in this chapter, and not appealing from the action of the board in confirming such assessment roll in the manner and within the time provided in this chapter. No proceedings of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any such assessment or for the sale of any property to pay such assessment or any certificate of delinquency issued therefor or the foreclosure of any lien issued therefor, but this section shall not be construed as prohibiting the bringing of injunction proceedings to prevent the sale of any real estate upon the grounds that the property about to be sold does not appear upon the assessment roll, or that the assessment has been paid.

[1963 c 4 § 36.88.110. Prior: 1951 c 192 § 11.]

RCW 36.88.120 Assessment is lien on property--Superiority.

The charge on the respective lots, tracts, parcels of land and other property for the purpose of special assessment to pay the cost and expense in whole or in part of any construction or improvement authorized in this chapter, when assessed, and the assessment roll confirmed by the board shall be a lien upon the property assessed from the time said assessment rolls shall be placed in the hands of the county treasurer for collection. Said liens shall be paramount and superior to any other lien or encumbrance whatsoever, theretofore or thereafter created, except a lien for general taxes.

[1963 c 4 § 36.88.120. Prior: 1951 c 192 § 12.]

RCW 36.88.130 County treasurer--Duties.

The county treasurer is hereby designated as the treasurer of all county road improvement districts created hereunder, and shall collect all road improvement district assessments, and the duties and responsibilities herein imposed upon him shall be among the duties and responsibilities of his office for which his bond is given as county treasurer.

[1963 c 4 § 36.88.130. Prior: 1951 c 192 § 13.]

RCW 36.88.140 Payment of assessment--Delinquent assessments--Penalties--Lien foreclosure.

The county legislative authority shall prescribe by resolution within what time such assessment or installments thereof shall be paid, and shall provide for the payment and collection of interest and the rate of interest to be charged on that portion of any assessment which remains unpaid over thirty days after such date. Assessments or installments thereof which are delinquent, shall bear, in addition to such interest, such penalty not less than five percent as shall be prescribed by resolution. Interest and penalty shall be included in and shall be a part of the assessment lien. All liens acquired by the county hereunder shall be foreclosed by the appropriate county officers in the same manner and subject to the same rights of redemption provided by law for the foreclosure of liens held by cities or towns against property in local improvement districts.

[1981 c 156 § 11; 1970 ex.s. c 66 § 3; 1963 c 4 § 36.88.140. Prior: 1951 c 192 § 14.]

RCW 36.88.145 Property donations--Credit against assessments.

The county legislative authority may give credit for all or any portion of any property donation against an assessment, charge, or other required financial contribution for transportation improvements within a county road improvement district. The credit granted is available against any assessment, charge, or other required financial contribution for any transportation purpose that uses the donated property.

[1987 c 267 § 11.]

Notes:

Severability--1987 c 267: See RCW 47.14.910.

Right of way donations: Chapter 47.14 RCW.

RCW 36.88.150 Payment of assessment--Record of.

Whenever before the sale of any property the amount of any assessment thereon, with interest, penalty, costs and charges accrued thereon, shall be paid to the treasurer, he shall thereon mark the same paid with the date of payment thereof on the assessment roll.

[1963 c 4 § 36.88.150. Prior: 1951 c 192 § 15.]

RCW 36.88.160 District fund--Purposes--Bond redemptions.

All moneys collected by the treasurer upon any assessments under this chapter shall be kept as a separate fund to known as "., county road improvement district No. fund." Such funds shall be used for no other purpose than the payment of costs and expense of construction and improvement in such district and the payment of interest or principal of warrants and bonds drawn or issued upon or against said fund for said purposes. Whenever after payment of the costs and expenses of the improvement there shall be available in the local

improvement district fund a sum, over and above the amount necessary to meet the interest payments next accruing on outstanding bonds, sufficient to retire one or more outstanding bonds the treasurer shall forthwith call such bond or bonds for redemption.

[1963 c 4 § 36.88.160. Prior: 1951 c 192 § 16.]

RCW 36.88.170 Foreclosed property--Held in trust for district.

Whenever any property shall be bid in by any county or be stricken off to any county under and by virtue of any proceeding for enforcement of the assessment provided in this chapter said property shall be held in trust by said county for the fund of the improvement district for the creation of which fund said assessment was levied and for the collection of which assessment said property was sold: PROVIDED, Such county may at any time after the procuring of a deed pay in to such fund the amount of the delinquent assessment for which said property was sold and all accrued interest and interest to the time of the next call for bonds or warrants issued against such assessment fund at the rate provided thereon, and thereupon shall take and hold said property discharged of such trust: PROVIDED FURTHER, That property deeded to any county and which shall become a part of the trust being exercised by the said county for the benefit of any local improvement district fund of the said county, shall be exempt from taxation for general, state, county and municipal purposes during the period that it is so held.

[1963 c 4 § 36.88.170. Prior: 1951 c 192 § 17.]

RCW 36.88.180 Foreclosed property--Sale or lease--Disposition of proceeds.

Any county may at any time after a deed is issued to it under and by virtue of any proceeding mentioned in this chapter, lease or sell or convey any such property at public or private sale for such price and on such terms as may be determined by resolution of the board, and all proceeds resulting from such sale shall ratably belong to and be paid into the fund of the county road improvement district or districts concerned after first reimbursing any fund or funds having advanced any money on account of said property.

[1963 c 4 § 36.88.180. Prior: 1951 c 192 § 18.]

RCW 36.88.190 Improvement bonds, warrants authorized.

(1) The county legislative authority may provide for the payment of the whole or any portion of the cost and expense of any duly authorized road improvement by bonds and/or warrants of the improvement district which bonds shall be issued and sold as herein provided, but no bonds shall be issued in excess of the cost and expense of the project nor shall they be issued prior to twenty days after the thirty days allowed for the payment of assessments without penalty or interest.

(2) Notwithstanding subsection (1) of this section, such bonds and warrants may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 93; 1963 c 4 § 36.88.190. Prior: 1951 c 192 § 19.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.88.200 Improvement bonds--Form, contents, execution.

(1) Such bonds shall be numbered from one upwards consecutively, shall be in such denominations as may be provided by the county legislative authority in the resolution authorizing their issuance, shall mature on or before a date not to exceed twenty-two years from and after their date, shall bear interest at such rate or rates as authorized by the legislative authority payable annually or semiannually as may be provided by the legislative authority, shall be signed by the chairman of the legislative authority and attested by the county auditor, shall have the seal of the county affixed thereto, and shall be payable at the office of the county treasurer or elsewhere as may be designated by the legislative authority. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030. In lieu of any signatures required in this section, the bonds and any coupons may bear the printed or engraved facsimile signatures of said officials.

Such bonds shall refer to the improvement for which they are issued and to the resolution creating the road improvement district therefor.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 94; 1980 c 100 § 5; 1970 ex.s. c 56 § 55; 1969 ex.s. c 232 § 73; 1963 c 4 § 36.88.200. Prior: 1951 c 192 § 20.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 36.88.210 Improvement bonds--Issuance--Sale--Deposit of proceeds.

(1) The bonds issued under the provisions of this chapter may be issued to the contractor or sold by the county legislative authority as authorized by the resolution directing their issuance at not less than their par value and accrued interest to the date of delivery. No bonds shall be sold except at public sale upon competitive bids and a notice calling for bids shall be published once a week for two consecutive weeks in the official newspaper of the county. Such notice shall specify a place and designate a day and hour subsequent to the date of last publication thereof when sealed bids will be received and publicly opened for the purchase of said bonds. The proceeds of all sales of bonds shall be deposited in the county road improvement district fund and applied to the cost and expense of the district.

(2) Notwithstanding subsection (1) of this section, such bonds may be sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 95; 1963 c 4 § 36.88.210. Prior: 1951 c 192 § 21.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.88.220 Improvement bonds--Guaranty fund.

All counties may establish a fund for the purpose of guaranteeing to the extent of such fund and in the manner hereinafter provided, the payment of its road improvement district bonds and warrants issued to pay for any road improvement ordered under this chapter. If the county legislative authority shall determine to establish such fund it shall be designated ". . . . county road improvement guaranty fund" and from moneys available for road purposes such county shall deposit annually in said guaranty fund such sums as may be necessary to establish and maintain a balance therein equal to at least five percent of the outstanding obligations guaranteed thereby and to make necessary provision in its annual budget therefor. The moneys held in the guaranty fund may be invested in accordance with the laws relating to county investments.

[1997 c 393 § 7; 1967 ex.s. c 145 § 63; 1963 c 4 § 36.88.220. Prior: 1959 c 134 § 2; 1951 c 192 § 22.]

Notes:

Severability--1967 ex.s. c 145: See RCW 47.98.043.

RCW 36.88.230 Improvement bonds--Guaranty fund in certain counties--Operation.

Whenever there shall be paid out of a guaranty fund any sum on account of principal or interest of a road improvement district bond or warrant, the county, as trustee for the fund, shall be subrogated to all the rights of the owner of the bond or any interest coupon or warrant so paid, and the proceeds thereof, or of the assessment underlying the same, shall become part of the guaranty fund. There shall also be paid into each guaranty fund the interest received from investment of the fund, as well as any surplus remaining in any local improvement fund guaranteed hereunder after the payment of all outstanding bonds or warrants payable primarily out of such road improvement fund. Warrants drawing interest at a rate or rates not to exceed the rate determined by the county legislative authority shall be issued, as other warrants are issued by the county, against a guaranty fund to meet any liability accruing against it, and at the time of making its annual budget and tax levy the county shall provide from funds available for road purposes for the deposit in the guaranty fund of a sum sufficient with other resources of such fund to pay warrants so issued during the preceding fiscal year. As among the several issues of bonds or warrants guaranteed by the fund no preference shall exist, but defaulted bonds, interest payments, and warrants shall be purchased out of the fund in the order of their presentation.

Every county establishing a guaranty fund for road improvement district bonds or warrants shall prescribe by resolution appropriate rules and regulations for the maintenance and operation of the guaranty fund not inconsistent herewith. So much of the money of a guaranty fund as is necessary may be used to purchase underlying bonds or warrants guaranteed by the fund, or to purchase certificates of delinquency for general taxes on property subject to local improvement assessments, or to purchase such property at tax foreclosures, for the purpose of protecting the guaranty fund. Said fund shall be subrogated to the rights of the county, and the

county, acting on behalf of said fund, may foreclose the lien of general tax certificates of delinquency and purchase the property at the foreclosure sale for the account of said fund. Whenever the legislative authority of any county shall so cause a lien of general tax certificates of delinquency to be foreclosed and the property to be so purchased at a foreclosure sale, the court costs and costs of publication and expenses for clerical work and/or other expense incidental thereto, shall be chargeable to and payable from the guaranty fund. After so acquiring title to real property, a county may lease or sell and convey the same at public or private sale for such price and on such terms as may be determined by resolution of the county legislative body, and all proceeds resulting from such sales shall belong to and be paid into the guaranty fund.

[1997 c 393 § 8; 1983 c 167 § 96; 1981 c 156 § 12; 1963 c 4 § 36.88.230. Prior: 1951 c 192 § 23.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.88.235 Improvement bonds--Guaranty fund assets may be transferred to county general fund--When.

(1) Any county maintaining a local improvement guaranty fund under this chapter, upon certification by the county treasurer that the local improvement guaranty fund has sufficient funds currently on hand to meet all valid outstanding obligations of the fund and all other obligations of the fund reasonably expected to be incurred in the near future, may by ordinance transfer assets from such fund to its general fund. The net cash of the local improvement guaranty fund may be reduced by such transfer to an amount not less than five percent of the net outstanding obligations guaranteed by such fund.

(2) If, at any time within five years of any transfer of assets from the local improvement guaranty fund to the general fund of the county, the net cash of the local improvement guaranty fund is reduced below the minimum amount specified in subsection (1) of this section, the county shall, to the extent of the amount transferred, pay valid claims against the local improvement guaranty fund as a general obligation of the county. In addition, such county shall pay all reasonable costs of collection necessarily incurred by the holders of valid claims against the local improvement guaranty fund.

[1991 c 245 § 12.]

RCW 36.88.240 Improvement bonds--Repayment restricted to special funds--Remedies of bond owner--Notice of restrictions.

The owner of any bond or warrant issued under the provisions of this chapter shall not have any claim therefor against the county by which the same is issued, except for payment from the special assessments made for the improvement for which said bond or warrant was issued and except as against the improvement guaranty fund of such county, and the county shall not be liable to any owner of such bond or warrant for any loss to the guaranty fund occurring in the lawful operation thereof by the county. The remedy of the owner of a bond, or warrant in case of nonpayment, shall be confined to the enforcement of any assessments made in such road

improvement district and to the guaranty fund. In case the bonds are guaranteed in accordance herewith a copy of the foregoing part of this section shall be plainly written, printed or engraved on each bond issued and guaranteed hereunder.

[1983 c 167 § 97; 1963 c 4 § 36.88.240. Prior: 1951 c 192 § 24.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.88.250 Improvement bonds--Remedies of bond owners--Enforcement.

If the board fails to cause any bonds to be paid when due or to promptly collect any assessments when due, the owner of any of the bonds may proceed in his own name to collect the assessments and foreclose the lien thereof in any court of competent jurisdiction and shall recover in addition to the amount of the bonds outstanding in his name, interest thereon at five percent per annum, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court. Any number of owners of bonds for any single project may join as plaintiffs and any number of the owners of property upon which the assessments are liens may be joined as defendants in the same suit.

[1963 c 4 § 36.88.250. Prior: 1951 c 192 § 25.]

RCW 36.88.260 Assessment where bonds issued--Payment in installments.

In all cases where the board shall issue bonds to pay the cost and expense of any county road improvement district and shall provide that the whole or any part of the cost and expense shall be assessed against the lots, tracts, parcels of land, and other property therein, the resolution levying such assessment shall provide that the sum charged thereby against each lot, tract, or parcel of land or any portion of said sum may be paid during the thirty day period provided for in RCW 36.88.270 and that thereafter the sum remaining unpaid may be paid in equal annual installments, the number of which installments shall be less by two than the number of years which the bonds issued to pay for the improvement may run. Interest upon all unpaid installments shall be charged at a rate fixed by said resolution. Each year such installments together with interest due thereon shall be collected in the manner provided in the resolution for the collection of the assessments.

[1963 c 4 § 36.88.260. Prior: 1951 c 192 § 26.]

RCW 36.88.270 Assessment where bonds issued--Payment in cash--Notice of assessment.

The owner of any lot, tract, or parcel of land, or other property charged with any such assessments may redeem the same from all or any portion of the liability for the cost and expense of such improvement by paying the entire assessment or any portion thereof charged against such lot, tract, or parcel of land without interest within thirty days after notice to him of such assessment, which notice shall be given as follows: The county treasurer shall, as soon as the

assessment roll has been placed in his hands for collection, publish a notice for two consecutive daily or weekly issues in the official newspaper of the county in which the district is located, which notice shall state that the assessment roll is in his hands for collection and that any assessment thereon or any portion of such assessment may be paid at any time within thirty days from the date of the first publication of said notice without penalty interest or costs.

[1963 c 4 § 36.88.270. Prior: 1951 c 192 § 27.]

RCW 36.88.280 Assessment where bonds issued--Payment in cash during installment period--Duties of county treasurer--Use of funds.

The owners of any lot, tract, or parcel of land may save the same from all liability for the unpaid amount of the assessment, at any time after the thirty-day period herein provided for their payment without interest, by paying the entire amount or all installments on said assessment together with all interest due to the date of maturity of any installment next falling due. All such payments shall be made to the county treasurer whose duty it shall be to collect all assessments under this chapter and all sums so paid or collected shall be applied solely to the payment of the cost and expense of the district and payment of principal and/or interest of any bonds issued.

[1963 c 4 § 36.88.280. Prior: 1951 c 192 § 28.]

RCW 36.88.290 Limitation of actions.

An action to collect any special assessment or installment thereof for road improvements, or to enforce the lien of any such assessment or installment, whether such action be brought by the county or by the holder of any certificate of delinquency, or by any other person having the right to bring such action, shall be commenced within ten years after such assessment shall have become delinquent or within ten years after the last installment of any such assessment shall have become delinquent, when said special assessment is payable in installments.

Actions to set aside or cancel any deed issued after midnight, June 6, 1951, upon the sale of property for road improvement assessments, or for the recovery of property sold for delinquent road improvement assessments must be brought within three years from and after date of the issuance of such deed.

[1963 c 4 § 36.88.290. Prior: 1951 c 192 § 29.]

RCW 36.88.295 Refunding bonds--Limitations.

The legislative authority of any county may issue and sell bonds to refund outstanding road improvement district or consolidated road improvement district bonds issued after June 7, 1984, on the earliest date such outstanding bonds may be redeemed following the date of issuance of such refunding bonds. Such refunding shall be subject to the following:

(1) The refunding shall result in a net interest cost savings after paying the costs and expenses of the refunding, and the principal amount of the refunding bonds may not exceed the

principal balance of the assessment roll or rolls pledged to pay the bonds being refunded at the time of the refunding.

(2) The refunding bonds shall be paid from the same local improvement fund or bond redemption fund as the bonds being refunded.

(3) The costs and expenses of the refunding shall be paid from the proceeds of the refunding bonds, or the same road improvement district fund or bond redemption fund for the bonds being refunded, except the county may advance such costs and expenses to such fund pending the receipt of assessment payments available to reimburse such advances.

(4) The last maturity of refunding bonds shall be no later than one year after the last maturity of bonds being refunded.

(5) The refunding bonds may be exchanged for the bonds being refunded or may be sold in the same manner permitted at the time of sale for road improvement district bonds.

(6) All other provisions of law applicable to the refunded bonds shall apply to the refunding bonds.

[1984 c 186 § 67.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

RCW 36.88.300 District costs and expenses--What to include.

Whenever any district is organized hereunder, there shall be included in the cost and expense thereof: (1) The cost of all of the construction or improvement authorized in the district, including that portion of the construction or improvement within the limits of any street or road intersection, space or spaces; (2) the estimated costs and expenses of all engineering and surveying necessary to be done by the county engineer or under his direction or by such other engineer as may be employed by the county commissioners; (3) the cost of all advertising, mailing, and publishing of all notices; (4) the cost of legal services and any other expenses incurred by the county for the district or in the formation thereof, or by the district in connection with such construction or improvement and in the financing thereof, including the issuance of any bonds.

[1963 c 4 § 36.88.300. Prior: 1951 c 192 § 30.]

RCW 36.88.305 District costs and expenses--Credit or reduction of assessments.

At its option, a county may include the value of right of way or property that is donated or given to the county for purposes of an improvement to be financed by a road improvement district, together with the costs of acquiring other rights of way or property for the improvement that was not donated or given to the county, in the costs of the improvement and credit or reduce the assessments imposed on benefited property for the value of the right of way or property that the owner of the benefited property donated or gave to the county for the improvement.

[1991 c 363 § 90.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.88.310 Acquisition of property--Eminent domain.

All land, premises or property necessary for right-of-way or other purposes in the construction or improvement of any county road, including bridges, sidewalks, curbs and gutters and the drainage facilities therefor, under this chapter may be acquired by the county acting through its board of county commissioners, either by gift, purchase or by condemnation. In the event of any exercise of the power of eminent domain, the procedure shall be the same as is provided by law for the securing of right-of-way for county roads. The title to all property acquired for any construction or improvement under this chapter shall be taken in the name of the county. The county commissioners in any eminent domain action brought to secure any property for construction or improvement under this chapter may pay any final judgment entered in such action with county road funds and take possession of the particular property condemned. In the event of any such payment the county commissioners may require that the county road fund be reimbursed out of the particular county road improvement fund of the district for which the property was acquired.

[1963 c 4 § 36.88.310. Prior: 1951 c 192 § 31.]

RCW 36.88.320 Construction or improvement--Supervision--Contracts--Standards.

All construction or improvement performed under this chapter shall be under the direction of the board of county commissioners, acting by and through the county road engineer, or such other engineer as the board of county commissioners shall designate. Contracts let and/or work performed upon all construction or improvement hereunder shall be in accordance with the laws pertaining to work upon county roads. The construction and improvement standards of the respective counties for engineering and performance of work, shall apply to all construction or improvement under this chapter.

[1963 c 4 § 36.88.320. Prior: 1951 c 192 § 32.]

RCW 36.88.330 Warrants--Issuance--Priority--Acceptance.

The board may provide by resolution for the issuance of warrants in payment of the costs and expenses of any project, payable out of the county road improvement fund. The warrants shall be redeemed either in cash or by bonds for the same project authorized by the resolution.

All warrants issued against any such improvement fund shall be claims and liens against said fund prior and superior to any right, lien or claim of any surety upon the bond given to the county by or for the contract to secure the performance of his contract or to secure the payment of persons who have performed work thereon, furnished materials therefor, or furnished provisions and supplies for the carrying on of the work.

The county treasurer may accept warrants against any county road improvement fund

upon such conditions as the board may prescribe in payment of: (1) Assessments levied to supply that fund in due order of priority; (2) judgments rendered against property owners who have become delinquent in the payment of assessments to that fund; and (3) certificates of purchase in cases where property of delinquents has been sold under execution or at tax sale for failure to pay assessments levied to supply that fund.

[1980 c 100 § 6; 1963 c 4 § 36.88.330. Prior: 1951 c 192 § 33.]

RCW 36.88.340 Participation of county road fund--Arrangements with other public agencies, private utilities.

Except as they may establish continuing guaranty fund requirements, the board of county commissioners shall be the sole judges as to the extent of county road fund participation in any project under this chapter and the decisions of the board shall be final; the said board may receive grants from or contract with any other county, municipal corporation, public agency or the state or federal government in order to effect any construction or improvement hereunder, including the construction, installation, improvement, operation, maintenance of and furnishing electric energy for any street and road lighting system, and to effect the construction, installation, improvement, operation and maintenance of and furnishing electric energy for any such street and road lighting system, may contract with any private utility corporation.

[1963 c 4 § 36.88.340. Prior: 1953 c 152 § 2; 1951 c 192 § 34.]

RCW 36.88.350 Maintenance--Expense.

After the completion of any construction or improvement under this chapter, all maintenance thereof shall be performed by the county at the expense of the county road fund, excepting furnishing electric energy for and operating and maintaining street and road lighting systems: PROVIDED, That maintenance of canal protection improvements may, at the option of the board of commissioners of the county, be required of the irrigation, drainage, flood control, or other district, agency, person, corporation, or association maintaining the canal or ditch. If such option is exercised reimbursement must be made by the county for all actual costs of such maintenance.

[1963 c 4 § 36.88.350. Prior: 1959 c 75 § 8; 1953 c 152 § 3; 1951 c 192 § 35.]

RCW 36.88.360 State, county, school, municipal corporation lands--Assessment--Recipients of notices, ballots.

Lands owned by the state, county, school district or any municipal corporation may be assessed and charged for road improvements authorized under this chapter in the same manner and subject to the same conditions as provided by law for assessments against such property for local improvements in cities and towns.

All notices and ballots provided for herein affecting state lands shall be sent to the

department of natural resources whose designated agent is hereby authorized to sign petitions or ballots on behalf of the state. In the case of counties or municipal or quasi municipal bodies notices and ballots shall be sent to the legislative authority of said counties or municipality and petitions or ballots shall be signed by the officer duly empowered to act by said legislative authority.

[1963 c 4 § 36.88.360. Prior: 1951 c 192 § 36.]

RCW 36.88.370 Signatures on petitions, ballots, objections--Determining sufficiency.

Wherever herein petitions, ballots or objections are required to be signed by the owners of property, the following rules shall govern the sufficiency thereof: (1) The signature of the record owner as determined by the records of the county auditor shall be sufficient without the signature of his or her spouse; (2) in the case of mortgaged property, the signature of the mortgagor shall be sufficient; (3) in the case of property purchased on contract the signature of the contract purchaser shall be deemed sufficient; (4) any officer of a corporation owning land in the district duly authorized to execute deeds or encumbrances on behalf of the corporation may sign on behalf of such corporation: PROVIDED, That there shall be attached to the ballot or petition a certified excerpt from the bylaws showing such authority; (5) if any property in the district stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator or guardian as the case may be shall be equivalent to the signature of the owner of the property.

[1963 c 84 § 6; 1963 c 4 § 36.88.370. Prior: 1951 c 192 § 37.]

RCW 36.88.375 Consolidated road improvement districts--Establishment--Bonds.

For the purpose of issuing bonds only, the governing body of any county may authorize the establishment of consolidated road improvement districts. The road improvements within such consolidated districts need not be adjoining, vicinal, or neighboring. If the governing body orders the creation of such consolidated road improvement districts, the money received from the installment payments of the principal of and interest on assessments levied within original road improvement districts shall be deposited in a consolidated road improvement district bond redemption fund to be used to redeem outstanding consolidated road improvement district bonds. The issuance of bonds of a consolidated road improvement district shall not change the number of assessment installments in the original road improvement districts, but such bonds shall run two years longer than the longest assessment installment of such original districts.

[1981 c 313 § 19.]

Notes:

Reviser's note: 1981 c 313 § 19 directed that this section be placed in chapter 36.89 RCW. Since this placement appears inappropriate, this section has been codified as part of chapter 36.88 RCW.

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.88.380 Safeguarding open canals or ditches--Assessments and benefits.

Whenever a county road improvement district is established for the safeguarding of open canals or ditches as authorized by RCW 36.88.015 the rate of assessment per square foot in the district may be determined by any one of the methods provided in chapter 35.44 RCW for similar improvements in cities or towns, and the land specially benefited by such improvements shall be the same as provided in chapter 35.43 RCW for similar improvements in cities or towns.

[1963 c 4 § 36.88.380. Prior: 1959 c 75 § 5.]

RCW 36.88.390 Safeguarding open canals or ditches--Authority.

Every county shall have the right of entry upon every irrigation, drainage, or flood control canal or ditch right of way within its boundaries for all purposes necessary to safeguard the public from the hazards of open canals or ditches, including the right to clean such canals or ditches to prevent their flooding adjacent lands, and the right to cause to be constructed and maintained on such rights of way or adjacent thereto safeguards as authorized by RCW 36.88.015: PROVIDED, That such safeguards must not unreasonably interfere with maintenance of the canal or ditch or with the operation thereof.

[1963 c 4 § 36.88.390. Prior: 1959 c 75 § 6.]

RCW 36.88.400 Safeguarding open canals or ditches--Installation and construction--Costs.

Any county, establishing a road improvement district for canal protection, notwithstanding any laws to the contrary, may require the district, agency, person, corporation, or association, public or private, which operates and maintains the canal or ditch to supervise the installation and construction of safeguards, and must make reimbursement to said operator for all actual costs incurred and expended.

[1963 c 4 § 36.88.400. Prior: 1959 c 75 § 7.]

RCW 36.88.410 Underground electric and communication facilities, installation or conversion to--Declaration of public interest and purpose.

It is hereby found and declared that the conversion of overhead electric and communication facilities to underground facilities and the initial underground installation of such facilities is substantially beneficial to the public safety and welfare, is in the public interest and is a public purpose, notwithstanding any resulting incidental private benefit to any electric or communication utility affected by such conversion or installation.

[1971 ex.s. c 103 § 1; 1967 c 194 § 1.]

Notes:

Severability--1967 c 194: "If any provision of this act, or its application to any person or circumstance is

held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 194 § 9.]

Cities and towns, conversion of overhead electric and communication facilities to underground facilities: Chapter 35.96 RCW.

RCW 36.88.420 Underground electric and communication facilities, installation or conversion to--Definitions.

As used in RCW 36.88.410 through 36.88.480, unless specifically defined otherwise, or unless the context indicates otherwise:

"Conversion area" means that area in which existing overhead electric and communication facilities are to be converted to underground facilities pursuant to the provisions of RCW 36.88.410 through 36.88.480.

"Electric utility" means any publicly or privately owned utility engaged in the business of furnishing electric energy to the public in all or part of the conversion area and includes electrical companies as defined by RCW 80.04.010 and public utility districts.

"Communication utility" means any utility engaged in the business of affording telephonic, telegraphic, cable television or other communication service to the public in all or part of the conversion area and includes telephone companies and telegraph companies as defined by RCW 80.04.010.

[1967 c 194 § 2.]

RCW 36.88.430 Underground electric and communication facilities, installation or conversion to--Powers of county relating to--Contracts--County road improvement districts--Special assessments.

Every county shall have the power to contract with electric and communication utilities, as hereinafter provided, for any or all of the following purposes:

- (1) The conversion of existing overhead electric facilities to underground facilities.
- (2) The conversion of existing overhead communication facilities to underground facilities.
- (3) The conversion of existing street and road lighting facilities to ornamental street and road lighting facilities to be served from underground electrical facilities.
- (4) The initial installation, in accordance with the limitations set forth in RCW 36.88.015, or [of] ornamental street and road lighting facilities to be served from underground electrical facilities.
- (5) The initial installation of underground electric and communication facilities.
- (6) Any combination of the improvements provided for in this section.

To provide funds to pay the whole or any part of the cost of any such conversion or initial installation, together with the expense of furnishing electric energy, maintenance and operation to any ornamental street lighting facilities served from underground electrical facilities, every county shall have the power to create county road improvement districts and to levy and collect special assessments against the real property specially benefited by such conversion or initial

installation. For the purpose of ascertaining the amount to be assessed against each lot or parcel of land within any county road improvement district established pursuant to RCW 36.88.410 through 36.88.480, in addition to other methods provided by law for apportioning special benefits, the county commissioners may apportion all or part of the special benefits accruing on a square footage basis or on a per lot basis.

That portion of the assessments levied in any county road improvement district to pay part of the cost of the initial installation of underground electric and communication facilities shall not exceed the cost of such installation, less the estimated cost of constructing overhead facilities providing equivalent service.

[1971 ex.s. c 103 § 2; 1967 c 194 § 3.]

RCW 36.88.440 Underground electric and communication facilities, installation or conversion to--Contracts with electric and communication utilities--Authorized--Provisions.

Every county shall have the power to contract with electric and communication utilities for the conversion of existing overhead electric and communication facilities to underground facilities, for the conversion of existing street and road lighting facilities to ornamental street and road lighting facilities to be served from underground electrical facilities[,] for the initial installation of ornamental street and road lighting facilities to be served from underground electrical facilities and for the initial installation of underground electric and communication facilities. Such contracts may provide, among other provisions, any of the following:

- (1) For the supplying and approval by the electric and communication utilities of plans and specifications for such conversion or installation;
- (2) For the payment to the electric and communication utilities for any work performed or services rendered by it in connection with the conversion project or installation;
- (3) For the payment to the electric and communication utilities for the value of the overhead facilities removed pursuant to the conversion;
- (4) For ownership of the underground facilities and the ornamental street and road lighting facilities by the electric and communication utilities.

[1971 ex.s. c 103 § 3; 1967 c 194 § 4.]

RCW 36.88.450 Underground electric and communication facilities, installation or conversion to--Notice to owners to convert service lines to underground--Objections--Hearing--Time limitation for conversion.

When service from the underground electric and communication facilities is available in all or part of a conversion area, the county shall mail a notice to the owners of all structures or improvements served from the existing overhead facilities in the area, which notice shall state that:

- (1) Service from the underground facilities is available;

(2) All electric and communication service lines from the existing overhead facilities within the area to any structure or improvement must be disconnected and removed within one hundred twenty days after the date of the mailing of the notice;

(3) Should such owner fail to convert such service lines from overhead to underground within one hundred twenty days after the date of the mailing of the notice, the county will order the electric and communication utilities to disconnect and remove the service lines;

(4) Should the owner object to the disconnection and removal of the service lines he may file his written objections thereto with the secretary of the board of county commissioners within one hundred twenty days after the date of the mailing of the notice and failure to so object within such time will constitute a waiver of his right thereafter to object to such disconnection and removal.

If the owner of any structure or improvement served from the existing overhead electric and communication facilities within a conversion area shall fail to convert to underground the service lines from such overhead facilities to such structure or improvement within one hundred twenty days after the mailing to him of the notice, the county shall order the electric and communication utilities to disconnect and remove all such service lines: PROVIDED, That if the owner has filed his written objections to such disconnection and removal with the secretary of the board of county commissioners within one hundred twenty days after the mailing of said notice then the county shall not order such disconnection and removal until after the hearing on such objections.

Upon the timely filing by the owner of objections to the disconnection and removal of the service lines, the board of county commissioners shall conduct a hearing to determine whether the removal of all or any part of the service lines is in the public benefit. The hearing shall be held at such time as the board of county commissioners may establish for hearings on such objections and shall be held in accordance with the regularly established procedure set by the board. The determination reached by the board of county commissioners shall be final in the absence of an abuse of discretion.

[1967 c 194 § 5.]

RCW 36.88.460 Underground electric and communication facilities, installation or conversion to--Utility conversion guaranty fund--Establishment authorized--Purpose--Deposits--Investments.

Every county may establish a fund for the purpose of guaranteeing to the extent of such fund and in the manner hereinafter provided, the payment of its county road improvement district bonds and warrants issued to pay for the underground conversion of electric and communication facilities and the underground conversion or installation of ornamental road and street lighting facilities ordered under this chapter. If the board of county commissioners shall determine to establish such fund it shall be designated ". . . . utility conversion guaranty fund" and from moneys available such county shall deposit annually in said guaranty fund such sums as may be necessary to establish and maintain a balance therein equal to at least five percent of the outstanding obligations guaranteed thereby and to make necessary provision in its annual budget

therefor. The moneys held in the guaranty fund may be invested in certificates, notes, or bonds of the United States of America, or in state, county, municipal or school district bonds, or in warrants of taxing districts of the state; provided, only, that such bonds and warrants shall be general obligations.

[1967 c 194 § 6.]

RCW 36.88.470 Underground electric and communication facilities, installation or conversion to--Utility conversion guaranty fund--Operation.

Whenever there shall be paid out of the guaranty fund any sum on account of principal or interest of a county road improvement district bond or warrant, the county, as trustee for the fund, shall be subrogated to all the rights of the owner of the bond or any interest coupon or warrant so paid, and the proceeds thereof, or of the assessment underlying the same, shall become part of the guaranty fund. There shall also be paid into each guaranty fund the interest received from investments of the fund, as well as any surplus remaining in any county road improvement fund guaranteed hereunder after the payment of all outstanding bonds or warrants payable primarily out of such utility conversion county road improvement district fund. Warrants drawing interest at a rate or rates not to exceed the rate determined by the county legislative authority shall be issued, as other warrants are issued by the county, against the guaranty fund to meet any liability accruing against it, and at the time of making its annual budget and tax levy the county shall provide from funds available for the deposit in the guaranty fund of a sum sufficient with other resources of such fund to pay warrants so issued during the preceding fiscal year. As among the several issues of bonds or warrants guaranteed by the fund no preference shall exist, but defaulted bonds, interest payments, and warrants shall be purchased out of the fund in the order of their presentation.

Every county establishing a guaranty fund for utility conversion road improvement district bonds or warrants shall prescribe by resolution appropriate rules and regulations for the maintenance and operation of such guaranty fund not inconsistent herewith. So much of the money of a guaranty fund as is necessary may be used to purchase underlying bonds or warrants guaranteed by the fund, or to purchase certificates of delinquency for general taxes on property subject to local improvement assessments, or to purchase such property at tax foreclosures, for the purpose of protecting the guaranty fund. The fund shall be subrogated to the rights of the county and the county, acting on behalf of the fund, may foreclose the lien of general tax certificates of delinquency and purchase the property at the foreclosure sale for the account of said fund. Whenever the legislative authority of any county shall so cause a lien of general tax certificates of delinquency to be foreclosed and the property to be so purchased at a foreclosure sale, the court costs and costs of publication and expenses for clerical work and/or other expense incidental thereto, shall be chargeable to and payable from the guaranty fund. After so acquiring title to real property, a county may lease or sell and convey the same at public or private sale for such price and on such terms as may be determined by resolution of the county legislative authority, and all proceeds resulting from such sales shall belong to and be paid into the guaranty fund.

[1983 c 167 § 98; 1981 c 156 § 13; 1967 c 194 § 7.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.88.480 Underground electric and communication facilities, installation or conversion to--Applicability of general provisions relating to county road improvement districts.

Unless otherwise provided in RCW 36.88.410 through 36.88.480, the general provisions relating to county road improvement districts shall apply to local improvements authorized by RCW 36.88.410 through 36.88.480.

[1967 c 194 § 8.]

RCW 36.88.485 Underground electric and communication facilities, installation or conversion to--Recording of underground utility installations.

All installations of underground utilities made on and after August 9, 1971 shall be recorded on an "as constructed" map and filed with the county engineer of the county in which the underground utilities are installed.

[1971 ex.s. c 103 § 4.]

Chapter 36.89 RCW
HIGHWAYS--OPEN SPACES--PARKS--OTHER PUBLIC FACILITIES--STORM
WATER CONTROL

Sections

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36.89.900 Effective date--1967 c 109.
36.89.910 Severability--1967 c 109.
36.89.911 Severability--1970 ex.s. c 30.

Notes:

Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 36.89.010 Definitions.

The words "governmental agency" as used in this chapter mean the United States of America, the state or any agency, subdivision, taxing district or municipal or quasi municipal corporation thereof.

The word "highways" as used in this chapter means all public roads, streets, expressways, parkways, scenic drives, bridges and other public ways, including without limitation, traffic control facilities, special lanes, turnouts or structures in, upon, over or under such public ways for exclusive or nonexclusive use by public transit vehicles, and landscaping, visual and sound buffers between such public ways and adjacent properties.

The words "open space, park, recreation and community facilities" as used in this chapter mean any public facility, improvement, development, property or right or interest therein for public park, recreational, green belt, arboretum, multi-purpose community center (as defined in RCW 35.59.010), museum, zoo, aquarium, auditorium, exhibition, athletic, historic, scenic, viewpoint, aesthetic, ornamental or natural resource preservation purposes.

The words "public health and safety facilities" as used in this chapter mean any public facility, improvement, development, property or right or interest therein, made, constructed or acquired for the purpose of protecting life from disease or injury, enforcing the criminal and civil laws or protecting property from damage caused by breach of law, including but not limited to public hospitals, health laboratories, public health clinics or service centers, custodial, correction or rehabilitation facilities, courtrooms, crime laboratories, law enforcement equipment and facilities, training facilities for specialized personnel, facilities for the collection, storage, retrieval or communication of information, and mobile, support or administrative facilities, all as necessary for the foregoing purpose, or any combination of the facilities herein described.

The words "storm water control facilities" as used in this chapter mean any facility, improvement, development, property or interest therein, made, constructed or acquired for the purpose of controlling, or protecting life or property from, any storm, waste, flood or surplus waters wherever located within the county, and shall include but not be limited to the improvements and authority described in RCW 86.12.020 and chapters 86.13 and 86.15 RCW.

The word "county" as used in this chapter shall mean any county of the state of Washington.

[1970 ex.s. c 30 § 1; 1967 c 109 § 1.]

RCW 36.89.020 Purpose.

The legislature finds that the open spaces, park, recreation and community facilities, public health and safety facilities, storm water control facilities and highways within any county of this state, whether located partly or wholly within or without the cities and towns of such county are of general benefit to all of the residents of such county. The open spaces, park, recreation and community facilities within such county provide public recreation, aesthetic, conservation and educational opportunities and other services and benefits accessible to all of the residents of such county. The public health and safety facilities within such county provide protection to life and property throughout the county, are functionally inter-related and affect the health, safety and welfare of all the residents of such county. The storm water control facilities within such county provide protection from storm water damage for life and property throughout the county, generally require planning and development over the entire drainage basins, and affect the prosperity, interests and welfare of all the residents of such county. The highways within such county, whether under the general control of the county or the state or within the limits of any incorporated city or town, provide an inter-connected system for the convenient and efficient movement of people and goods within such county. The use of general county funds for the purpose of acquisition, development, construction, or improvement of open space, park, recreation and community facilities, public health and safety facilities, storm water control facilities, or highways or to participate with any governmental agency to perform such purposes within such county pursuant to this chapter is hereby declared to be a strictly county purpose.

[1970 ex.s. c 30 § 2; 1967 c 109 § 2.]

RCW 36.89.030 Authority to establish, acquire, develop, construct, and improve highways, open spaces, parks, etc.

Counties are authorized to establish, acquire, develop, construct, and improve open space, park, recreation, and community facilities, public health and safety facilities, storm water control facilities, and highways or any of them pursuant to the provisions of this chapter within and without the cities and towns of the county and for such purposes have the power to acquire lands, buildings and other facilities by gift, grant, purchase, condemnation, lease, devise, and bequest, to construct, improve, or maintain buildings, structures, and facilities necessary for such purposes, and to use and develop for such purposes the air rights over and the subsurface rights under any highway. The approval of the state department of transportation shall be first secured for such use and development of any state highway. For visual or sound buffer purposes the county shall not acquire by condemnation less than an owner's entire interest or right in the particular real property to be so acquired if the owner objects to the taking of a lesser interest or right.

[1984 c 7 § 42; 1970 ex.s. c 30 § 3; 1967 c 109 § 3.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

Acquisition of interests in land for conservation, protection, preservation, or open space purposes by counties:
RCW 64.04.130.

Flood control, county powers: RCW 86.12.020.

RCW 36.89.040 Issuance of general obligation bonds--Proposition submitted to voters.

To carry out the purposes of this chapter counties shall have the power to issue general obligation bonds within the limitations now or hereafter prescribed by the Constitution and laws of this state. Such general obligation bonds shall be issued and sold as provided in chapter 39.46 RCW.

The question of issuance of bonds for any undertaking which relates to a number of different highways or parts thereof, whether situated wholly or partly within the limits of any city or town within the county, and whether such bonds are intended to supply the whole expenditure or to participate therein, may be submitted to the voters of the county as a single proposition. If the county legislative authority in submitting a proposition relating to different highways or parts thereof declare that such proposition has for its object the furtherance and accomplishment of the construction of a system of connected public highways within such county and constitutes a single purpose, such declaration shall be presumed to be correct and upon the issuance of the bonds the presumption shall become conclusive.

The question of the issuance of bonds for any undertaking which relates to a number of different open spaces, park, recreation and community facilities, whether situated wholly or partly within the limits of any city or town within the county, and whether such bonds are intended to supply the whole expenditure or to participate therein may be submitted to the voters as a single proposition. If the county legislative authority in submitting a proposition relating to different open spaces, park, recreation and community facilities declare that such proposition has for its object the furtherance, accomplishment or preservation of an open space, park, recreation and community facilities system available to, and for the benefit of, all the residents of such county and constitutes a single purpose, such declaration shall be presumed to be correct and upon the issuance of the bonds the presumption shall become conclusive.

The question of the issuance of bonds for any undertaking which relates to a number of different public health and safety facilities, whether situated wholly or partly within the limits of any city or town within the county, and whether such bonds are intended to supply the whole expenditure or to participate therein may be submitted to the voters as a single proposition. If the county legislative authority in submitting a proposition relating to different public health and safety facilities declare that such proposition has for its object the furtherance or accomplishment of a system of public health and safety facilities for the benefit of all the residents of such county and constitutes a single purpose, such declaration shall be presumed to be correct and upon the issuance of the bonds the presumption shall become conclusive.

The question of the issuance of bonds for any undertaking which relates to a number of different storm water control facilities, whether situated wholly or partly within the limits of any city or town within the county, and whether such bonds are intended to supply the whole expenditure or to participate therein may be submitted to the voters as a single proposition. If the county legislative authority in submitting a proposition relating to different storm water control facilities declares that such proposition has for its object the furtherance, accomplishment or

preservation of a storm water control facilities system for the benefit of all the residents of such county and constitutes a single purpose, such declaration shall be presumed to be correct and upon the issuance of the bonds the presumption shall become conclusive.

Elections shall be held as provided in RCW 39.36.050.

[1984 c 186 § 34; 1983 c 167 § 99; 1970 ex.s. c 30 § 4; 1967 c 109 § 4.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.89.042 Issuance of general obligation bonds--Payment from revenue--Additional method.

In issuing general obligation bonds at any time after February 20, 1970 for the purpose of providing all or part of the cost and expense of planning and design, establishing, acquiring, developing, constructing or improving the county capital purposes authorized by this chapter and RCW 86.12.020, the board of county commissioners may provide that such bonds also be made payable from any otherwise unpledged revenue which may be derived from the ownership or operation of any such properties or facilities.

[1970 ex.s. c 30 § 6.]

RCW 36.89.050 Participation by other governmental agencies.

A county may finance, acquire, construct, develop, improve, maintain and operate any open space, park, recreation and community facilities, public health and safety facilities, storm water control facilities and highways authorized by this chapter either solely or in conjunction with one or more governmental agencies. Any governmental agency is authorized to participate in such financing, acquisition, construction, development, improvement, use, maintenance and operation and to convey, dedicate or lease any lands, properties or facilities to any county for the purposes provided in this chapter and RCW 86.12.020, on such terms as may be fixed by agreement between the respective governing commissions or legislative bodies without submitting the matter to a vote of the electors unless the provisions of general law applicable to the incurring of public indebtedness shall require such submission.

No county shall proceed under the authority of this chapter to construct or improve any storm water control facility or highway or part thereof lying within the limits of a city or town except with the prior consent of such city or town. By agreement between their respective legislative bodies, cities, towns and counties may provide that upon completion of any storm water control facility or highway or portion thereof constructed pursuant to this chapter within any city or town, the city or town shall accept the same for maintenance and operation and that such storm water control facility or highway or portion thereof shall thereupon become a part of the respective storm water control facility or highway system of the city or town.

A county may transfer to any other governmental agency the ownership, operation and maintenance of any open space, park, recreation and community facility acquired by the county

pursuant to this chapter, which lies wholly or partly within such governmental agency, pursuant to an agreement entered into between the legislative bodies of the county and such governmental agency: PROVIDED, That such transfer shall be subject to the condition that either such facility shall continue to be used for the same purposes or that other equivalent facilities within the county shall be conveyed to the county in exchange therefor.

[1970 ex.s. c 30 § 5; 1967 c 109 § 5.]

RCW 36.89.060 Powers and authority are supplemental.

The powers and authority conferred upon governmental agencies under the provisions of this chapter, shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of such governmental agencies.

[1967 c 109 § 6.]

RCW 36.89.062 Power and authority of counties are supplemental.

The power and authority conferred upon counties by this chapter and RCW 86.12.020 shall be in addition and supplemental to those already granted and shall not limit any other powers or authority of such counties.

[1970 ex.s. c 30 § 13.]

RCW 36.89.080 Storm water control facilities--Rates and charges--Use.

Any county legislative authority may provide by resolution for revenues by fixing rates and charges for the furnishing of service to those served or receiving benefits or to be served or to receive benefits from any storm water control facility or contributing to an increase of surface water runoff. In fixing rates and charges, the county legislative authority may in its discretion consider: (1) Services furnished or to be furnished; (2) benefits received or to be received; (3) the character and use of land or its water runoff characteristics; (4) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; (5) income level of persons served or provided benefits under this chapter, including senior citizens and disabled persons; or (6) any other matters which present a reasonable difference as a ground for distinction. The service charges and rates collected shall be deposited in a special fund or funds in the county treasury to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating storm water control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing and improving any of such facilities, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose.

[1998 c 74 § 1; 1995 c 124 § 1; 1970 ex.s. c 30 § 7.]

Notes:

Sewerage, water, and drainage systems: Chapter 36.94 RCW.

RCW 36.89.085 Storm water control facilities--Public property subject to rates and charges.

Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by counties pursuant to RCW 36.89.080. In setting these rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property.

[1986 c 278 § 57; 1983 c 315 § 3.]

Notes:

Severability--1986 c 278: See note following RCW 36.01.010.

Severability--1983 c 315: See note following RCW 90.03.500.

Flood control zone districts--Storm water control improvements: Chapter 86.15 RCW.

Rates and charges for storm water control facilities--Limitations--Definitions: RCW 90.03.500 through 90.03.525.

See also RCW 35.67.025, 35.92.021, and 36.94.145.

RCW 36.89.090 Storm water control facilities--Lien for delinquent charges.

The county shall have a lien for delinquent service charges, including interest thereon, against any property against which they were levied for storm water control facilities, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such lien shall be effective and shall be enforced and foreclosed in the same manner as provided for sewerage liens of cities and towns by RCW 35.67.200 through 35.67.290: PROVIDED, That a county may, by resolution or ordinance, adopt all or any part of the alternative interest rate, lien, and foreclosure procedures as set forth in RCW 36.89.092 through 36.89.094 or by RCW 36.94.150.

[1991 c 36 § 1; 1987 c 241 § 1; 1970 ex.s. c 30 § 8.]

RCW 36.89.092 Storm water control facilities--Alternative interest rate on delinquent charges.

Any county may provide, by resolution or ordinance, that delinquent storm water service charges bear interest at a rate of twelve percent per annum, computed on a monthly basis, in lieu of the interest rate provided for in RCW 35.67.200.

[1987 c 241 § 2.]

RCW 36.89.093 Storm water control facilities--Alternative procedures for lien on delinquent charges.

Any county may, by resolution or ordinance, provide that the storm water service charge lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor, in lieu of the provisions provided for in RCW 35.67.210.

[1987 c 241 § 3.]

RCW 36.89.094 Storm water control facilities--Alternative foreclosure procedures on lien on delinquent charges.

Any county may, by resolution or ordinance, provide that an action to foreclose a storm water service charge lien may be commenced after three years from the date storm water service charges become delinquent, in lieu of the provisions provided for in RCW 35.67.230.

[1987 c 241 § 4.]

RCW 36.89.100 Storm water control facilities--Revenue bonds.

(1) Any county legislative authority may authorize the issuance of revenue bonds to finance any storm water control facility. Such bonds may be issued by the county legislative authority in the same manner as prescribed in RCW 36.67.510 through 36.67.570. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

Each revenue bond shall state on its face that it is payable from a special fund, naming such fund and the resolution creating the fund.

Revenue bond principal, interest, and all other related necessary expenses shall be payable only out of the appropriate special fund or funds. Revenue bonds shall be payable from the revenues of the storm water control facility being financed by the bonds, a system of these facilities and, if so provided, from special assessments, installments thereof, and interest and penalties thereon, levied in one or more utility local improvement districts authorized by *this 1981 act.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 100; 1981 c 313 § 20; 1970 ex.s. c 30 § 9.]

Notes:

***Reviser's note:** For codification of "this 1981 act" [1981 c 313], see Codification Tables, Volume 0.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.89.110 Storm water control facilities--Utility local improvement districts--Assessments.

A county may create utility local improvement districts for the purpose of levying and collecting special assessments on property specially benefited by one or more storm water

control facilities. The provisions of RCW 36.94.220 through 36.94.300 concerning the formation of utility local improvement districts and the fixing, levying, collecting and enforcing of special assessments apply to utility local improvement districts authorized by this section.

[1981 c 313 § 21.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.89.120 Storm water control facilities--Annexation, incorporation of area by city or town--Imposition of rates and charges by county.

Whenever a city or town annexes an area, or a city or town incorporates an area, and the county has issued revenue bonds or general obligation bonds to finance storm water control facilities that are payable in whole or in part from rates or charges imposed in the area, the county shall continue imposing all portions of the rates or charges that are allocated to payment of the debt service on bonds in that area after the effective date of the annexation or official date of the incorporation until: (1) The debt is retired; (2) any debt that is issued to refinance the underlying debt is retired; or (3) the city or town reimburses the county amount that is sufficient to retire that portion of the debt borne by the annexed or incorporated area. The county shall construct all facilities included in the storm water plan intended to be financed by the proceeds of such bonds. If the county provides storm water management services to the city or town by contract, the contract shall consider the value of payments made by property owners to the county for the payment of debt service.

The provisions of this section apply whether or not the bonds finance facilities that are geographically located within the area that is annexed or incorporated.

[1993 c 361 § 1.]

RCW 36.89.900 Effective date--1967 c 109.

This chapter shall take effect on June 9, 1967.

[1967 c 109 § 9.]

RCW 36.89.910 Severability--1967 c 109.

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

[1967 c 109 § 7.]

RCW 36.89.911 Severability--1970 ex.s. c 30.

If any provision of this 1970 amendatory act or its application to any person or

circumstance is held invalid, the remainder of this 1970 amendatory act or the application of the provision to other persons or circumstances shall not be affected.

[1970 ex.s. c 30 § 12.]

Chapter 36.90 RCW SOUTHWEST WASHINGTON FAIR

Sections

36.90.010	Control of property.
36.90.020	Fair commission abolished--Rights, duties, and obligations devolved upon Lewis county commissioners--Property vested in Lewis county.
36.90.030	Administration of fair--Appointment of designee or commission--Organization of commission--Funds.
36.90.040	Fair deemed county and district fair and agricultural fair.
36.90.050	Acquisition, improvement, control of property.
36.90.070	Conveyance of property to Lewis county for fair purposes.

RCW 36.90.010 Control of property.

The property of the Southwest Washington Fair Association including the buildings and structures thereon, as constructed or as may be built or constructed from time to time, or any alterations or additions thereto, shall be under the jurisdiction of Lewis county. That property will be under the management and control of the board of county commissioners of Lewis county or that board's designee.

[1998 c 107 § 1; 1973 1st ex.s. c 97 § 1; 1963 c 4 § 36.90.010. Prior: 1913 c 47 § 2; RRS § 2746.]

Notes:

Severability--1973 1st ex.s. c 97: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 97 § 8.]

RCW 36.90.020 Fair commission abolished--Rights, duties, and obligations devolved upon Lewis county commissioners--Property vested in Lewis county.

The southwest Washington fair commission heretofore established and authorized under the provisions of this chapter is abolished and all rights, duties and obligations of such commission is devolved upon the board of county commissioners of Lewis county and title to or all interest in real estate, choses in action and all other assets, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of the date of passage of this 1973 amendatory act by or for the commission shall, on *the effective date of this 1973 amendatory act vest in Lewis county.

[1973 1st ex.s. c 97 § 2; 1963 c 4 § 36.90.020. Prior: 1959 c 34 § 1; 1913 c 47 § 3; RRS § 2747; prior: 1909 c 237 § 4.]

Notes:

***Reviser's note:** "the effective date of this 1973 amendatory act" [1973 1st ex.s. c 97] was July 16, 1973.
Severability--1973 1st ex.s. c 97: See note following RCW 36.90.010.

RCW 36.90.030 Administration of fair--Appointment of designee or commission--Organization of commission--Funds.

The board of county commissioners in the county of Lewis as administrators of all property relating to the southwest Washington fair may elect to appoint either (1) a designee, whose operation and funds the board may control and oversee, to carry out the board's duties and obligations as set forth in RCW 36.90.020, or (2) a commission of citizens to advise and assist in carrying out such fair. The chairman of the board of county commissioners of Lewis county may elect to serve as chairman of any such commission. Such commission may elect a president and secretary and define their duties and fix their compensation, and provide for the keeping of its records. The commission may also designate the treasurer of Lewis county as fair treasurer. The funds relating to fair activities shall be kept separate and apart from the funds of Lewis county, but shall be deposited in the regular depositories of Lewis county and all interest earned thereby shall be added to and become a part of the funds. Fair funds shall be audited as are other county funds.

[1998 c 107 § 2; 1973 1st ex.s. c 97 § 3; 1963 c 4 § 36.90.030. Prior: 1913 c 47 § 4; RRS § 2748.]

Notes:

Severability--1973 1st ex.s. c 97: See note following RCW 36.90.010.

RCW 36.90.040 Fair deemed county and district fair and agricultural fair.

The southwest Washington fair shall be deemed a county and district fair for the purposes of chapter 15.76 RCW as well as an agricultural fair for the purpose of receiving allocations of funds under RCW 15.76.140 through 15.76.165.

[1973 1st ex.s. c 97 § 4; 1963 c 4 § 36.90.040. Prior: 1913 c 47 § 5; RRS § 2749.]

Notes:

Severability--1973 1st ex.s. c 97: See note following RCW 36.90.010.

RCW 36.90.050 Acquisition, improvement, control of property.

The Lewis county board of county commissioners may acquire by gift, exchange, devise, lease, or purchase, real property for southwest Washington fair purposes and may construct and maintain temporary or permanent improvements suitable and necessary for the purpose of holding and maintaining the southwest Washington fair. Any such property deemed surplus by the board may be (1) sold at private sale after notice in a local publication of general circulation,

or (2) exchanged for other property after notice in a local publication of general circulation, under Lewis county property management regulations.

[1998 c 107 § 3; 1973 1st ex.s. c 97 § 5; 1963 c 4 § 36.90.050. Prior: 1959 c 34 § 2.]

Notes:

Severability--1973 1st ex.s. c 97: See note following RCW 36.90.010.

RCW 36.90.070 Conveyance of property to Lewis county for fair purposes.

Upon payment to the state of Washington by Lewis county of the sum of one dollar, which sum shall be deposited in the general fund when received by the treasurer of the state of Washington, such treasurer is authorized and directed to certify to the governor and secretary of state that such payment has been made on the following described property presently utilized for southwest Washington fair purposes situated in Lewis county, Washington: "Beginning at the intersection of the south line of section Seventeen (17) Township Fourteen (14) North of Range Two (2) West of W.M. with the West right-of-way line of the Somerville consent Road, and running thence North 15 degrees 20 feet East along the West line of said Road, Eleven Hundred Forty-four (1144) feet, thence North 2 degrees 33 feet West along the said west line Seventy-four and four-tenths (74.4) feet, thence west on a line parallel with the said south line of said Section Seventeen (17) Eleven Hundred Sixty-seven and two tenths (1167.2) feet to within one hundred fifty (150) feet to the Center line of the Northern Pacific Railroad, thence south 16 degrees 20 feet West on a line parallel with and one hundred fifty (150) feet distant Easterly from the Center line of the Northern Pacific Railroad Eleven Hundred and Thirty-five and seven-tenths (1135.7) feet, thence East on a line parallel with and Eighty-seven and three-tenths (87.3) feet north of the south line of said section seventeen (17) eight hundred fifty-seven (857) feet, thence south 74 degrees 40 feet East three hundred thirty (330) feet to the point of beginning, containing thirty (30) acres in Section Seventeen (17) Township Fourteen (14) North of Range Two (2) West of W.M." and the governor is thereby authorized and directed forthwith to execute and the secretary of state is authorized and directed to attest to a deed conveying said lands to Lewis county, Washington. The office of the attorney general and the commissioner of public lands shall offer any necessary assistance in carrying out such conveyance.

[1973 1st ex.s. c 97 § 6.]

Notes:

Severability--1973 1st ex.s. c 97: See note following RCW 36.90.010.

**Chapter 36.92 RCW
COUNTY CENTRAL SERVICES DEPARTMENT**

Sections	
36.92.010	Purpose.
36.92.020	Definitions.

36.92.030	County central services department--Created--Supervisor.
36.92.040	Central services fund.
36.92.050	Comprehensive data processing use plan--Utilization of equipment.
36.92.060	Appointment of assistants.
36.92.070	Charges for services--Duties of county treasurer.
36.92.080	Services limited to department.
36.92.900	Severability--1967 ex.s. c 103.

RCW 36.92.010 Purpose.

The purpose of this chapter is to provide county officials of each county with a modern approach to the common problems encountered by said officers in accounting, record keeping, and problem solving, thereby effectuating economies in county government.

It is further the intent of this chapter that the constitutional autonomy of the various county officers be preserved while providing such officials with a centralized department to perform ministerial functions for them on the most modern and efficient machines available.

[1967 ex.s. c 103 § 2.]

RCW 36.92.020 Definitions.

As used in this chapter, the following words shall have the meanings ascribed herein:

(1) "Services department" shall mean the county central services department, established in accordance with the provisions of this chapter.

(2) "Board" shall mean the board of county commissioners.

(3) "Automatic data processing" or "ADP" shall mean that method of processing information using mechanical or electronic machines, guided by predetermined instructions to produce information in usable form, and shall include but not be limited to electronic accounting machines, electronic data processing machines, and computers.

(4) "Electronic accounting machines" or "EAM" shall mean that method of ADP utilizing punch cards or unit record equipment.

(5) "Electronic data processing" or "EDP" shall include that system which comprises a combination of equipment or unites to provide input of source data, storage and processing of data and output in predetermined form, including a central processing unit (CPU) or main frame.

(6) "Computer" shall mean any device that is capable of solving problems and supplying results by accepting data and performing prescribed operations. It shall include analog or digital, general purpose or special purpose computers.

(7) "Copy" or "micro-copy" shall mean photographic, photostatic, photomechanical or other copy process.

It is the intent of this chapter that the definitions contained in subsections (3) through (7) of this section shall be construed in the broadest possible interpretation in order that new and modern equipment and methods as they become available shall be included therein.

[1967 ex.s. c 103 § 3.]

RCW 36.92.030 County central services department--Created--Supervisor.

By resolution, the board of county commissioners may create a county central services department which shall be organized and function as any other department of the county. When a board creates a central services department, it shall also provide for the appointment of a supervisor to be the administrative head of such department, subject to the supervision and control of the board, and to serve at the pleasure of the board. The supervisor shall receive such salary as may be prescribed by the board. In addition, the supervisor shall be reimbursed for traveling and other actual and necessary expenses incurred by him in the performance of his official duties.

[1967 ex.s. c 103 § 4.]

RCW 36.92.040 Central services fund.

When a central services department is created, the board shall establish a central services fund for the payment of all costs of conducting those services for which such department was organized and annually budget therefor. It may make transfers into the central services fund from the current expense fund and receive funds for such purposes from other departments and recipients of such services.

[1967 ex.s. c 103 § 5.]

RCW 36.92.050 Comprehensive data processing use plan--Utilization of equipment.

Services departments created pursuant to this chapter shall initially draw a comprehensive data processing use plan. It shall establish levels of service to be performed by the department and shall establish levels of service required by using agencies. Before proceeding with purchase, lease or acquisition of the data processing equipment, the comprehensive data processing use plan shall be adopted by the board.

When established by the board, the services department may perform the service functions relating to accounting, record keeping, and micro-copy by the utilization of automatic data processing and micro-copy equipment.

In relation to said equipment the services department shall perform any ministerial services authorized by the board and requested by the various officers and departments of the county. In this connection, it is the intent of this chapter that the services department be authorized to utilize such equipment to the highest degree consistent with the purposes of this chapter and not inconsistent with constitutional powers and duties of such officers.

The services department is also authorized to utilize such equipment for the purpose of problem solving when such problem solving is of a ministerial rather than a discretionary nature.

[1967 ex.s. c 103 § 6.]

RCW 36.92.060 Appointment of assistants.

The supervisor shall have the authority to appoint, subject to the approval of the board, such clerical and other assistants as may be required and authorized for the proper discharge of the functions of the services department.

[1967 ex.s. c 103 § 7.]

RCW 36.92.070 Charges for services--Duties of county treasurer.

The board of county commissioners shall fix the terms and charges for services rendered by the central services department pursuant to this chapter, which amounts shall be credited as income to the appropriate account within the central services fund and charged on a monthly basis against the account of the recipient for whom such services were performed. Moneys derived from the activities of the central services department shall be disbursed from the central services fund by the county treasurer by warrants on vouchers duly authorized by the board.

[1967 ex.s. c 103 § 8.]

RCW 36.92.080 Services limited to department.

When a board of county commissioners creates a central services department pursuant to RCW 36.92.030, the ministerial services to be performed by such department in connection with automatic data processing shall not thereafter be performed by any other officer or employee of said county.

[1967 ex.s. c 103 § 9.]

RCW 36.92.900 Severability--1967 ex.s. c 103.

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

[1967 ex.s. c 103 § 10.]

Chapter 36.93 RCW

LOCAL GOVERNMENTAL ORGANIZATION--BOUNDARIES--REVIEW BOARDS

Sections

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- deemed established.
- 36.93.051 Appointment of board--Members--Terms--Qualifications.
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- 36.93.090 Filing notice of proposed actions with board.
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- 36.93.100 Review of proposed actions by board--Procedure.
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- 36.93.170 Factors to be considered by board--Incorporation proceedings exempt from state environmental policy act.
- 36.93.180 Objectives of boundary review board.
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- 36.93.190 Decision of board not to affect existing franchises, permits, codes, ordinances, etc., for ten years.
- 36.93.200 Rules and regulations--Adoption procedure.
- 36.93.210 Rules and regulations--Filing--Permanent register.
- 36.93.220 Provisions of prior laws superseded by chapter.
- 36.93.230 Power to disband boundary review board.
- 36.93.800 Application of chapter to merged special purpose districts.
- 36.93.900 Effective date--1967 c 189.
- 36.93.910 Severability--1967 c 189.

RCW 36.93.010 Purpose.

The legislature finds that in metropolitan areas of this state, experiencing heavy population growth, increased problems arise from rapid proliferation of municipalities and haphazard extension of and competition to extend municipal boundaries. These problems affect adversely the quality and quantity and cost of municipal services furnished, the financial integrity of certain municipalities, the consistency of local regulations, and many other incidents of local government. Further, the competition among municipalities for unincorporated territory and the disorganizing effect thereof on land use, the preservation of property values and the desired objective of a consistent comprehensive land use plan for populated areas, makes it

appropriate that the legislature provide a method of guiding and controlling the creation and growth of municipalities in metropolitan areas so that such problems may be avoided and that residents and businesses in those areas may rely on the logical growth of local government affecting them.

[1967 c 189 § 1.]

RCW 36.93.020 Definitions.

As used herein:

(1) "Governmental unit" means any incorporated city or town, metropolitan municipal corporation, or any special purpose district as defined in this section.

(2) "Special purpose district" means any water-sewer district, fire protection district, drainage improvement district, drainage and diking improvement district, flood control zone district, irrigation district, metropolitan park district, drainage district, or public utility district engaged in water distribution.

(3) "Board" means a boundary review board created by or pursuant to this chapter.

[1999 c 153 § 44; 1979 ex.s. c 30 § 5; 1967 c 189 § 2.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 36.93.030 Creation of boundary review boards in counties with populations of two hundred ten thousand or more--Creation in other counties.

(1) There is hereby created and established in each county with a population of two hundred ten thousand or more a board to be known and designated as a "boundary review board".

(2) A boundary review board may be created and established in any other county in the following manner:

(a) The county legislative authority may, by majority vote, adopt a resolution establishing a boundary review board; or

(b) A petition seeking establishment of a boundary review board signed by qualified electors residing in the county equal in number to at least five percent of the votes cast in the county at the last county general election may be filed with the county auditor.

Upon the filing of such a petition, the county auditor shall examine the same and certify to the sufficiency of the signatures thereon. No person may withdraw his or her name from a petition after it has been filed with the auditor. Within thirty days after the filing of such petition, the county auditor shall transmit the same to the county legislative authority, together with his or her certificate of sufficiency.

After receipt of a valid petition for the establishment of a boundary review board, the county legislative authority shall submit the question of whether a boundary review board should be established to the electorate at the next county primary or county general election which occurs more than forty-five days from the date of receipt of the petition. Notice of the election

shall be given as provided in RCW 29.27.080 and shall include a clear statement of the proposal to be submitted.

If a majority of the persons voting on the proposition shall vote in favor of the establishment of the boundary review board, such board shall thereupon be deemed established.

[1991 c 363 § 91; 1969 ex.s. c 111 § 1; 1967 c 189 § 3.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.93.040 Dates upon which boards in counties with populations of less than two hundred ten thousand deemed established.

For the purposes of this chapter, each county with a population of less than two hundred ten thousand shall be deemed to have established a boundary review board on and after the date a proposition for establishing the same has been approved at an election as provided for in RCW 36.93.030, or on and after the date of adoption of a resolution of the county legislative authority establishing the same as provided for in RCW 36.93.030.

[1991 c 363 § 92; 1967 c 189 § 4.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.93.051 Appointment of board--Members--Terms--Qualifications.

The boundary review board in each county with a population of one million or more shall consist of eleven members chosen as follows:

- (1) Three persons shall be appointed by the governor;
- (2) Three persons shall be appointed by the county appointing authority;
- (3) Three persons shall be appointed by the mayors of the cities and towns located within the county; and
- (4) Two persons shall be appointed by the board from nominees of special districts in the county.

The governor shall designate one initial appointee to serve a term of two years, and two initial appointees to serve terms of four years, if the appointments are made in an odd-numbered year, or one initial appointee to serve a term of one year, and two initial appointees to serve terms of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The county appointing authority shall designate one of its initial appointees to serve a term of two years, and two of its initial appointees to serve terms of four years, if the appointments are made in an odd-numbered year, or one of its initial appointees to serve a term of one year, and two of its initial appointees to serve terms of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The mayors making the initial city and town appointments shall designate two of their initial appointees to serve terms of two years, and one of their initial appointees to serve a term of four years, if the appointments are made in an odd-numbered year, or two of their initial appointees to serve terms of one year, and one of their initial appointees to serve a term of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The board shall make two initial appointments from the nominees of special districts, with one appointee serving a term of four years and one initial appointee serving a term of two years, if the appointments are made in an odd-numbered year, or one initial appointee serving a term of three years and one initial appointee serving a term of one year if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of March in the year in which the appointment is made.

After the initial appointments, all appointees shall serve four-year terms.

No appointee may be an official or employee of the county or a governmental unit in the county, or a consultant or advisor on a contractual or regular retained basis of the county, any governmental unit in the county, or any agency or association thereof.

[1991 c 363 § 93; 1989 c 84 § 17.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.93.061 Boards in counties with populations of less than one million--Members--Terms--Qualifications.

The boundary review board in each county with a population of less than one million shall consist of five members chosen as follows:

- (1) Two persons shall be appointed by the governor;
- (2) One person shall be appointed by the county appointing authority;
- (3) One person shall be appointed by the mayors of the cities and towns located within the county; and
- (4) One person shall be appointed by the board from nominees of special districts in the county.

The governor shall designate one initial appointee to serve a term of two years, and one initial appointee to serve a term of four years, if the appointments are made in an odd-numbered year, or one initial appointee to serve a term of one year, and one initial appointee to serve a term of three years, if the appointments are made in an even-numbered year, with the length of a term being calculated from the first day of February in the year that the appointment was made.

The initial appointee of the county appointing authority shall serve a term of two years, if the appointment is made in an odd-numbered year, or a term of one year, if the appointment is made in an even-numbered year. The initial appointee by the mayors shall serve a term of four years, if the appointment is made in an odd-numbered year, or a term of three years, if the appointment is made in an even-numbered year. The length of the term shall be calculated from

the first day in February in the year the appointment was made.

The board shall make one initial appointment from the nominees of special districts to serve a term of two years if the appointment is made in an odd-numbered year, or a term of one year if the appointment is made in an even-numbered year, with the length of the term being calculated from the first day of March in the year in which the appointment is made.

After the initial appointments, all appointees shall serve four-year terms.

No appointee may be an official or employee of the county or a governmental unit in the county, or a consultant or advisor on a contractual or regular retained basis of the county, any governmental unit in the county, or any agency or association thereof.

[1991 c 363 § 94; 1989 c 84 § 18.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.93.063 Selection of board members--Procedure--Commencement of term--Vacancies.

The executive of the county shall make the appointments under RCW 36.93.051 and 36.93.061 for the county, if one exists, or otherwise the county legislative authority shall make the appointments for the county.

The mayors of all cities and towns in the county shall meet on or before the last day of January in each odd-numbered year to make such appointments for terms to commence on the first day of February in that year. The date of the meeting shall be called by the mayor of the largest city or town in the county, and the mayor of the largest city or town in the county who attends the meeting shall preside over the meeting. Selection of each appointee shall be by simple majority vote of those mayors who attend the meeting.

Any special district in the county may nominate a person to be appointed to the board on or before the last day of January in each odd-numbered year that the term for this position expires. The board shall make its appointment of a nominee or nominees from the special districts during the month of February following the date by which such nominations are required to be made.

The county appointing authority and the mayors of cities and towns within the county shall make their initial appointments for newly created boards within sixty days of the creation of the board or shall make sufficient additional appointments to increase a five-member board to an eleven-member board within sixty days of the date the county obtains a population of one million or more. The board shall make its initial appointment or appointments of board members from the nominees of special districts located within the county within ninety days of the creation of the board or shall make an additional appointment of a board member from the nominees of special districts located within the county within ninety days of the date the county obtains a population of one million or more.

The term of office for all appointees other than the appointee from the special districts shall commence on the first day of February in the year in which the term is to commence. The

term of office for the appointee from nominees of special districts shall commence on the first day of March in the year in which the term is to commence.

Vacancies on the board shall be filled by appointment of a person to serve the remainder of the term in the same manner that the person whose position is vacant was filled.

[1991 c 363 § 95; 1989 c 84 § 19.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.93.067 Effect of failure to make appointment.

Whenever appointments under RCW 36.93.051 through *36.93.065 have not been made by the appointing authority, the size of the board shall be considered to be reduced by one member for each position that remains vacant or unappointed.

[1989 c 84 § 21.]

Notes:

***Reviser's note:** RCW 36.93.065 was repealed by 1999 c 124 § 1.

RCW 36.93.070 Chairman, vice chairman, chief clerk--Powers and duties of board and chief clerk--Meetings--Hearings--Counsel--Compensation.

The members of each boundary review board shall elect from its members a chairman, vice chairman, and shall employ a nonmember as chief clerk, who shall be the secretary of the board. The board shall determine its own rules and order of business and shall provide by resolution for the time and manner of holding all regular or special meetings: PROVIDED, That all meetings shall be subject to chapter 42.30 RCW. The board shall keep a journal of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

The chief clerk of the board shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas to any public officer or employee ordering him to testify before the board and produce public records, papers, books or documents. The chief clerk may invoke the aid of any court of competent jurisdiction to carry out such powers.

The board by rule may provide for hearings by panels of members consisting of not less than five board members, the number of hearing panels and members thereof, and for the impartial selection of panel members. A majority of a panel shall constitute a quorum thereof.

At the request of the board, the state attorney general, or at the board's option, the county prosecuting attorney, shall provide counsel for the board.

The planning departments of the county, other counties, and any city, and any state or regional planning agency shall furnish such information to the board at its request as may be reasonably necessary for the performance of its duties.

Each member of the board shall be compensated from the county current expense fund at the rate of fifty dollars per day, or a major portion thereof, for time actually devoted to the work of the boundary review board. Each board of county commissioners shall provide such funds as

shall be necessary to pay the salaries of the members and staff, and such other expenses as shall be reasonably necessary.

[1997 c 77 § 1; 1987 c 477 § 1; 1967 c 189 § 7.]

RCW 36.93.080 Expenditures--Remittance of costs to counties.

Expenditures by the board shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties. The department of community, trade, and economic development shall on a quarterly basis remit to each county one-half of the actual costs incurred by the county for the operation of the boundary review board within individual counties as provided for in this chapter. However, in the event no funds are appropriated to the said agency for this purpose, this shall not in any way affect the operation of the boundary review board.

[1995 c 399 § 44; 1985 c 6 § 7; 1969 ex.s. c 111 § 4; 1967 c 189 § 8.]

RCW 36.93.090 Filing notice of proposed actions with board.

Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file within one hundred eighty days a notice of intention with the board: PROVIDED, That when the initiator is the legislative body of a governmental unit, the notice of intention may be filed immediately following the body's first acceptance or approval of the action. The board may review any such proposed actions pertaining to:

(1) The: (a) Creation, incorporation, or change in the boundary, other than a consolidation, of any city, town, or special purpose district; (b) consolidation of special purpose districts, but not including consolidation of cities and towns; or (c) dissolution or disincorporation of any city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of chapter 36.96 RCW: PROVIDED, That the change in the boundary of a city or town arising from the annexation of contiguous city or town owned property held for a public purpose shall be exempted from the requirements of this section; or

(2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such city or town; or

(3) The establishment of or change in the boundaries of a mutual water and sewer system or separate sewer system by a water-sewer district pursuant to RCW 57.08.065 or *chapter 57.40 RCW; or

(4) The extension of permanent water or sewer service outside of its existing service area by a city, town, or special purpose district. The service area of a city, town, or special purpose district shall include all of the area within its corporate boundaries plus, (a) for extensions of water service, the area outside of the corporate boundaries which it is designated to serve pursuant to a coordinated water system plan approved in accordance with RCW 70.116.050; and (b) for extensions of sewer service, the area outside of the corporate boundaries which it is

designated to serve pursuant to a comprehensive sewerage plan approved in accordance with chapter 36.94 RCW and RCW 90.48.110.

[1996 c 230 § 1608; 1995 c 131 § 1; 1987 c 477 § 2; 1985 c 281 § 28; 1982 c 10 § 7. Prior: 1981 c 332 § 9; 1981 c 45 § 2; 1979 ex.s. c 5 § 12; 1971 ex.s. c 127 § 1; 1969 ex.s. c 111 § 5; 1967 c 189 § 9.]

Notes:

***Reviser's note:** Chapter 57.40 RCW was repealed and/or decodified in its entirety.

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

Effective date--1995 c 131: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 24, 1995]." [1995 c 131 § 2.]

Severability--1985 c 281: See RCW 35.10.905.

Severability--1982 c 10: See note following RCW 6.13.080.

Severability--1981 c 332: See note following RCW 35.13.165.

Legislative declaration--"District" defined--1981 c 45: "It is declared to be the public policy of the state of Washington to provide for the orderly growth and development of those areas of the state requiring public water service or sewer service and to secure the health and welfare of the people residing therein. The growth of urban population and the movement of people into suburban areas has required the performance of such services by water districts and sewer districts and the development of such districts has created problems of conflicting jurisdiction and potential double taxation.

It is the purpose of this act to reduce the duplication of service and the conflict among jurisdictions by establishing the principle that the first in time is the first in right where districts overlap and by encouraging the consolidation of districts. It is also the purpose of this act to prevent the imposition of double taxation upon the same property by establishing a general classification of property which will be exempt from property taxation by a district when such property is within the jurisdiction of an established district duly authorized to provide service of like character.

Unless the context clearly requires otherwise, as used in this act, the term "district" means either a water district organized under Title 57 RCW or a sewer district organized under Title 56 RCW or a merged water and sewer district organized pursuant to chapter 57.40 or 56.36 RCW." [1981 c 45 § 1.]

Severability--1981 c 45: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 45 § 14.]

Severability--1979 ex.s. c 5: See RCW 36.96.920.

Consolidation of cities and towns--Role of boundary review board: RCW 35.10.450.

RCW 36.93.093 Copy of notice of intention by water-sewer district to be sent officials.

Whenever a water-sewer district files with the board a notice of intention as required by RCW 36.93.090, the board shall send a copy of such notice of intention to the legislative authority of the county wherein such action is proposed to be taken and one copy to the state department of ecology.

[1999 c 153 § 45; 1971 ex.s. c 127 § 2.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 36.93.100 Review of proposed actions by board--Procedure.

The board shall review and approve, disapprove, or modify any of the actions set forth in RCW 36.93.090 when any of the following shall occur within forty-five days of the filing of a notice of intention:

(1) Three members of a five-member boundary review board or five members of a boundary review board in a county with a population of one million or more files a request for review: PROVIDED, That the members of the boundary review board shall not be authorized to file a request for review of the following actions:

(a) The incorporation of any special district or change in the boundary of any city, town, or special purpose district;

(b) The extension of permanent water service outside of its existing corporate boundaries by a city, town, or special purpose district if (i) the extension is through the installation of water mains of six inches or less in diameter or (ii) the county legislative authority for the county in which the proposed extension is to be built is required or chooses to plan under RCW 36.70A.040 and has by a majority vote waived the authority of the board to initiate review of all other extensions; or

(c) The extension of permanent sewer service outside of its existing corporate boundaries by a city, town, or special purpose district if (i) the extension is through the installation of sewer mains of eight inches or less in diameter or (ii) the county legislative authority for the county in which the proposed extension is to be built is required or chooses to plan under RCW 36.70A.040 and has by a majority vote waived the authority of the board to initiate review of all other extensions;

(2) Any governmental unit affected, including the governmental unit for which the boundary change or extension of permanent water or sewer service is proposed, or the county within which the area of the proposed action is located, files a request for review of the specific action;

(3) A petition requesting review is filed and is signed by:

(a) Five percent of the registered voters residing within the area which is being considered for the proposed action (as determined by the boundary review board in its discretion subject to immediate review by writ of certiorari to the superior court); or

(b) An owner or owners of property consisting of five percent of the assessed valuation within such area;

(4) The majority of the members of boundary review boards concur with a request for review when a petition requesting the review is filed by five percent of the registered voters who deem themselves affected by the action and reside within one-quarter mile of the proposed action but not within the jurisdiction proposing the action.

If a period of forty-five days shall elapse without the board's jurisdiction having been invoked as set forth in this section, the proposed action shall be deemed approved.

If a review of a proposal is requested, the board shall make a finding as prescribed in RCW 36.93.150 within one hundred twenty days after the filing of such a request for review. If this period of one hundred twenty days shall elapse without the board making a finding as prescribed in RCW 36.93.150, the proposal shall be deemed approved unless the board and the person who submitted the proposal agree to an extension of the one hundred twenty day period.

[1994 c 216 § 13; 1992 c 162 § 1; 1991 c 363 § 96; 1989 c 84 § 3; 1987 c 477 § 3; 1983 c 76 § 1; 1982 c 220 § 1; 1967 c 189 § 10.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1982 c 220: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 220 § 9.]

RCW 36.93.105 Actions not subject to review by board.

The following actions shall not be subject to potential review by a boundary review board:

- (1) Annexations of territory to a water-sewer district pursuant to RCW 36.94.410 through 36.94.440;
- (2) Revisions of city or town boundaries pursuant to RCW 35.21.790 or 35A.21.210;
- (3) Adjustments to city or town boundaries pursuant to RCW 35.13.340; and
- (4) Adjustments to city and town boundaries pursuant to RCW 35.13.300 through 35.13.330.

[1999 c 153 § 46; 1989 c 84 § 4; 1984 c 147 § 5.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 36.93.110 When review not necessary.

Where an area proposed for annexation is less than ten acres and less than two million dollars in assessed valuation, the chairman of the review board may by written statement declare that review by the board is not necessary for the protection of the interest of the various parties, in which case the board shall not review such annexation.

[1987 c 477 § 4; 1973 1st ex.s. c 195 § 42; 1967 c 189 § 11.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 36.93.116 Simultaneous consideration of incorporation and annexation of territory.

A boundary review board may simultaneously consider the proposed incorporation of a city or town, and the proposed annexation of a portion of the territory included in the proposed incorporation, if the resolution or petition initiating the annexation is adopted or filed ninety or fewer days after the petition proposing the incorporation was filed.

[1994 c 216 § 9.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 36.93.120 Fees.

A fee of fifty dollars shall be paid by all initiators and in addition if the jurisdiction of the review board is invoked pursuant to RCW 36.93.100, the person or entity seeking review, except for the boundary review board itself, shall pay to the county treasurer and place in the county current expense fund the fee of two hundred dollars.

[1987 c 477 § 5; 1969 ex.s. c 111 § 6; 1967 c 189 § 12.]

RCW 36.93.130 Notice of intention--Contents.

The notice of intention shall contain the following information:

- (1) The nature of the action sought;
- (2) A brief statement of the reasons for the proposed action;
- (3) The legal description of the boundaries proposed to be created, abolished or changed by such action: PROVIDED, That the legal description may be altered, with concurrence of the initiators of the proposed action, if a person designated by the county legislative authority as one who has expertise in legal descriptions makes a determination that the legal description is erroneous; and
- (4) A county assessor's map on which the boundaries proposed to be created, abolished or changed by such action are designated: PROVIDED, That at the discretion of the boundary review board a map other than the county assessor's map may be accepted.

[1987 c 477 § 6; 1969 ex.s. c 111 § 7; 1967 c 189 § 13.]

RCW 36.93.140 Pending actions not affected.

Actions described in RCW 36.93.090 which are pending July 1, 1967, or actions in counties with populations of less than two hundred ten thousand which are pending on the date of the creation of a boundary review board therein, shall not be affected by the provisions of this chapter. Actions shall be deemed pending on and after the filing of sufficient petitions initiating the same with the appropriate public officer, or the performance of an official act initiating the same.

[1991 c 363 § 97; 1967 c 189 § 14.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.93.150 Review of proposed actions--Actions and determinations of board--Disapproval, effect.

The board, upon review of any proposed action, shall take such of the following actions

as it deems necessary to best carry out the intent of this chapter:

(1) Approve the proposal as submitted.

(2) Subject to RCW 35.02.170, modify the proposal by adjusting boundaries to add or delete territory. However, any proposal for annexation of territory to a town shall be subject to RCW 35.21.010 and the board shall not add additional territory, the amount of which is greater than that included in the original proposal. Any modifications shall not interfere with the authority of a city, town, or special purpose district to require or not require preannexation agreements, covenants, or petitions. A board shall not modify the proposed incorporation of a city with an estimated population of seven thousand five hundred or more by removing territory from the proposal, or adding territory to the proposal, that constitutes ten percent or more of the total area included within the proposal before the board. However, a board shall remove territory in the proposed incorporation that is located outside of an urban growth area or is annexed by a city or town, and may remove territory in the proposed incorporation if a petition or resolution proposing the annexation is filed or adopted that has priority over the proposed incorporation, before the area is established that is subject to this ten percent restriction on removing or adding territory. A board shall not modify the proposed incorporation of a city with a population of seven thousand five hundred or more to reduce the territory in such a manner as to reduce the population below seven thousand five hundred.

(3) Determine a division of assets and liabilities between two or more governmental units where relevant.

(4) Determine whether, or the extent to which, functions of a special purpose district are to be assumed by an incorporated city or town, metropolitan municipal corporation, or another existing special purpose district.

(5) Disapprove the proposal except that the board shall not have jurisdiction: (a) To disapprove the dissolution or disincorporation of a special purpose district which is not providing services but shall have jurisdiction over the determination of a division of the assets and liabilities of a dissolved or disincorporated special purpose district; (b) over the division of assets and liabilities of a special purpose district that is dissolved or disincorporated pursuant to chapter 36.96 RCW; nor (c) to disapprove the incorporation of a city with an estimated population of seven thousand five hundred or more, but the board may recommend against the proposed incorporation of a city with such an estimated population.

Unless the board disapproves a proposal, it shall be presented under the appropriate statute for approval of a public body and, if required, a vote of the people. A proposal that has been modified shall be presented under the appropriate statute for approval of a public body and if required, a vote of the people. If a proposal, other than that for a city, town, or special purpose district annexation, after modification does not contain enough signatures of persons within the modified area, as are required by law, then the initiating party, parties or governmental unit has thirty days after the modification decision to secure enough signatures to satisfy the legal requirement. If the signatures cannot be secured then the proposal may be submitted to a vote of the people, as required by law.

The addition or deletion of property by the board shall not invalidate a petition which had previously satisfied the sufficiency of signature provisions of RCW 35.13.130 or 35A.14.120.

When the board, after due proceedings held, disapproves a proposed action, such proposed action shall be unavailable, the proposing agency shall be without power to initiate the same or substantially the same as determined by the board, and any succeeding acts intended to or tending to effectuate that action shall be void, but such action may be reinitiated after a period of twelve months from date of disapproval and shall again be subject to the same consideration.

The board shall not modify or deny a proposed action unless there is evidence on the record to support a conclusion that the action is inconsistent with one or more of the objectives under RCW 36.93.180. Every such determination to modify or deny a proposed action shall be made in writing pursuant to a motion, and shall be supported by appropriate written findings and conclusions, based on the record.

[1994 c 216 § 15; 1990 c 273 § 1; 1987 c 477 § 7; 1979 ex.s. c 5 § 13; 1975 1st ex.s. c 220 § 10; 1969 ex.s. c 111 § 8; 1967 c 189 § 15.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

Severability--1990 c 273: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 273 § 3.]

Severability--1979 ex.s. c 5: See RCW 36.96.920.

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

RCW 36.93.153 Review of proposed incorporation in county with boundary review board.

The proposed incorporation of any city or town that includes territory located in a county in which a boundary review board exists shall be reviewed by the boundary review board and action taken as described under RCW 36.93.150.

[1994 c 216 § 10.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 36.93.155 Annexation approval--Other action not authorized.

Boundary review board approval, or modification and approval, of a proposed annexation by a city, town, or special purpose district shall authorize annexation as approved and shall not authorize any other annexation action.

[1989 c 84 § 16.]

RCW 36.93.157 Decisions to be consistent with growth management act.

The decisions of a boundary review board located in a county that is required or chooses to plan under RCW 36.70A.040 must be consistent with RCW 36.70A.020, 36.70A.110, and 36.70A.210.

[1992 c 162 § 2.]

RCW 36.93.160 Hearings--Notice--Record--Subpoenas--Decision of board--Appellate review.

(1) When the jurisdiction of the boundary review board has been invoked, the board shall set the date, time and place for a public hearing on the proposal. The board shall give at least thirty days' advance written notice of the date, time and place of the hearing to the governing body of each governmental unit having jurisdiction within the boundaries of the territory proposed to be annexed, formed, incorporated, disincorporated, dissolved or consolidated, or within the boundaries of a special district whose assets and facilities are proposed to be assumed by a city or town, and to the governing body of each city within three miles of the exterior boundaries of the area and to the proponent of the change. Notice shall also be given by publication in any newspaper of general circulation in the area of the proposed boundary change at least three times, the last publication of which shall be not less than five days prior to the date set for the public hearing. Notice shall also be posted in ten public places in the area affected for five days when the area is ten acres or more. When the area affected is less than ten acres, five notices shall be posted in five public places for five days. Notice as provided in this subsection shall include any territory which the board has determined to consider adding in accordance with RCW 36.93.150(2).

(2) A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of the testimony shall be provided to any person or governmental unit.

(3) The chairman upon majority vote of the board or a panel may direct the chief clerk of the boundary review board to issue subpoenas to any public officer to testify, and to compel the production by him of any records, books, documents, public records or public papers.

(4) Within forty days after the conclusion of the final hearing on the proposal, the board shall file its written decision, setting forth the reasons therefor, with the board of county commissioners and the clerk of each governmental unit directly affected. The written decision shall indicate whether the proposed change is approved, rejected or modified and, if modified, the terms of the modification. The written decision need not include specific data on every factor required to be considered by the board, but shall indicate that all standards were given consideration. Dissenting members of the board shall have the right to have their written dissents included as part of the decision.

(5) Unanimous decisions of the hearing panel or a decision of a majority of the members of the board shall constitute the decision of the board and shall not be appealable to the whole board. Any other decision shall be appealable to the entire board within ten days. Appeals shall be on the record, which shall be furnished by the appellant, but the board may, in its sole discretion, permit the introduction of additional evidence and argument. Decisions shall be final and conclusive unless within thirty days from the date of the action a governmental unit affected by the decision or any person owning real property or residing in the area affected by the decision files in the superior court a notice of appeal.

The filing of the notice of appeal within the time limit shall stay the effective date of the

decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board.

(6) The superior court may affirm the decision of the board or remand the case for further proceedings; or it may reverse the decision if any substantial rights may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions, or
- (b) In excess of the statutory authority or jurisdiction of the board, or
- (c) Made upon unlawful procedure, or
- (d) Affected by other error of law, or
- (e) Unsupported by material and substantial evidence in view of the entire record as submitted, or
- (f) Clearly erroneous.

An aggrieved party may seek appellate review of any final judgment of the superior court in the manner provided by law as in other civil cases.

[1994 c 216 § 16; 1988 c 202 § 40; 1987 c 477 § 8; 1971 c 81 § 97; 1969 ex.s. c 111 § 9; 1967 c 189 § 16.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

Severability--1988 c 202: See note following RCW 2.24.050.

General corporate powers--Towns, restrictions as to area: RCW 35.21.010.

RCW 36.93.170 Factors to be considered by board--Incorporation proceedings exempt from state environmental policy act.

In reaching a decision on a proposal or an alternative, the board shall consider the factors affecting such proposal, which shall include, but not be limited to the following:

(1) Population and territory; population density; land area and land uses; comprehensive plans and zoning, as adopted under chapter 35.63, 35A.63, or 36.70 RCW; comprehensive plans and development regulations adopted under chapter 36.70A RCW; applicable service agreements entered into under chapter 36.115 or 39.34 RCW; applicable interlocal annexation agreements between a county and its cities; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence and preservation of prime agricultural soils and productive agricultural uses; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities;

(2) Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources; probable future needs for such services and controls; probable effect of proposal or alternative on cost and adequacy of services and controls in area and adjacent area; the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and

(3) The effect of the proposal or alternative on adjacent areas, on mutual economic and

social interests, and on the local governmental structure of the county.

The provisions of chapter 43.21C RCW, State Environmental Policy, shall not apply to incorporation proceedings covered by chapter 35.02 RCW.

[1997 c 429 § 39; 1989 c 84 § 5; 1986 c 234 § 33; 1982 c 220 § 2; 1979 ex.s. c 142 § 1; 1967 c 189 § 17.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

Severability--1982 c 220: See note following RCW 36.93.100.

Incorporation proceedings exempt from state environmental policy act: RCW 43.21C.220.

RCW 36.93.180 Objectives of boundary review board.

The decisions of the boundary review board shall attempt to achieve the following objectives:

- (1) Preservation of natural neighborhoods and communities;
- (2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;
- (3) Creation and preservation of logical service areas;
- (4) Prevention of abnormally irregular boundaries;
- (5) Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas;
- (6) Dissolution of inactive special purpose districts;
- (7) Adjustment of impractical boundaries;
- (8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character; and
- (9) Protection of agricultural and rural lands which are designated for long term productive agricultural and resource use by a comprehensive plan adopted by the county legislative authority.

[1989 c 84 § 6; 1981 c 332 § 10; 1979 ex.s. c 142 § 2; 1967 c 189 § 18.]

Notes:

Severability--1981 c 332: See note following RCW 35.13.165.

RCW 36.93.185 Objectives of boundary review board--Water-sewer district annexations, mergers--Territory not adjacent to district.

The proposal by a water-sewer district to annex territory that is not adjacent to the district shall not be deemed to be violative of the objectives of a boundary review board solely due to the fact that the territory is not adjacent to the water-sewer district. The proposed consolidation or merger of two or more water-sewer districts that are not adjacent to each other shall not be deemed to be violative of the objectives of a boundary review board solely due to the fact that the districts are not adjacent.

[1999 c 153 § 47; 1989 c 308 § 13.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 36.93.190 Decision of board not to affect existing franchises, permits, codes, ordinances, etc., for ten years.

For a period of ten years from the date of the final decision, no proceeding, approval, action, or decision on a proposal or an alternative shall be deemed to cancel any franchise or permit theretofore granted by the authorities governing the territory to be annexed, nor shall it be deemed to supersede the application as to any territory to be annexed, of such construction codes and ordinances (including but not limited to fire, electrical, and plumbing codes and ordinances) as shall have been adopted by the authorities governing the territory to be annexed and in force at the time of the decision.

[1967 c 189 § 19.]

RCW 36.93.200 Rules and regulations--Adoption procedure.

Each review board shall adopt rules governing the formal and informal procedures prescribed or authorized by this chapter. Such rules may state the qualifications of persons for practice before the board. Such rules shall also include rules of practice before the board, together with forms and instructions.

To assist interested persons dealing with it, each board shall so far as deemed practicable supplement its rules with descriptive statements of its procedures.

Prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the board shall file notice thereof with the clerk of the court of the county in which the board is located. So far as practicable, the board shall also publish or otherwise circulate notice of its intended action and afford interested persons opportunity to submit data or views either orally or in writing. Such notice shall include (1) a statement of the time, place, and nature of public rule-making proceedings, (2) reference to the authority under which the rule is proposed, and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

This paragraph shall not apply to interpretative rules, general statements of policy, or rules of internal board organization, procedure or practice.

[1967 c 189 § 20.]

RCW 36.93.210 Rules and regulations--Filing--Permanent register.

Each board shall file forthwith with the clerk of the court a certified copy of all rules and regulations adopted. The clerk shall keep a permanent register of such rules open to public inspection.

[1967 c 189 § 21.]

RCW 36.93.220 Provisions of prior laws superseded by chapter.

Whenever a review board has been created pursuant to the terms of this chapter, the provisions of law relating to city annexation review boards set forth in chapter 35.13 RCW and the powers granted to the boards of county commissioners to alter boundaries of proposed annexations or incorporations shall not be applicable.

[1967 c 189 § 22.]

RCW 36.93.230 Power to disband boundary review board.

When a county and the cities and towns within the county have adopted a comprehensive plan and consistent development regulations pursuant to the provisions of chapter 36.70A RCW, the county may, at the discretion of the county legislative authority, disband the boundary review board in that county.

[1991 sp.s. c 32 § 22.]

Notes:

Section headings not law--1991 sp.s. c 32: See RCW 36.70A.902.

RCW 36.93.800 Application of chapter to merged special purpose districts.

This chapter does not apply to the merger of irrigation districts authorized under RCW 87.03.530(2) and 87.03.845 through 87.03.855 or to the merger of a drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district into an irrigation district authorized by RCW 87.03.720 through 87.03.745 and 85.08.830 through 85.08.890.

[1996 c 313 § 2; 1993 c 235 § 10.]

RCW 36.93.900 Effective date--1967 c 189.

The effective date of this chapter is July 1, 1967.

[1967 c 189 § 24.]

RCW 36.93.910 Severability--1967 c 189.

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

[1967 c 189 § 23.]

Chapter 36.94 RCW

SEWERAGE, WATER, AND DRAINAGE SYSTEMS

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RCW 36.94.010 Definitions.

As used in this chapter:

(1) A "system of sewerage" means and may include any or all of the following:

(a) Sanitary sewage collection, treatment, and/or disposal facilities and services, including without limitation on-site or off-site sanitary sewerage facilities, inspection services and maintenance services for private or public on-site systems, or any other means of sewage treatment and disposal approved by the county;

(b) Combined sanitary sewage disposal and storm or surface water drains and facilities;

- (c) Storm or surface water drains, channels, and facilities;
 - (d) Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal, and rights and interests in property relating to the system;
 - (e) Combined water and sewerage systems;
 - (f) Point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a county;
 - (g) Public restroom and sanitary facilities;
 - (h) The facilities and services authorized in RCW 36.94.020; and
 - (i) Any combination of or part of any or all of such facilities.
- (2) A "system of water" means and includes:
- (a) A water distribution system, including dams, reservoirs, aqueducts, plants, pumping stations, transmission and lateral distribution lines and other facilities for distribution of water;
 - (b) A combined water and sewerage system;
 - (c) Any combination of or any part of any or all of such facilities.
- (3) A "sewerage and/or water general plan" means a general plan for a system of sewerage and/or water for the county which shall be an element of the comprehensive plan established by the county pursuant to RCW 36.70.350(6) and/or chapter 35.63 RCW, if there is such a comprehensive plan.
- (a) A sewerage general plan shall include the general location and description of treatment and disposal facilities, trunk and interceptor sewers, pumping stations, monitoring and control facilities, channels, local service areas and a general description of the collection system to serve those areas, a description of on-site sanitary sewerage system inspection services and maintenance services, and other facilities and services as may be required to provide a functional and implementable plan, including preliminary engineering to assure feasibility. The plan may also include a description of the regulations deemed appropriate to carrying out surface drainage plans.
- (b) A water general plan shall include the general location and description of water resources to be utilized, wells, treatment facilities, transmission lines, storage reservoirs, pumping stations, and monitoring and control facilities as may be required to provide a functional and implementable plan.
- (c) Water and/or sewerage general plans shall include preliminary engineering in adequate detail to assure technical feasibility and, to the extent then known, shall further discuss the methods of distributing the cost and expense of the system and shall indicate the economic feasibility of plan implementation. The plans may also specify local or lateral facilities and services. The sewerage and/or water general plan does not mean the final engineering construction or financing plans for the system.
- (4) "Municipal corporation" means and includes any city, town, metropolitan municipal corporation, any public utility district which operates and maintains a sewer or water system, any sewer, water, diking, or drainage district, any diking, drainage, and sewerage improvement district, and any irrigation district.
- (5) A "private utility" means and includes all utilities, both public and private, which

provide sewerage and/or water service and which are not municipal corporations within the definition of this chapter. The ownership of a private utility may be in a corporation, nonprofit or for profit, in a cooperative association, in a mutual organization, or in individuals.

(6) "Board" means one or more boards of county commissioners and/or the legislative authority of a home rule charter county.

[1997 c 447 § 10; 1981 c 313 § 14; 1979 ex.s. c 30 § 6; 1971 ex.s. c 96 § 1; 1967 c 72 § 1.]

Notes:

Finding--Purpose--1997 c 447: See note following RCW 70.05.074.

Severability--1981 c 313: See note following RCW 36.94.020.

Construction--1971 ex.s. c 96: "This 1971 amendatory act shall apply to any existing and future sewerage and/or water plans or amendments thereto and implementations thereof and shall not be deemed to be prospective only." [1971 ex.s. c 96 § 12.]

Severability--1971 ex.s. c 96: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 96 § 13.]

RCW 36.94.020 Purpose--Powers.

The construction, operation, and maintenance of a system of sewerage and/or water is a county purpose. Subject to the provisions of this chapter, every county has the power, individually or in conjunction with another county or counties to adopt, provide for, accept, establish, condemn, purchase, construct, add to, operate, and maintain a system or systems of sanitary and storm sewers, including outfalls, interceptors, plans, and facilities and services necessary for sewerage treatment and disposal, and/or system or systems of water supply within all or a portion of the county. However, counties shall not have power to condemn sewerage and/or water systems of any municipal corporation or private utility.

Such county or counties shall have the authority to control, regulate, operate, and manage such system or systems and to provide funds therefor by general obligation bonds, revenue bonds, local improvement district bonds, utility local improvement district or local improvement district assessments, and in any other lawful fiscal manner. Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer.

Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide

information on estimated rates or charges that may be imposed for the service.

A county shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using county employees unless the on-site system is connected by a publicly owned collection system to the county's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of a state or local health officer to carry out their responsibilities under any other applicable law.

A county may, as part of a system of sewerage established under this chapter, provide for, finance, and operate any of the facilities and services and may exercise the powers expressly authorized for county storm water, flood control, pollution prevention, and drainage services and activities under chapters 36.89, 86.12, 86.13, and 86.15 RCW. A county also may provide for, finance, and operate the facilities and services and may exercise any of the powers authorized for aquifer protection areas under chapter 36.36 RCW; for lake management districts under chapter 36.61 RCW; for diking districts, and diking, drainage, and sewerage improvement districts under chapters 85.05, 85.08, 85.15, 85.16, and 85.18 RCW; and for shellfish protection districts under chapter 90.72 RCW. However, if a county by reference to any of those statutes assumes as part of its system of sewerage any powers granted to such areas or districts and not otherwise available to a county under this chapter, then (1) the procedures and restrictions applicable to those areas or districts apply to the county's exercise of those powers, and (2) the county may not simultaneously impose rates and charges under this chapter and under the statutes authorizing such areas or districts for substantially the same facilities and services, but must instead impose uniform rates and charges consistent with RCW 36.94.140. By agreement with such an area or district that is not part of a county's system of sewerage, a county may operate that area's or district's services or facilities, but a county may not dissolve any existing area or district except in accordance with any applicable provisions of the statute under which that area or district was created.

[1997 c 447 § 11; 1981 c 313 § 1; 1967 c 72 § 2.]

Notes:

Finding--Purpose--1997 c 447: See note following RCW 70.05.074.

Severability--1981 c 313: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 313 § 23.]

RCW 36.94.030 Adoption of sewerage and/or water general plan as element of comprehensive plan.

Whenever the county legislative authority deems it advisable and necessary for the public health and welfare of the inhabitants of the county to establish, purchase, acquire, and construct a system of sewerage and/or water, or make any additions and betterments thereto, or extensions thereof, the board shall adopt a sewerage and/or water general plan for a system of sewerage and/or water for all or a portion of the county as deemed necessary by the board. If the county has adopted a comprehensive plan for a physical development of the county pursuant to chapter

36.70 RCW and/or chapter 35.63 RCW, then the sewerage and/or water general plan shall be adopted as an element of that comprehensive plan pursuant to the applicable statute.

[1981 c 313 § 15; 1967 c 72 § 3.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.94.040 Incorporation of provisions of comprehensive plan in general plan.

The sewerage and/or water general plan must incorporate the provisions of existing comprehensive plans relating to sewerage and water systems of cities, towns, municipalities, and private utilities, to the extent they have been implemented.

[1990 1st ex.s. c 17 § 33; 1967 c 72 § 4.]

Notes:

Severability--Part, section headings not law--1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

RCW 36.94.050 Review committee--Composition--Submission of plan or amendment to.

Prior to the adoption of or amendment of the sewerage and/or water general plan, the county legislative authority (or authorities) shall submit the plan or amendment to a review committee. The review committee shall consist of:

(1) A representative of each city with a population of ten thousand or more within or adjoining the area selected by the mayor thereof (if there are no such cities within the plan area, then one representative chosen by the mayor of the city with the largest population within the plan area);

(2) One representative chosen at large by a majority vote of the executive officers of the other cities or towns within or adjoining the area;

(3) A representative chosen by the executive officer or the chair of the board, as the case may be, of each of the other municipal corporations and private utilities serving one thousand or more sewer and/or water customers located within the area;

(4) One representative chosen at large by a majority vote of the executive officers and chairs of the boards, as the case may be, of the other remaining municipal corporations within the area;

(5) A representative of each county legislative authority within the planned area, selected by the chair of each board or county executive, as the case may be; and

(6) In counties where there is a metropolitan municipal corporation operating a sewerage and/or water system in the area, the chair of its council or such person as the chair designates.

If the legislative authority rejects the plan pursuant to RCW 36.94.090, the review committee shall be deemed to be dissolved; otherwise the review committee shall continue in existence to review amendments to the plan. Vacancies on the committee shall be filled in the

same manner as the original appointment to that position.

Instead of a review committee for each plan area, the county legislative authority or authorities may create a review committee for the entire county or counties, and the review committee shall continue in existence until dissolved by the county legislative authority or authorities.

[1994 c 81 § 74; 1981 c 313 § 16; 1971 ex.s. c 96 § 2; 1967 c 72 § 5.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

**RCW 36.94.060 Review committee--Chairman,
secretary--Rules--Quorum--Compensation of members.**

The members of each review committee shall elect from its members a chairman and a secretary. The committee shall determine its own rules and order of business and shall provide by resolution for the time and manner of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

Each member of the committee shall be compensated from the county current expense fund at the rate of twenty-five dollars per day, or a major portion thereof, for time actually devoted to the work of the committee in reviewing any proposed sewerage and/or water general plan or amendments to a plan. Each board of county commissioners shall provide such funds as shall be necessary to pay the compensation of the members and such other expenses as shall be reasonably necessary. Such payments shall be reimbursed to the counties advancing the funds from moneys acquired from the construction or operation of a sewerage and/or water system.

[1971 ex.s. c 96 § 3; 1967 c 72 § 6.]

Notes:

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

RCW 36.94.070 Review committee--Review of plan or amendments thereto--Report.

The committee shall review the sewerage and/or water general plan or amendments thereto and shall report to the board or boards of county commissioners within ninety days their approval or any suggested amendments, deletions, or additions. If the committee shall fail to report within the time, the plan or amendments thereto shall be deemed approved. If the committee submits a report, the board shall consider and review the committee's report and may adopt any recommendations suggested therein.

[1971 ex.s. c 96 § 4; 1967 c 72 § 7.]

Notes:

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

RCW 36.94.080 Hearing by board--Notice--Filing general plan.

Before final action thereon the board shall conduct a public hearing on the plan after ten days published notice of hearing is given pursuant to RCW 36.32.120(7). The notice must set out the full official title of the proposed resolution adopting the plan and a statement describing the general intent and purpose of the plan. The notice shall also include the day, hour and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed. Ten days prior to the hearing, three copies of the sewerage and/or water general plan shall be filed with the clerk of the board. The copies shall be open to public inspection.

[1967 c 72 § 8.]

RCW 36.94.090 Adoption, amendment or rejection of plan.

At the hearing, the board may adopt the plan, or amend and adopt the plan, or reject any part or all of the plan.

[1967 c 72 § 9.]

RCW 36.94.100 Submission of plan or amendments thereto to certain state departments--Approval.

Prior to the commencement of actual work on any plan or amendment thereto approved by the board, it must be submitted for written approval to the Washington department of social and health services and to the Washington department of ecology.

[1971 ex.s. c 96 § 5; 1967 c 72 § 10.]

Notes:

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

RCW 36.94.110 Adherence to plan--Procedure for amendment.

After adoption of the sewerage and/or water general plan, all municipal corporations and private utilities within the plan area shall abide by and adhere to the plan for the future development of their systems. Whenever the governing authority of any county or counties or any municipal corporation deems it to be for the public interest to amend the sewerage and/or water general plan for such county or counties, notice shall be filed with the board or boards of county commissioners. Upon such notice, the board or boards shall initiate consideration of any amendment requested relating to the plan and proceed as provided in this chapter for the adoption of an original plan.

[1967 c 72 § 11.]

RCW 36.94.120 Establishment of department for administration of system--Personnel

merit system.

The board shall establish a department in county government for the purpose of establishing, operating and maintaining the system or systems of sewerage and/or water. In the department, the board shall establish and provide for the operation and maintenance of a personnel merit system for the employment, classification, promotion, demotion, suspension, transfer, layoff and discharge of its appointive officers and employees, solely on the basis of merit and fitness, without regard to political influence or affiliation. Such merit system shall not apply to the chief administrative officer of the department and, if the sewer and/or water utility is a division of a department having other functions, the chief administrative officer of such utility.

[1971 ex.s. c 96 § 6; 1967 c 72 § 12.]

Notes:

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

RCW 36.94.130 Adoption of rules and regulations.

The board of county commissioners may adopt by resolution reasonable rules and regulations governing the construction, maintenance, operation, use, connection and service of the system of sewerage and/or water.

[1967 c 72 § 13.]

RCW 36.94.140 Authority of county to operate system--Rates and charges, fixing of--Factors to be considered--Assistance for low-income persons.

Every county, in the operation of a system of sewerage and/or water, shall have full jurisdiction and authority to manage, regulate, and control it and to fix, alter, regulate, and control the rates and charges for the service and facilities to those to whom such service and facilities are available, and to levy charges for connection to the system. The rates for availability of service and facilities, and connection charges so charged must be uniform for the same class of customers or service and facility.

In classifying customers served, service furnished or made available by such system of sewerage and/or water, or the connection charges, the county legislative authority may consider any or all of the following factors:

- (1) The difference in cost of service to the various customers within or without the area;
- (2) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;
- (3) The different character of the service and facilities furnished various customers;
- (4) The quantity and quality of the sewage and/or water delivered and the time of its delivery;
- (5) Capital contributions made to the system or systems, including, but not limited to, assessments;
- (6) The cost of acquiring the system or portions of the system in making system

improvements necessary for the public health and safety;

(7) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user;
and

(8) Any other matters which present a reasonable difference as a ground for distinction.

A county may provide assistance to aid low-income persons in connection with services provided under this chapter.

The service charges and rates shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for the efficient and proper operation of the system.

[1997 c 447 § 12; 1995 c 124 § 2; 1990 c 133 § 2; 1975 1st ex.s. c 188 § 2; 1967 c 72 § 14.]

Notes:

Finding--Purpose--1997 c 447: See note following RCW 70.05.074.

Findings--1990 c 133: "The legislature finds the best interests of the citizens of the state are served if:

(1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;

(2) There is improved coordination between state agencies engaged in water system planning and public health regulation and local governments responsible for land use regulation and public health and safety;

(3) Public water systems in violation of health and safety standards adopted under RCW 43.20.050 remain in operation and continue providing water service providing that public health is not compromised, assuming a suitable replacement purveyor is found and deficiencies are corrected in an expeditious manner consistent with public health and safety; and

(4) The state address[es], in a systematic and comprehensive fashion, new operating requirements which will be imposed on public water systems under the federal Safe Drinking Water Act." [1990 c 133 § 1.]

Severability--1990 c 133: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 133 § 12.]

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.94.145 Public property subject to rates and charges for storm water control facilities.

Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by counties pursuant to RCW 36.94.140. In setting these rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property.

[1986 c 278 § 58; 1983 c 315 § 4.]

Notes:

Severability--1986 c 278: See note following RCW 36.01.010.

Severability--1983 c 315: See note following RCW 90.03.500.

Flood control zone districts--Storm water control improvements: Chapter 86.15 RCW.

*Rates and charges for storm water control facilities--Limitations--Definitions: RCW 90.03.500 through 90.03.525.
See also RCW 35.67.025, 35.92.021, and 36.89.085.*

RCW 36.94.150 Lien for delinquent charges.

All counties operating a system of sewerage and/or water shall have a lien for delinquent connection charges and charges for the availability of sewerage and/or water service, together with interest fixed by resolution at eight percent per annum from the date due until paid. Penalties of not more than ten percent of the amount due may be imposed in case of failure to pay the charges at times fixed by resolution. The lien shall be for all charges, interest, and penalties and shall attach to the premises to which the services were available. The lien shall be superior to all other liens and encumbrances, except general taxes and local and special assessments of the county.

The county department established in RCW 36.94.120 shall certify periodically the delinquencies to the auditor of the county at which time the lien shall attach.

Upon the expiration of sixty days after the attachment of the lien, the county may bring suit in foreclosure by civil action in the superior court of the county where the property is located. Costs associated with the foreclosure of the lien, including but not limited to advertising, title report, and personnel costs, shall be added to the lien upon filing of the foreclosure action. In addition to the costs and disbursements provided by statute, the court may allow the county a reasonable attorney's fee. The lien shall be foreclosed in the same manner as the foreclosure of real property tax liens.

[1997 c 393 § 9; 1975 1st ex.s. c 188 § 3; 1967 c 72 § 15.]

Notes:

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.94.160 Tax on gross revenues authorized.

The county shall have the power to levy a tax on the system of sewerage and/or water operated by the county or counties as authorized by this chapter, not to exceed eight percent per annum, on the gross revenues, to be paid to the county's general fund for payment of all costs of planning, financing, construction and operation of the system.

[1967 c 72 § 16.]

RCW 36.94.170 Authority of municipal corporations--Relinquishment of.

The primary authority to construct, operate and maintain a system of sewerage and/or water within the boundaries of a municipal corporation which lies within the area of the county's sewerage and/or water general plan shall remain with such municipal corporation. A county, after it has adopted and received the necessary approvals of its sewer and/or water general plan under the provisions of chapter 36.94 RCW may construct, own, operate and maintain a system of sewerage and/or water within the boundaries of a city or town with the written consent of such

city or town and within any other municipal corporation provided such municipal corporation (1) has the legislative authority to operate such a utility; and (2)(a) has given its written consent to the county to operate therein; or (b) after adoption of a comprehensive plan or an amendment thereto for the area involved, the municipal corporation has not within twelve months after receiving notice by the county of its intention to serve that area held a formation hearing for a utility local improvement district.

Prior to exercising any authority granted in this section, the county shall compensate such municipal corporation for its reasonable costs, expenses and obligations actually incurred or contracted which are directly related to and which benefit the area which the county proposes to serve. The county may contract with a municipal corporation to furnish such utility service within any municipal corporation.

Except in the case of annexations provided for in RCW 36.94.180, once a county qualifies under this section to serve within a municipal corporation, no municipal corporation may construct or operate a competing utility in the same territory to be served by the county if the county proceeds within a reasonable period of time with the construction of its proposed facilities including the sale of any bonds to finance the same.

As may be permitted by other statutes, a city or town may provide water or sewer service outside of its corporate limits, but such service may not conflict with the county plan or any county, sewer or water facilities installed or being installed.

A county proposing to exercise any authority granted in this section shall give written notice of such intention to the municipal corporation involved and to the boundary review board, if any, of such county. Within sixty days of the filing of such notice of intention, review by the boundary review board of the proposed action may be requested as provided by the provisions of RCW 36.93.100 through 36.93.180. In the event of such review, the board shall consider the factors set forth in this section in addition to the factors and objectives set forth in RCW 36.93.170 and 36.93.180.

[1971 ex.s. c 96 § 7; 1967 c 72 § 17.]

Notes:

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

RCW 36.94.180 Transfer of system upon annexation or incorporation of area.

In the event of the annexation to a city or town of an area, or incorporation of an area, in which a county is operating a sewerage and/or water system, the property, facilities, and equipment of such sewerage and/or water system lying within the annexed or incorporated area may be transferred to the city or town if such transfer will not materially affect the operation of any of the remaining county system, subject to the assumption by the city or town of the county's obligations relating to such property, facilities, and equipment, under the procedures specified in, and pursuant to the authority contained in, chapter 35.13A RCW.

[1986 c 234 § 34; 1983 c 3 § 82; 1971 ex.s. c 96 § 8; 1967 c 72 § 18.]

Notes:

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

RCW 36.94.190 Contracts with other entities.

Every county in furtherance of the powers granted by this chapter shall be authorized to contract with the federal government, the state of Washington, or any city or town, within or without the county, and with any other county, and with any municipal corporation as defined herein or with any other municipal corporation created under the laws of the state of Washington and not limited as defined in RCW 36.94.010, or political subdivision, and with any person, firm or corporation in and for the establishment, maintenance and operation of all or a portion of a system or systems of sewerage and/or water supply.

The state and such city, town, person, firm, corporation, municipal corporation and any other municipal corporation created under the laws of the state of Washington and not limited as defined in RCW 36.94.010, and political subdivision, is authorized to contract with a county or counties for such purposes.

[1967 c 72 § 19.]

RCW 36.94.200 Indebtedness--Bonds.

The legislative authority of any county is hereby authorized for the purpose of carrying out the lawful powers granted by this chapter to contract indebtedness and to issue and sell general obligation bonds pursuant to and in the manner provided for general county bonds in chapters 36.67 and 39.46 RCW and other applicable statutes; and to issue revenue bonds pursuant to and in the manner provided for revenue bonds in chapter 36.67 RCW and other applicable statutes. The county legislative authority may also issue local improvement district bonds in the manner provided for cities and towns.

[1984 c 186 § 35; 1983 c 167 § 101; 1981 c 313 § 2; 1967 c 72 § 20.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.94.210 Pledge for payment of principal and interest on revenue or general obligation bonds.

The board of county commissioners of any county in adopting and establishing a system of sewerage and/or water may set aside into a special fund and pledge to the payment of the principal and interest due on any county revenue bonds or general obligation bonds any sums or amounts which may accrue from the collection of rates and charges for the private and public use of the system or systems.

[1975 1st ex.s. c 188 § 4; 1967 c 72 § 21.]

Notes:

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.94.220 Local improvement districts and utility local improvement districts--Establishment--Special assessments.

(1) A county shall have the power to establish utility local improvement districts and local improvement districts within the area of a sewerage and/or water general plan and to levy special assessments under a mode of annual installments extending over a period not exceeding twenty years on all property specially benefited by any local improvement on the basis of the special benefits to pay in whole or in part the damages or costs of any improvements ordered in such county.

(2) Utility local improvement districts and local improvement districts may include territory within a city or town only with the written consent of the city or town, but if the local district is formed before such area is included within the city or town, no such consent shall be necessary. Utility local improvement districts and local improvement districts used to provide sewerage disposal systems may include territory within a water-sewer district providing sewerage disposal systems only with the written consent of such a water-sewer district, but if the local district is formed before such area is included within such a water-sewer district, no consent is necessary. Utility local improvement districts and local improvement districts used to provide water systems may include territory within a water-sewer district providing water systems only with the written consent of such a water-sewer district, but if the local district is formed before such area is included within such a water-sewer district, no consent is necessary.

(3) The levying, collection, and enforcement of all public assessments hereby authorized shall be in the manner now and hereafter provided by law for the levying, collection, and enforcement of local improvement assessments by cities and towns, insofar as the same shall not be inconsistent with the provisions of this chapter. In addition, the county shall file the preliminary assessment roll at the time and in the manner prescribed in RCW 35.50.005. The duties devolving upon the city or town treasurer under such laws are imposed upon the county treasurer for the purposes of this chapter. The mode of assessment shall be in the manner to be determined by the county legislative authority by ordinance or resolution. As an alternative to equal annual assessment installments of principal provided for cities and towns, a county legislative authority may provide for the payment of such assessments in equal annual installments of principal and interest. Assessments in any local district may be made on the basis of special benefits up to but not in excess of the total cost of any sewerage and/or water improvement made with respect to that local district and the share of any general sewerage and/or water facilities allocable to that district. In utility local improvement districts, assessments shall be deposited into the revenue bond fund or general obligation bond fund established for the payment of bonds issued to pay such costs which bond payments are secured in part by the pledge of assessments, except pending the issuance and sale of such bonds, assessments may be

deposited in a fund for the payment of such costs. In local improvement districts, assessments shall be deposited into a fund for the payment of such costs and local improvement bonds issued to finance the same or into the local improvement guaranty fund as provided by applicable statute.

[1999 c 153 § 48; 1981 c 313 § 3; 1975 1st ex.s. c 188 § 5; 1971 ex.s. c 96 § 9; 1967 c 72 § 22.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Severability--1981 c 313: See note following RCW 36.94.020.

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

Local improvements, supplemental authority: Chapter 35.51 RCW.

RCW 36.94.225 Exemption of farm and agricultural land from special benefit assessments.

See RCW 84.34.300 through 84.34.380 and 84.34.922.

RCW 36.94.230 Local improvement districts and utility local improvement districts--Initiation of district by resolution or petition--Publication--Notice to property owners--Contents.

Utility local improvement districts and local improvement districts to carry out all or any portion of the general plan, or additions and betterments thereof, may be initiated either by resolution of the county legislative authority or by petition signed by the owners according to the records of the office of the county auditor of at least fifty-one percent of the area of land within the limits of the local district to be created.

In case the county legislative authority desires to initiate the formation of a local district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed local district, describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time, and place for a public hearing on the formation of the proposed local district.

In case any such local district is initiated by petition, such petition shall set forth the nature and territorial extent of such proposed improvement and the fact that the signers thereof are the owners according to the records of the county auditor of at least fifty-one percent of the area of land within the limits of the local district to be created. Upon the filing of such petition with the clerk of the county legislative authority, the authority shall determine whether the same is sufficient, and the authority's determination thereof shall be conclusive upon all persons. No person may withdraw his name from said petition after the filing thereof with the clerk of the county legislative authority. If the county legislative authority finds the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned

for, setting forth the nature and territorial extent of said improvement, designating the number of the proposed local district, describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time, and place for a public hearing on the formation of the proposed local district.

Notice of the adoption of the resolution of intention, whether adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the county legislative authority. Notice of the adoption of the resolution of intention shall also be given each owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed local district by mailing said notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon. The notice shall refer to the resolution of intention and designate the proposed local district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract, or parcel, the date, time, and place of the hearing before the county legislative authority; and in the case of improvements initiated by resolution, said notice shall also state that all persons desiring to object to the formation of the proposed district must file their written protests with the clerk of the county legislative authority before the time fixed for said public hearing.

[1981 c 313 § 4; 1971 ex.s. c 96 § 10; 1967 c 72 § 23.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

RCW 36.94.232 Local improvement districts and utility local improvement districts--Notice must contain statement that assessments may vary from estimates.

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district or utility local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

[1989 c 243 § 6.]

RCW 36.94.235 Local improvement districts and utility local improvement districts--Sanitary sewer or potable water facilities--Notice to certain property owners.

Whenever it is proposed that a local improvement district or utility local improvement

district finance sanitary sewers or potable water facilities, additional notice of the public hearing on the proposed improvement district shall be mailed to the owners of any property located outside of the proposed improvement district that would be required as a condition of federal housing administration loan qualification, at the time of notice, to be connected to the specific sewer or water facilities installed by the local improvement district. The notice shall include information about this restriction.

[1987 c 315 § 3.]

RCW 36.94.240 Local improvement districts and utility local improvement districts--Hearing--Improvement ordered--Divestment of power to order, time limitation--Assessment roll.

Whether the improvement is initiated by petition or resolution, the county legislative authority shall conduct a public hearing at the time and place designated in the notice to the property owners. At this hearing the authority shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in plans for the proposed improvement as are deemed necessary: PROVIDED, That the authority may not change the boundaries of the district to include property not previously included therein without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time herein provided for the original notice.

After said hearing the county legislative authority has jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution: PROVIDED, That the jurisdiction of the authority to proceed with any improvement initiated by resolution shall be divested by protests filed with the clerk of the authority prior to said public hearing signed by the owners, according to the records of the county auditor, of at least forty percent of the area of land within the proposed local district. No action whatsoever may be maintained challenging the jurisdiction or authority of the county to proceed with the improvement and creating the local district or in any way challenging the validity thereof or any proceedings relating thereto unless that action is served and filed no later than thirty days after the date of passage of the resolution ordering the improvement and creating the local district.

If the county legislative authority finds that the district should be formed, it shall by resolution order the improvement, adopt detailed plans of the local district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the county such eminent domain proceedings and supplemental assessment or reassessment proceedings to pay all eminent domain awards as may be necessary to entitle the county to proceed with the work. The county legislative authority shall proceed with the work and file with the county treasurer its roll levying special assessments in the amount to be paid by special assessment against the property situated within the local district in proportion to the special benefits to be derived by the property therein from the improvement.

[1981 c 313 § 5; 1971 ex.s. c 96 § 11; 1967 c 72 § 24.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

Construction--Severability--1971 ex.s. c 96: See notes following RCW 36.94.010.

RCW 36.94.250 Local improvement districts and utility local improvement districts--Notice of filing roll--Hearing on protests.

Before the approval of the roll a notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the local district, stating that the roll is on file and open to inspection in the office of the county legislative authority, and fixing the time, not less than fifteen or more than forty-five days from the date of the first publication of the notice, within which protests must be filed with the clerk against any assessments shown thereon, and fixing a time when a hearing will be held on the protests. The hearing shall be held before the county legislative authority, or the county legislative authority may direct that the hearing shall be held before either a committee of the legislative authority or a designated officer. The notice shall also be given by mailing at least fifteen days before the hearing, a similar notice to the owners or reputed owners of the land in the local district as they appear on the books of the treasurer of the county.

[1981 c 313 § 17; 1967 c 72 § 25.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.94.260 Local improvement districts and utility local improvement districts--Hearing on protests--Order--Appeal.

(1) At such hearing on a protest to an assessment, or any adjournment thereof, the county legislative authority or committee or officer shall sit as a board of equalization. If the protest is heard by the county legislative authority, it shall have power to correct, revise, raise, lower, change, or modify such roll, or any part thereof, and to set aside such roll, and order that such assessment be made de novo, as shall appear equitable and just. If the protest is heard by a committee or officer, the committee or officer shall make recommendations to the county legislative authority which shall either adopt or reject the recommendations of the committee or officer. If a hearing is held before such a committee or officer, it shall not be necessary to hold a hearing on the assessment roll before such legislative authority: PROVIDED, That any county providing for an officer to hear such protests shall adopt an ordinance providing for an appeal from a decision made by the officer that any person protesting his or her assessment may make to the legislative authority. The county legislative authority shall, in all instances, approve the assessment roll by ordinance or resolution.

(2) In the event of any assessment being raised a new notice similar to such first notice shall be given, after which final approval of such roll may be made by the county legislative authority or committee or officer. Whenever any property has been entered originally upon such

roll and the assessment upon any such property shall not be raised, no objection thereto may be considered by the county legislative authority or committee or officer or by any court on appeal unless such objection be made in writing at, or prior, to the date fixed for the original hearing upon such roll.

[1981 c 313 § 18; 1967 c 72 § 26.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.94.270 Local improvement districts and utility local improvement districts--Enlarged local district may be formed.

If any portion of the system after its installation in such local district is not adequate for the purpose for which it was intended, or that for any reason changes, alterations, or betterments are necessary in any portion of the system after its installation, then such district, with boundaries which may include one or more existing local districts, may be created in the same manner as is provided herein for the creation of local districts. Upon the organization of such local district as provided for in this section the plan of the improvement and the payment of the cost of the improvement shall be carried out in the same manner as is provided herein for the carrying out of and the paying for the improvement in the utility local improvement districts or local improvement districts previously provided for in this chapter.

[1981 c 313 § 6; 1967 c 72 § 27.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.94.280 Local improvement districts and utility local improvement districts--Conclusiveness of roll when approved--Adjustments to assessments if other funds become available.

Whenever any assessment roll for local improvements has been confirmed by the county legislative authority, the regularity, validity and correctness of the proceedings relating to the improvement and to the assessment therefor, including the action of the county legislative authority upon the assessment roll and the confirmation thereof, shall be conclusive in all things upon all parties, and cannot in any manner be contested or questioned in any proceeding by any person not filing written objections to the assessment roll in the manner and within the time provided in this chapter, and not appealing from the action of the county legislative authority in confirming the assessment roll in the manner and within the time in this chapter provided. No proceedings of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any assessment, or the sale of any property to pay an assessment, or any certificate of delinquency issued therefor, or the foreclosure of any lien issued therefor: PROVIDED, That this section shall not be construed as prohibiting the bringing of injunction proceedings to prevent the sale of any real estate upon the grounds:

- (1) That the property about to be sold does not appear upon the assessment roll, or
- (2) That the assessment has been paid.

If federal, local, or state funds become available for a local improvement after the assessment roll has been confirmed by the county legislative authority, the funds may be used to lower the assessments on a uniform basis. Any adjustments to the assessments because of the availability of federal or state funds may be made on the next annual payment.

[1985 c 397 § 10; 1967 c 72 § 28.]

Notes:

Severability--1985 c 397: See RCW 35.51.901.

RCW 36.94.290 Local improvement districts and utility local improvement districts--Appellate review.

The decision of the board of county commissioners upon any objections made within the time and in the manner herein prescribed, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the clerk of the board of county commissioners and with the clerk of the superior court within ten days after the resolution confirming such assessment roll shall have become published, and such notice shall describe the property and set forth the objections of such appellant to such assessment. Within the ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of said court, a transcript consisting of the assessment roll and his objections thereto, together with the resolution confirming such assessment roll and the record of the board of county commissioners with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such clerk of the board of county commissioners and by him certified to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with sureties thereon as provided by law for appeals in civil cases, shall be filed conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the county is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require. Within three days after such transcript is filed in the superior court, as aforesaid, the appellant shall give written notice to the clerk of the board of county commissioners that such transcript is filed. Said notice shall state a time, not less than three days from the service thereof, when the appellant will call up the said cause for hearing. The superior court shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury, and such cause shall have preference over all civil causes pending in said court, except proceedings under an act relating to eminent domain in such county and actions of forcible entry and detainer. The judgment of the court shall

confirm, correct, modify or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have the custody of the assessment roll, and he shall modify and correct such assessment roll in accordance with such decision. Appellate review of the judgment of the superior court may be sought as in other cases. However, review must be sought within fifteen days after the date of the entry of the judgment of such superior court. The supreme court or the court of appeals on such appeal may correct, change, modify, confirm or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

[1988 c 202 § 41; 1971 c 81 § 98; 1967 c 72 § 29.]

Notes:

Rules of court: *Cf. RAP 18.22.*

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 36.94.300 Local improvement districts and utility local improvement districts--Segregation of special assessment--Fee--Costs.

Whenever any land against which there has been levied any special assessment by a county shall have been sold in part or subdivided, the board of county commissioners of such county shall have the power to order a segregation of the assessment.

Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the board of county commissioners which levied the assessment. If the board determines that a segregation should be made, they shall by resolution order the county treasurer to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the county treasurer who shall proceed to make the segregation ordered upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made. In addition to such charge the board of county commissioners may require as a condition to the order of segregation that the person seeking it pay the county the reasonable engineering and clerical costs incident to making the segregation.

[1967 c 72 § 30.]

RCW 36.94.305 Service fees for sewers not constructed within ten years after voter approval--Credit against future assessments, service charges.

See RCW 35.43.260.

RCW 36.94.310 Transfer of system from municipal corporation to county--Authorized.

Subject to the provisions of RCW 36.94.310 through 36.94.350 a municipal corporation may transfer to the county within which all of its territory lies, all or part of the property constituting its system of sewerage, system of water or combined water and sewerage system, together with any of its other real or personal property used or useful in connection with the operation, maintenance, repair, replacement, extension, or financing of that system, and the county may acquire such property on such terms as may be mutually agreed upon by the governing body of the municipal corporation and the legislative authority of the county, and approved by the superior court for such county.

[1975 1st ex.s. c 188 § 7.]

Notes:

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.94.320 Transfer of system from municipal corporation to county--Assumption of indebtedness.

In consideration of a transfer of property by a municipal corporation to a county in the manner provided in RCW 36.94.310 through 36.94.350, a county may assume and agree to pay or provide for the payment of all or part of the indebtedness of a municipal corporation including the payment and retirement of outstanding general obligation and revenue bonds issued by a municipal corporation. Until the indebtedness of a municipal corporation thus assumed by a county has been discharged, all property within the municipal corporation and the owners and occupants of that property, shall continue to be liable for taxes, special assessments, and other charges legally pledged to pay such indebtedness. The county may assume the obligation of causing the payment of such indebtedness, collecting such taxes, assessments, and charges and observing and performing the other contractual obligations of the municipal corporation. The legislative authority of the county may act in the same manner as the governing body of the municipal corporation for the purpose of certifying the amount of any property tax to be levied and collected therein, and may cause service and other charges and assessments to be collected from such property or owners or occupants thereof, enforce such collection and perform all other acts necessary to insure performance of the contractual obligations of the municipal corporation in the same manner and by the same means as if the property of the municipal corporation had not been acquired by the county.

When a county assumes the obligation of paying indebtedness of a municipal corporation and if property taxes or assessments have been levied and service and other charges have accrued for such purpose but have not been collected by the municipal corporation prior to such assumption, the same when collected shall belong and be paid to the county and be used by such county so far as necessary for payment of the indebtedness of the municipal corporation existing and unpaid on the date such county assumed that indebtedness. Any funds received by the

county which have been collected for the purpose of paying any bonded or other indebtedness of the municipal corporation shall be used for the purpose for which they were collected and for no other purpose until such indebtedness has been paid and retired or adequate provision has been made for such payment and retirement. No transfer of property as provided in *this amendatory act shall derogate from the claims or rights of the creditors of the municipal corporation or impair the ability of the municipal corporation to respond to its debts and obligations.

[1975 1st ex.s. c 188 § 8.]

Notes:

***Reviser's note:** For codification of "this amendatory act" [1975 1st ex.s. c 188], see Codification Tables, Volume 0.

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.94.330 Transfer of system from municipal corporation to county--Transfer agreement.

The governing body of a municipal corporation proposing to transfer all or part of its property to a county in the manner provided by RCW 36.94.310 through 36.94.350 and the legislative authority of a county proposing to accept such property, and to assume if it so agrees any indebtedness of the municipal corporation in consideration of such transfer, shall adopt resolutions or ordinances authorizing respectively the execution of a written agreement setting forth the terms and conditions upon which they have agreed and finding the transfer and acquisition of property pursuant to such agreement to be in the public interest and conducive to the public health, safety, welfare, or convenience. Such written agreement may include provisions, by way of description and not by way of limitation, for the rights, powers, duties, and obligations of such municipal corporation and county with regard to the use and ownership of property, the providing of services, the maintenance and operation of facilities, the allocation of costs, the financing and construction of new facilities, the application and use of assets, the disposition of liabilities and indebtedness, the performance of contractual obligations, and any other matters relating to the proposed transfer of property, which may be preceded by an interim period of operation by the county of the property and facilities subsequently to be transferred to that county. The agreement may provide for a period of time during which the municipal corporation may continue to exercise certain rights, privileges, powers, and functions authorized to it by law including the ability to promulgate rules and regulations, to levy and collect special assessments, rates, charges, service charges and connection fees, and to adopt and carry out the provisions of a comprehensive plan, and amendments thereto, for a system of improvements and to issue general obligation bonds or revenue bonds in the manner provided by law, or the agreement may provide for the exercise for a period of time of all or some of such rights, privileges, powers, and functions by the county. The agreement may provide that either party thereto may authorize, issue and sell, in the manner provided by law, revenue bonds to provide funds for new water or sewer improvements or to refund or advance refund any water revenue, sewer revenue or combined water and sewer revenue bonds outstanding of either or both such parties. The agreement may provide that either party thereto may authorize and issue, in the

manner provided by law, general obligation or revenue bonds of like amounts, terms, conditions and covenants as the outstanding bonds of either or both such parties and such new bonds may be substituted or exchanged for such outstanding bonds to the extent permitted by law.

[1975 1st ex.s. c 188 § 9.]

Notes:

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.94.340 Transfer of system from municipal corporation to county--Petition for court approval of transfer--Hearing--Decree.

When a municipal corporation and a county have entered into a written agreement providing for the transfer to such county of all or part of the property of such municipal corporation, proceedings may be initiated in the superior court for that county by the filing of a petition to which there shall be attached copies of the agreement of the parties and of the resolutions of the governing body of the municipal corporation and the legislative authority of the county authorizing its execution. Such petition shall ask that the court approve and direct the proposed transfer of property, and any assumption of indebtedness agreed to in consideration thereof by the county, after finding such transfer and acquisition of property to be in the public interest and conducive to the public health, safety, welfare, or convenience. Such petition shall be signed by the members of the legislative authority of the county or chief administrative officer of the municipal corporation and the chairman of the legislative authority of the county, respectively, upon authorization by the governing body of the municipal corporation and the legislative authority of the county.

Within thirty days after the filing of the petition of the parties with copies of their agreement and the resolutions authorizing its execution attached thereto, the court shall by order fix a date for a hearing on the petition not less than twenty nor more than ninety days after the entry of such order which also shall prescribe the form and manner of notice of such hearing to be given. After considering the petition and such evidence as may be presented at the hearing thereon, the court may determine by decree that the proposed transfer of property is in the public interest and conducive to the public health, safety, welfare, or convenience, approve the agreement of the parties and direct that such transfer be accomplished in accordance with that agreement at the time and in the manner prescribed by the court decree.

[1975 1st ex.s. c 188 § 10.]

Notes:

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.94.350 Transfer of system from municipal corporation to county--Dissolution of municipal corporation.

In the event the agreement of the parties provides for the transfer to the county of all the property of the municipal corporation or all such property except bond redemption funds in the

possession of the county treasurer from which outstanding bonds of the municipal corporation are payable, and the agreement also provides for the assumption and payment by the county of all the indebtedness of the municipal corporation including the payment and retirement of all its outstanding bonds, and if the petition of the parties so requests, the court in the decree approving and directing the transfer of property, or in a subsequent decree, may dissolve the municipal corporation effective as of the time of transfer of property or at such time thereafter as the court may determine and establish.

[1975 1st ex.s. c 188 § 11.]

Notes:

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.94.360 Transfer of system from municipal corporation to county--RCW 36.94.310 through 36.94.350 deemed alternative method.

The provisions of RCW 36.94.310 through 36.94.350 shall be deemed to provide an alternative method for the doing of the things therein authorized and shall not be construed as imposing any additional conditions upon the exercise of any other powers vested in municipal corporations or counties.

[1975 1st ex.s. c 188 § 12.]

Notes:

Severability--1975 1st ex.s. c 188: See RCW 36.94.921.

RCW 36.94.370 Waiver or delay of collection of tap-in charges, connection or hookup fees for low income persons.

Whenever a county waives or delays collection of tap-in charges, connection fees or hookup fees for low income persons, or class of low income persons, to connect to a system of sewerage or a system of water, the waiver or delay shall be pursuant to a program established by ordinance.

[1980 c 150 § 2.]

RCW 36.94.380 Local improvement bonds--Local improvement guaranty fund--Payments--Assessments--Certificates of delinquency.

Every county adopting a water and/or sewerage general plan is hereby authorized to create a fund for the purpose of guaranteeing, to the extent of such fund, and in the manner hereinafter provided, the payment of all of its local improvement bonds issued, subsequent to May 19, 1981, to pay for any water or sewerage local improvement within its confines. Such fund shall be designated ". . . . County Local Improvement Guaranty Fund" and shall be established by resolution of the county legislative authority. For the purpose of maintaining such fund, every county, after the establishment thereof, shall at all times set aside and pay into such a

fund such proportion of the monthly gross revenues of the water and/or sewerage system of such county as the legislative authority thereof may direct by resolution. This proportion may be varied from time to time as the county legislative authority deems expedient or necessary, except that under the existence of the conditions set forth in subsections (1) and (2) of this section, the proportion must be as therein specified.

(1) Whenever any bonds of any local improvement district have been guaranteed under RCW 36.94.380 through 36.94.400 and the guaranty fund does not have a cash balance equal to five percent of all bonds originally guaranteed under this chapter (excluding issues which have been retired in full), then five percent of the gross monthly revenues derived from all water and sewer users in the territory included in that local improvement district (but not necessarily from users in other parts of the county as a whole) may be set aside and paid into the guaranty fund. Whenever, under the requirements of this subsection, the cash balance accumulates so that it is equal to five percent of all bonds guaranteed, or to the full amount of all bonds guaranteed, outstanding and unpaid (which amount might be less than five percent of the original total guaranteed), then no further moneys need be set aside and paid into the guaranty fund so long as that condition continues.

(2) Whenever any warrants issued against the guaranty fund, as provided in this section, remain outstanding and uncalled for lack of funds for six months from the date of issuance thereof; or whenever any coupons or bonds guaranteed under this chapter have been matured for six months and have not been redeemed either in cash or by issuance and delivery of warrants upon the guaranty fund, then five percent of the gross monthly revenues (or such portion thereof as the county legislative authority determines will be sufficient to retire those warrants or redeem those coupons or bonds in the ensuing six months) derived from all water and/or sewer users in the county shall be set aside and paid into the guaranty fund. Whenever under the requirements of this subsection all such warrants, coupons, or bonds have been redeemed, no further income need be set aside and paid into the guaranty fund under the requirements of this subsection until and unless other warrants remain outstanding and unpaid for six months or other coupons or bonds default.

(3) For the purpose of complying with the requirements of setting aside and paying into the local improvement guaranty fund a proportion of the monthly gross revenues of the water supply and/or sewerage system of any county, that county shall bind and obligate itself to maintain and operate such system and further bind and obligate itself to establish, maintain, and collect such rates for water as will provide gross revenues sufficient to maintain and operate such systems and to make necessary provision for the local improvement guaranty fund as specified by this section, and the county shall alter its rates for water or sewer service from time to time and shall vary the same in different portions of its territory to comply with those requirements.

(4) Whenever any coupon or bond guaranteed by RCW 36.94.380 through 36.94.400 matures and there is not sufficient funds in the appropriate local improvement district bond redemption fund to pay the coupon or bond, then the county treasurer shall pay the coupon or bond from the local improvement guaranty fund of the county; if there is not sufficient funds in the guaranty fund to pay the coupon or bond, then it may be paid by issuance and delivery of a warrant upon the local improvement guaranty fund.

(5) Whenever the cash balance in the local improvement guaranty fund is insufficient for the required purposes, warrants drawing interest of a rate fixed by the county legislative authority may be issued by the county auditor against the fund to meet any liability accrued against it and must be issued upon demand of the holders of any maturing coupons and/or bonds guaranteed by RCW 36.94.380 through 36.94.400, or to pay for any certificates of delinquency for delinquent installments of assessments as provided in subsection (6) of this section. Guaranty fund warrants shall be a first lien in their order of issuance upon the gross revenues set aside and paid into the guaranty fund.

(6) Within twenty days after the date of delinquency of any annual installment of assessments levied for the purpose of paying the local improvement bonds of any county guaranteed under the provisions of this chapter, the county treasurer shall compile a statement of all installments delinquent, together with the amount of accrued interest and penalty appurtenant to each of those installments. Thereupon the county treasurer shall forthwith purchase certificates of delinquency for all such delinquent installments. Payment for all such certificates of delinquency shall be made from the local improvement guaranty fund, and if there is not sufficient moneys in the fund to pay for such certificates of delinquency, the county treasurer shall accept the local improvement guaranty fund warrants in payment therefor. All such certificates of delinquency shall be issued in the name of the local improvement guaranty fund, and all guaranty fund warrants issued in payment therefor shall be issued in the name of the appropriate local improvement district fund. Whenever any market is available and the county legislative authority so directs, the county treasurer shall sell any certificates of delinquency belonging to the local improvement guaranty fund, but any such sale may not be for less than face value thereof plus accrued interest from the date of issuance to date of sale.

Such certificates of delinquency, as above provided, shall be issued by the county treasurer, shall bear interest at the rate of eight percent per annum, shall be in each instance for the face value of the delinquent installment, plus accrued interest to date of issuance of certificate of delinquency, plus a penalty of five percent of such face value, and shall set forth the:

- (a) Description of the property assessed;
- (b) Date the installment of the assessment became delinquent; and
- (c) Name of the owner or reputed owner, if known.

Such certificates of delinquency may be redeemed by the owners of the property assessed at any time up to two years from the date of foreclosure of such certificate of delinquency.

If any certificate of delinquency is not redeemed by the second occurring first day of January subsequent to its issuance, the county treasurer shall then proceed to foreclose such certificate of delinquency in the manner specified for the foreclosure of the lien of local improvement assessments, pursuant to the laws applicable to cities or towns; and if no redemption is made within the succeeding two years the treasurer shall execute and deliver a deed conveying fee simple title to the property described in the foreclosed certificate of delinquency.

[1981 c 313 § 7.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.94.390 Local improvement bonds--Local improvement guaranty fund--Subrogation--Interest--Purchase of real property at foreclosure sales.

Whenever there is paid out of a guaranty fund any sum on account of principal or interest upon the local improvement bond, or on account of purchase of certificates of delinquency, the county, as trustee for the fund, shall be subrogated to all rights of the holder of the bonds, or interest coupons, or delinquent assessment installments, so paid; and the proceeds thereof, or of the assessment or assessments underlying the same, shall become a part of the guaranty fund. There shall also be paid into each guaranty fund the interest received from the bank deposits of the fund, as well as any surplus remaining in the local improvement funds guaranteed under this chapter, after the payment of all outstanding bonds payable primarily out of such local improvement funds. As among the several issues of bonds guaranteed by the fund, no preference exists, but defaulted interest coupons and/or bonds shall be purchased out of the fund in the order of their presentation.

The legislative authority of every county operating under the provisions of RCW 36.94.380 through 36.94.400 shall by resolution prescribe appropriate rules for the guaranty fund, not inconsistent with this chapter. So much of the money of a guaranty fund as is necessary and is not required for other purposes under the terms of RCW 36.94.380 through 36.94.400 may, at the discretion of the county legislative authority, be used to purchase property at county tax foreclosure sales or from the county after foreclosure in cases where such property is subject to unpaid local improvement assessments securing bonds guaranteed under this chapter and such purchase is deemed necessary for the purpose of protecting the guaranty fund. In such cases the fund shall be subrogated to all rights of the county. After so acquiring title to real property, the county may lease or resell and convey the property in the manner that county property is authorized to be leased or resold and for such prices and on such terms as may be determined by resolution of the county legislative authority. Any provision of law to the contrary notwithstanding, all proceeds resulting from such resales belong to and shall be paid into the guaranty fund.

[1981 c 313 § 8.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.94.400 Local improvement bonds--Local improvement guaranty fund--Claims by bondholders--Transfer of cash balance to water and/or sewer maintenance fund.

Neither the holder nor the owner of any local improvement bonds guaranteed under the provisions of RCW 36.94.380 through 36.94.400 has any claim therefor against the county by

which the bonds are issued, except for payment from the special assessments made for the improvement for which the local improvement bonds were issued, and except as against the local improvement guaranty fund of the county; and the county is not liable to any holder or owner of such local improvement bond for any loss to the guaranty fund occurring in the lawful operation thereof by the county. The remedy of the holder or owner of a local improvement bond, in the case of nonpayment, is confined to the enforcement of the assessment and to the guaranty fund. A copy of the foregoing part of this section shall be plainly written, printed, or engraved on each local improvement bond guaranteed by RCW 36.94.380 through 36.94.400. The establishment of a local improvement guaranty fund by any county shall not be deemed at variance from any water and/or sewerage general plan or amendment thereto heretofore adopted by such county.

If any local improvement guaranty fund authorized under RCW 36.94.380 through 36.94.400 at any time has a cash balance, and the obligations guaranteed thereby have all been paid off, then such balance shall be transferred to the water and/or sewer maintenance fund of the county.

[1981 c 313 § 9.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 36.94.410 Transfer of system from county to water-sewer district.

A system of sewerage, system of water or combined water and sewerage systems operated by a county under the authority of this chapter may be transferred from that county to a water-sewer district in the same manner as is provided for the transfer of those functions from a water-sewer district to a county in RCW 36.94.310 through 36.94.340.

[1999 c 153 § 51; 1984 c 147 § 1.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Actions not subject to review by boundary review board: RCW 36.93.105.

RCW 36.94.420 Transfer of system from county to water-sewer district--Annexation--Hearing--Public notice--Operation of system.

If so provided in the transfer agreement, the area served by the system shall, upon completion of the transfer, be deemed annexed to and become a part of the water-sewer district acquiring the system. The county shall provide notice of the hearing by the county legislative authority on the ordinance executing the transfer agreement under RCW 36.94.330 as follows: (1) By mailed notice to all ratepayers served by the system at least fifteen days prior to the hearing; and (2) by notice in a newspaper of general circulation once at least fifteen days prior to the hearing.

In the event of an annexation under this section resulting from the transfer of a system of sewerage, a system of water, or combined water and sewer systems from a county to a

water-sewer district, the water-sewer district shall operate the system or systems under the provisions of Title 57 RCW.

[1999 c 153 § 52; 1996 c 230 § 1609; 1985 c 141 § 1; 1984 c 147 § 2.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

RCW 36.94.430 Transfer of system from county to water-sewer district--Alternative method.

The provisions of RCW 36.94.410 and 36.94.420 provide an alternative method of accomplishing the transfer permitted by those sections and do not impose additional conditions upon the exercise of powers vested in water-sewer districts and counties.

[1999 c 153 § 49; 1984 c 147 § 3.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 36.94.440 Transfer of system from county to water-sewer district--Decree by superior court.

If the superior court finds that the transfer agreement authorized by RCW 36.94.410 is legally correct and that the interests of the owners of related indebtedness are protected, then the court by decree shall direct that the transfer be accomplished in accordance with the agreement.

[1984 c 147 § 4.]

RCW 36.94.450 Water conservation programs--Issuance of revenue bonds.

A county engaged in the sale or distribution of water may issue revenue bonds, or other evidence of indebtedness in the manner provided by this chapter for the purpose of defraying the cost of financing programs for the conservation or more efficient use of water. The bonds or other evidence of indebtedness shall be deemed to be for capital purposes.

[1992 c 25 § 2.]

RCW 36.94.460 Water conservation programs--Counties authorized to provide assistance to water customers.

Any county engaged in the sale or distribution of water is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures that are provided water service by the county in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the county if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly

new water source available to the county to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the county, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with [the] use charge or separately. Loans shall not exceed one hundred twenty months in length.

[1992 c 25 § 3.]

RCW 36.94.470 Storm or surface water drains or facilities--Annexation, incorporation of area by city or town--Imposition of rates and charges by county.

Whenever a city or town annexes an area, or a city or town incorporates an area, and the county has issued revenue bonds or general obligation bonds to finance storm or surface water drains or facilities that are payable in whole or in part from rates or charges imposed in the area, the county shall continue imposing all portions of the rates or charges that are allocated to payment of the debt service on bonds in that area after the effective date of the annexation or official date of the incorporation until: (1) The debt is retired; (2) any debt that is issued to refinance the underlying debt is retired; or (3) the city or town reimburses the county amount that is sufficient to retire that portion of the debt borne by the annexed or incorporated area. The county shall construct all facilities included in the storm water plan intended to be financed by the proceeds of such bonds. If the county provides storm water management services to the city or town by contract, the contract shall consider the value of payments made by property owners to the county for the payment of debt service.

The provisions of this section apply whether or not the bonds finance facilities that are geographically located within the area that is annexed or incorporated.

[1993 c 361 § 2.]

RCW 36.94.480 Assumption of substandard water system--Limited immunity from liability.

A county assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on noncompliance with state or federal requirements for public drinking water systems, which predate the date of assuming responsibility and continue after the date of assuming responsibility, provided that the county has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

[1994 c 292 § 7.]

Notes:

Findings--Intent--1994 c 292: See note following RCW 57.04.050.

RCW 36.94.900 Declaration of purpose.

This chapter is hereby declared to be necessary for the public peace, health, safety and welfare and declared to be a county purpose and that the bonds and special assessments authorized hereby are found to be for a public purpose.

[1967 c 72 § 33.]

RCW 36.94.910 Authority--Liberal construction of chapter--Modification of inconsistent acts.

This chapter shall be complete authority for the establishment, construction and operation and maintenance of a system or systems of sewerage and/or water hereby authorized, and shall be liberally construed to accomplish its purpose. Any act inconsistent herewith shall be deemed modified to conform with the provisions of this chapter for the purpose of this chapter only.

[1967 c 72 § 31.]

RCW 36.94.920 Severability--1967 c 72.

If any portion of this chapter as now or hereafter amended, or its application to any person or circumstances, is held invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or any section, provision or part thereof not adjudged to be invalid or unconstitutional, and its application to other persons or circumstances shall not be affected.

[1967 c 72 § 32.]

RCW 36.94.921 Severability--1975 1st ex.s. c 188.

If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances shall not be affected.

[1975 1st ex.s. c 188 § 13.]

**Chapter 36.95 RCW
TELEVISION RECEPTION IMPROVEMENT DISTRICTS**

Sections

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RCW 36.95.010 Purpose.

The purposes of a television reception improvement district, hereinafter referred to in this chapter as "district", shall be to serve the public interest, convenience, and necessity in the construction, maintenance, and operation of television and FM radio translator stations, including appropriate electric or electronic devices for increasing television program distribution, but said purposes are not meant to include the construction or operation of television cable systems, commonly known and referred to as cable TV systems or CATV.

[1985 c 76 § 1; 1971 ex.s. c 155 § 1.]

RCW 36.95.020 Boundaries--Territory excluded.

A district's boundary may include any part or all of any county and may include any part or all of any incorporated area located within the county. A district's boundary may not include any territory already being served by a cable TV system (CATV) unless on August 9, 1971, there is a translator station retransmitting television signals to such territory.

[1991 c 363 § 98; 1971 ex.s. c 155 § 2.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.95.030 Petition to form--Contents.

A petition to form a district may be presented to the board of county commissioners and such petition shall include: (1) A description of the purposes of the petition; (2) a description of the purposes and powers of the proposed district; (3) a description of the boundaries of the proposed district; and (4) the signatures of more than fifty percent of the registered voters residing within the boundaries of the proposed district.

[1971 ex.s. c 155 § 3.]

RCW 36.95.040 Notice of text of petition, meeting where will be considered.

If the board of county commissioners, with the assistance of other appropriate county officers, finds the petition filed under RCW 36.95.030 satisfies the requirements of that section, it shall cause the text of the petition to be published once a week for at least three consecutive weeks in a newspaper of general circulation within the county where the petition is presented. With the publication of the petition there shall be published a notice of the time, date, and place of the public meeting of the county commissioners when the petition will be considered, stating that persons interested may appear and be heard.

[1971 ex.s. c 155 § 4.]

RCW 36.95.050 Resolution creating district.

If after the public meeting or meetings on the petition, the board of county commissioners finds that creation of the proposed district would serve the public interest, the board shall adopt a resolution granting the petition and creating the district. Prior to adoption however, the board may amend the petition in the interest of carrying out the purposes of this chapter.

[1971 ex.s. c 155 § 5.]

RCW 36.95.060 District board--Duties--How constituted--Quorum--Officers--Filling vacancies.

The business of the district shall be conducted by the board of the television reception improvement district, hereinafter referred to as the "board". The board shall be constituted as provided under either subsection (1) or (2) of this section.

(1) The board of a district having boundaries different from the county's shall have either three, five, seven, or nine members, as determined by the board of county commissioners at the time the district is created. Each member shall reside within the boundaries of the district and shall be appointed by the board of county commissioners for a term of three years, or until his or her successor has qualified, except that the board of county commissioners shall appoint one of the members of the first board to a one-year term and two to two-year terms. There is no limit upon the number of terms to which a member may be reappointed after his or her first appointment. A majority of the members of the board shall constitute a quorum for the transaction of business, but the majority vote of the board members shall be necessary for any action taken by the board. The board shall elect from among its members a chairman and such other officers as may be necessary. In the event a seat on the board is vacated prior to the expiration of the term of the member appointed to such seat, the board of county commissioners shall appoint a person to complete the unexpired term.

(2) Upon the creation of a district having boundaries identical to those of the county (a county-wide district), the county commissioners shall be the members of the board of the district and shall have all the powers and duties of the board as provided under the other sections of this chapter. The county commissioners shall be reimbursed pursuant to the provisions of RCW 36.95.070, and shall conduct the business of the district according to the regular rules and procedures applicable to meetings of the board of county commissioners.

[1992 c 150 § 1; 1971 ex.s. c 155 § 6.]

RCW 36.95.070 District board--Reimbursement of members for expenses.

Members of the board shall receive no compensation for their services, but shall be reimbursed from district funds for any actual and necessary expenses incurred by them in the performance of their official duties.

[1971 ex.s. c 155 § 7.]

RCW 36.95.080 List of television set owners.

The board shall, on or before the first day of July of any given year, ascertain and prepare a list of all persons believed to own television sets within the district and deliver a copy of such list to the county treasurer.

[1988 c 222 § 1; 1981 c 52 § 1; 1971 ex.s. c 155 § 8.]

RCW 36.95.090 County budget provisions applicable to district--Financing budget.

The provisions of chapter 36.40 RCW, relating to budgets, shall apply to the district. The

budget of the district shall be financed by an excise tax imposed by the board, and described in RCW 36.95.100.

[1971 ex.s. c 155 § 9.]

RCW 36.95.100 Tax levied--Maximum--Exemptions.

The tax provided for in RCW 36.95.090 and this section shall not exceed sixty dollars per year per television set, and no person shall be taxed for more than one television set, except that a motel or hotel or any person owning in excess of five television sets shall pay at a rate of one-fifth of the annual tax rate imposed for each of the first five television sets and one-tenth of such rate for each additional set thereafter. An owner of a television set within the district shall be exempt from paying any tax on such set under this chapter: (1) If either (a) his television set does not receive at least a class grade B contour signal retransmitted by the television translator station or other similar device operated by the district, as such class is defined under regulations of the Federal Communications Commission as of August 9, 1971, or (b) he is currently subscribing to and receiving the services of a community antenna system (CATV) to which his television set is connected; and (2) if he filed a statement with the board claiming his grounds for exemption. Space for such statement shall be provided for in the tax notice which the treasurer shall send to taxpayers in behalf of the district.

[1981 c 52 § 2; 1975 c 11 § 1; 1971 ex.s. c 155 § 10.]

RCW 36.95.110 Liability for delinquent tax and costs.

Any person owing the excise tax provided for under this chapter and who fails to pay the same within sixty days after the board or the county treasurer has sent the tax bill to him, shall be deemed to be delinquent. Such person shall be liable for all costs to the county or district attributable to collecting the tax but no such excise tax or costs, nor any judgment based thereon, shall be deemed to create a lien against real property.

[1981 c 52 § 3; 1971 ex.s. c 155 § 11.]

RCW 36.95.120 Prorating tax.

The board may adopt rules providing for prorating of tax bills for persons who have not owned a television set within the district for a full tax year.

[1971 ex.s. c 155 § 12.]

RCW 36.95.130 District board--Powers generally.

In addition to other powers provided for under this chapter, the board shall have the following powers:

- (1) To perform all acts necessary to assure that the purposes of this chapter will be

carried out fairly and efficiently;

(2) To acquire, build, construct, repair, own, maintain, and operate any necessary stations retransmitting visual and aural signals intended to be received by the general public, relay stations, pick-up stations, or any other electrical or electronic system necessary: PROVIDED, That the board shall have no power to originate programs;

(3) To make contracts to compensate any owner of land or other property for the use of such property for the purposes of this chapter;

(4) To make contracts with the United States, or any state, municipality, or any department or agency of those entities for carrying out the general purposes for which the district is formed;

(5) To acquire by gift, devise, bequest, lease, or purchase real and personal property, tangible or intangible, including lands, rights of way, and easements, necessary or convenient for its purposes;

(6) To make contracts of any lawful nature (including labor contracts or those for employees' benefits), employ engineers, laboratory personnel, attorneys, other technical or professional assistants, and any other assistants or employees necessary to carry out the provisions of this chapter;

(7) To contract indebtedness or borrow money and to issue warrants or bonds to be paid from district revenues: PROVIDED, That the bonds, warrants, or other obligations may be in any form, including bearer or registered as provided in RCW 39.46.030: PROVIDED FURTHER, That such warrants and bonds may be issued and sold in accordance with chapter 39.46 RCW;

(8) To prescribe tax rates for the providing of services throughout the area in accordance with the provisions of this chapter; and

(9) To apply for, accept, and be the holder of any permit or license issued by or required under federal or state law.

[1985 c 76 § 2; 1983 c 167 § 102; 1980 c 100 § 2; 1971 ex.s. c 155 § 13.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.95.140 Signals district may utilize.

A district may translate or retransmit only those signals which originate from commercial and educational FM radio stations and commercial and educational television stations which directly provide, within some portion of the state of Washington, a class A grade or class B grade contour, as such classes are defined under regulations of the Federal Communications Commission as of August 9, 1971.

[1985 c 76 § 3; 1971 ex.s. c 155 § 14.]

RCW 36.95.150 Claims against district board--Procedure upon allowance.

Any claim against the district shall be presented to the board. Upon allowance of the

claim, the board shall submit a voucher, signed by the chairman and one other member of the board, to the county auditor for the issuance of a warrant in payment of said claim. This procedure for payment of claims shall apply to the reimbursement of board members for their actual and necessary expenses incurred by them in the performance of their official duties.

[1971 ex.s. c 155 § 15.]

RCW 36.95.160 District treasurer--Duties--District warrants.

The treasurer of the county in which a district is located shall be ex officio treasurer of the district. The treasurer shall collect the excise tax provided for under this chapter and shall send notice of payment due to persons owing the tax: PROVIDED, That districts with fewer than twelve hundred persons subject to the excise tax and levying an excise tax of forty dollars or more per television set per year shall have the option of having the district (1) send the tax notices bimonthly, and (2) collect the excise taxes which shall then be forwarded to the county treasurer for deposit in the district account. There shall be deposited with him all funds of the district. All district payments shall be made by him from such funds upon warrants issued by the county auditor, except the sums to be paid out of any bond fund for principal and interest payments on bonds. All warrants shall be paid in the order of issuance. The treasurer shall report monthly to the board, in writing, the amount in the district fund or funds.

[1983 c 167 § 103; 1981 c 52 § 4; 1971 ex.s. c 155 § 16.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 36.95.180 Costs of county officers reimbursed.

The board shall reimburse the county auditor, assessor, and treasurer for the actual costs of services performed by them in behalf of the district.

[1971 ex.s. c 155 § 18.]

RCW 36.95.190 Penalty for false statement as to tax exemption.

Any person who shall knowingly make a false statement for exemption from the tax provided under this chapter shall be guilty of a misdemeanor.

[1971 ex.s. c 155 § 19.]

RCW 36.95.200 Dissolution of district by resolution--Disposition of property.

If the board of county commissioners finds, following a public hearing or hearings, that the continued existence of a district would no longer serve the purposes of this chapter, it may by resolution order the district dissolved. If there is any property owned by the district at the time of dissolution, the board of county commissioners shall have such property sold pursuant to the provisions of chapter 36.34 RCW, as now law or hereafter amended. The proceeds from such

sale shall be applied to the county current expense fund.

[1971 ex.s. c 155 § 20.]

RCW 36.95.210 District may not be formed to operate certain translator stations.

No television reception improvement district may be formed to operate and maintain any translator station presently or previously owned, operated or maintained by a television broadcaster.

[1971 ex.s. c 155 § 21.]

RCW 36.95.900 Severability--1971 ex.s. c 155.

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

[1971 ex.s. c 155 § 22.]

**Chapter 36.96 RCW
DISSOLUTION OF INACTIVE SPECIAL PURPOSE DISTRICTS**

Sections

36.96.010	Definitions.
36.96.020	County auditor to notify county legislative authority of inactive special purpose districts.
36.96.030	Determination of inactive special purpose districts--Public hearing--Notice.
36.96.040	Dissolution of inactive special purpose district by county legislative authority--Written findings.
36.96.050	Application for writ of prohibition or mandamus by interested party--Procedure.
36.96.060	Dissolution of inactive special purpose district by county legislative authority--Powers and duties.
36.96.070	Dissolved special purpose district--Disposition of property.
36.96.080	Dissolved special purpose district--Satisfaction of outstanding obligations.
36.96.090	Filing of annual statement by special purpose districts--Duties of county auditor.
36.96.800	Alternative dissolution procedure--Drainage and drainage improvement districts--Conditions.
36.96.900	Chapter not exclusive.
36.96.910	Savings--1979 ex.s. c 5.
36.96.920	Severability--1979 ex.s. c 5.

RCW 36.96.010 Definitions.

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

(1) "Special purpose district" means every municipal and quasi-municipal corporation other than counties, cities, and towns. Such special purpose districts shall include, but are not limited to, water-sewer districts, fire protection districts, port districts, public utility districts, county park and recreation service areas, flood control zone districts, diking districts, drainage improvement districts, and solid waste collection districts, but shall not include industrial development districts created by port districts, and shall not include local improvement districts,

utility local improvement districts, and road improvement districts;

(2) "Governing authority" means the commission, council, or other body which directs the affairs of a special purpose district;

(3) "Inactive" means that a special purpose district, other than a public utility district, is characterized by either of the following criteria:

(a) Has not carried out any of the special purposes or functions for which it was formed within the preceding consecutive five-year period; or

(b) No election has been held for the purpose of electing a member of the governing body within the preceding consecutive seven-year period or, in those instances where members of the governing body are appointed and not elected, where no member of the governing body has been appointed within the preceding seven-year period.

A public utility district is inactive when it is characterized by both criteria (a) and (b) of this subsection.

[1999 c 153 § 50; 1979 ex.s. c 5 § 1.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 36.96.020 County auditor to notify county legislative authority of inactive special purpose districts.

On or before June 1st of 1980, and on or before June 1st of every year thereafter, each county auditor shall search available records and notify the county legislative authority if any special purpose districts located wholly or partially within the county appear to be inactive. Each county auditor shall also provide in the notifications made in 1982 and thereafter a list of all special purpose districts located wholly or partially within the county which, for three consecutive years before the notification, have failed to file statements with the county auditor as required in RCW 36.96.090. If the territory of any special purpose district is located within more than one county, the legislative authorities of all other counties within whose boundaries such a special purpose district lies shall also be notified by the county auditor. However, the authority to dissolve such a special purpose district as provided by this chapter shall rest solely with the legislative authority of the county which contains the greatest geographic portion of such special purpose district.

[1979 ex.s. c 5 § 2.]

RCW 36.96.030 Determination of inactive special purpose districts--Public hearing--Notice.

(1) Upon receipt of notice from the county auditor as provided in RCW 36.96.020, the county legislative authority within whose boundaries all or the greatest portion of such special purpose district lies shall hold one or more public hearings on or before September 1st of the same year to determine whether or not such special purpose district or districts meet either of the criteria for being "inactive" as provided in RCW 36.96.010: PROVIDED, That if such a special

purpose district is a public utility district, the county legislative authority shall determine whether or not the public utility district meets both criteria of being "inactive" as provided in RCW 36.96.010. In addition, at any time a county legislative authority may hold hearings on the dissolution of any special purpose district that appears to meet the criteria of being "inactive" and dissolve such a district pursuant to the proceedings provided for in RCW 36.96.030 through 36.96.080.

(2) Notice of such public hearings shall be given by publication at least once each week for not less than three successive weeks in a newspaper that is in general circulation within the boundaries of the special purpose district or districts. Notice of such hearings shall also be mailed to each member of the governing authority of such special purpose districts, if such members are known, and to all persons known to have claims against any of the special purpose districts. Notice of such public hearings shall be posted in at least three conspicuous places within the boundaries of each special purpose district that is a subject of such hearings. Whenever a county legislative authority that is conducting such a public hearing on the dissolution of one or more of a particular kind of special purpose district is aware of the existence of an association of such special purpose districts, it shall also mail notice of the hearing to the association. In addition, whenever a special purpose district that lies in more than one county is a subject of such a public hearing, notice shall also be mailed to the legislative authorities of all other counties within whose boundaries the special purpose district lies. All notices shall state the purpose, time, and place of such hearings, and that all interested persons may appear and be heard.

[1979 ex.s. c 5 § 3.]

RCW 36.96.040 Dissolution of inactive special purpose district by county legislative authority--Written findings.

After such hearings, the county legislative authority shall make written findings whether each of the special purpose districts that was a subject of the hearings meets each of the criteria of being "inactive." Whenever a special purpose district other than a public utility district has been found to meet a criterion of being inactive, or a public utility district has been found to meet both criteria of being inactive, the county legislative authority shall adopt an ordinance dissolving the special purpose district if it also makes additional written findings detailing why it is in the public interest that the special purpose district be dissolved, and shall provide a copy of the ordinance to the county treasurer. Except for the purpose of winding up its affairs as provided by this chapter, a special purpose district that is so dissolved shall cease to exist and the authority and obligation to carry out the purposes for which it was created shall cease thirty-one days after adoption of the dissolution ordinance.

[2001 c 299 § 12; 1979 ex.s. c 5 § 4.]

RCW 36.96.050 Application for writ of prohibition or mandamus by interested party--Procedure.

The action of the county legislative authority dissolving a special purpose district pursuant to RCW 36.96.040 shall be final and conclusive unless within thirty days of the adoption of the ordinance an interested party makes application to a court of competent jurisdiction for a writ of prohibition or writ of mandamus. At the hearing upon such a writ, the applicant shall have the full burden of demonstrating that the particular special purpose district, other than a public utility district, does not meet either of the criteria of being inactive or that it is not in the public interest that the special purpose district be dissolved: PROVIDED, That where the particular special purpose district subject to the dissolution proceedings is a public utility district, the applicant shall have the full burden of demonstrating that the public utility district either does not meet both the criteria of being inactive or that it is not in the public interest to dissolve the public utility district.

[1979 ex.s. c 5 § 5.]

RCW 36.96.060 Dissolution of inactive special purpose district by county legislative authority--Powers and duties.

For the sole and exclusive purpose of winding up the affairs of a dissolved special purpose district, the county legislative authority, acting as a board of trustees, shall have the same powers and duties as the governing authority of the dissolved special purpose district including the following:

- (1) To exchange, sell, or otherwise dispose of all property, real and personal, of the dissolved special purpose district; and
- (2) To settle all obligations of such special purpose district. Such powers and duties shall commence upon the effective date of dissolution and shall continue thereafter until such time as the affairs of the dissolved special purpose district have been completely wound up.

[1979 ex.s. c 5 § 6.]

RCW 36.96.070 Dissolved special purpose district--Disposition of property.

Any moneys or funds of the dissolved special purpose district and any moneys or funds received by the board of trustees from the sale or other disposition of any property of the dissolved special purpose district shall be used, to the extent necessary, for the payment or settlement of any outstanding obligations of the dissolved special purpose district. Any remaining moneys or funds shall be used to pay the county legislative authority for all costs and expenses incurred in the dissolution and liquidation of the dissolved special purpose district. Thereafter, any remaining moneys, funds, or property shall become that of the county in which the dissolved special purpose district was located. However, if the territory of the dissolved special purpose district was located within more than one county, the remaining moneys, funds, and personal property shall be apportioned and distributed to each county in the proportion that the geographical area of the dissolved special purpose district within the county bears to the total geographical area of the dissolved special purpose district, and any remaining real property or improvements to real property shall be transferred to the county within whose boundaries it lies.

A county to which real property or improvements to real property are transferred under this section does not have an obligation to use the property or improvements for the purposes for which the dissolved special purpose district used the property or improvements and the county does not assume the obligations or liabilities of the dissolved special purpose district as a result of the transfer.

[2001 c 299 § 13; 1979 ex.s. c 5 § 7.]

RCW 36.96.080 Dissolved special purpose district--Satisfaction of outstanding obligations.

If the proceeds from the sale of any property of the special district together with any moneys or funds of the special purpose district are insufficient to satisfy the outstanding obligations of the special purpose district, the county legislative authority, acting as a board of trustees, shall exercise any and all powers conferred upon it to satisfy such outstanding obligations: PROVIDED, That in no case shall the board of trustees be obligated to satisfy such outstanding obligations from county moneys, funds, or other sources of revenue unless it would have been so obligated before initiation of the dissolution proceedings under this chapter.

[1979 ex.s. c 5 § 8.]

RCW 36.96.090 Filing of annual statement by special purpose districts--Duties of county auditor.

(1) Every special purpose district shall file a statement with the auditor of each county in which it lies on or before December 31st of every year, beginning in the year 1979. The initial statement filed by each special purpose district shall contain the following information:

- (a) The name of the special purpose district and a general description of its location and geographical area within the county and within any other county;
- (b) The statutes under which the special purpose district operates;
- (c) The name, address, telephone number, and remaining term of office of each member of its governing authority; and
- (d) The functions that the special purpose district is then presently performing and the purposes for which it was created.

Subsequent annual statements need only identify the special purpose district and any of the above detailed information that has changed in the last year.

(2) Each county auditor, on or before January 31, 1980, and on or before January 31st each year thereafter, shall forward to the state auditor a summation of the information contained in the statements required to be filed in subsection (1) of this section together with information of each special purpose district located wholly or partially within the county that has been dissolved during the preceding year.

[1979 ex.s. c 5 § 9.]

RCW 36.96.800 Alternative dissolution procedure--Drainage and drainage improvement districts--Conditions.

As an alternative to this chapter a drainage district or drainage improvement district located within the boundaries of a county storm drainage and surface water management utility, and which is not currently imposing assessments, may be dissolved by ordinance of the county legislative authority. If the alternative dissolution procedure in this section is used the following shall apply:

(1) The county storm drainage and surface water management utility shall assume responsibility for payment or settlement of outstanding debts of the dissolved drainage district or drainage improvement district.

(2) All assets, including money, funds, improvements, or property, real or personal, shall become assets of the county in which the dissolved drainage district or drainage improvement district was located.

(3) Notwithstanding RCW 85.38.220, the county storm drainage and surface water management utility may determine how to best manage, operate, maintain, improve, exchange, sell, or otherwise dispose of all property, real and personal, of the dissolved drainage district or drainage improvement district.

[1991 c 28 § 1.]

RCW 36.96.900 Chapter not exclusive.

The provisions of this chapter to dissolve inactive special purpose districts shall not be exclusive, and shall be in addition to any other method or methods provided by law to dissolve a special purpose district.

[1979 ex.s. c 5 § 10.]

RCW 36.96.910 Savings--1979 ex.s. c 5.

The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on September 1, 1979.

[1979 ex.s. c 5 § 11.]

RCW 36.96.920 Severability--1979 ex.s. c 5.

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

[1979 ex.s. c 5 § 15.]

**Chapter 36.100 RCW
PUBLIC FACILITIES DISTRICTS**

Sections

36.100.010	Public facilities districts--Creation--Approval of taxes by election--Corporate powers--Property transfer.
36.100.020	Governance--Board of directors.
36.100.030	Facilities--Agreements--Fees.
36.100.035	Additional powers and restrictions on district that constructs baseball stadium.
36.100.036	Donated moneys for baseball stadium.
36.100.037	Baseball stadium construction agreement.
36.100.040	Excise tax imposed in public facilities districts--Hotel, motel, rooming house, trailer camp, etc. charges--Ballot proposition--Rate.
36.100.050	Ad valorem property tax.
36.100.060	General obligation bonds--Termination, reauthorization of excise tax.
36.100.070	Acquisition and transfer of real and personal property.
36.100.080	Direct or collateral attack barred after thirty days.
36.100.090	Tax deferral--New public facilities.
36.100.100	Ex officio treasurer.
36.100.110	Travel, expense reimbursement policy--Required.
36.100.120	Travel, expense reimbursement policy--Limitations.
36.100.130	Board of directors--Compensation.
36.100.140	Liability insurance.
36.100.150	Costs of defense.
36.100.160	Expenditure of funds--Purposes.
36.100.170	Employees--Benefits.
36.100.180	Service provider agreements.
36.100.190	Purchases and sales--Procedures.
36.100.200	Revenue bonds--Limitations.
36.100.210	Tax on admissions.
36.100.220	Tax on vehicle parking charges.
36.100.900	Severability--1988 ex.s. c 1.

Notes:

Changes in tax law--Liability: RCW 82.08.064, 82.14.055, and 82.32.430.

Sales and use tax for public facilities districts: RCW 82.14.048.

Sales and use tax imposed by public facilities districts for regional centers: RCW 82.14.390.

RCW 36.100.010 Public facilities districts--Creation--Approval of taxes by election--Corporate powers--Property transfer.

(1) A public facilities district may be created in any county and shall be coextensive with the boundaries of the county.

(2) A public facilities district shall be created upon adoption of a resolution providing for the creation of such a district by the county legislative authority in which the proposed district is located.

(3) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(4) No taxes authorized under this chapter may be assessed or levied unless a majority of the voters of the public facilities district has approved such tax at a general or special election. A single ballot proposition may both validate the imposition of the sales and use tax under RCW 82.14.048 and the excise tax under RCW 36.100.040.

(5) A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) The county legislative authority or the city council may transfer property to the public facilities district created under this chapter. No property that is encumbered with debt or that is in need of major capital renovation may be transferred to the district without the agreement of the district and revenues adequate to retire the existing indebtedness.

[1995 3rd sp.s. c 1 § 301; 1995 1st sp.s. c 14 § 1; 1995 c 396 § 1; 1989 1st ex.s. c 8 § 1; 1988 ex.s. c 1 § 11.]

Notes:

Part headings not law--Effective date--1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

Severability--1995 1st sp.s. c 14: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 1st sp.s. c 14 § 12.]

Effective dates--1995 1st sp.s. c 14: "(1) Sections 1 through 9 and 11 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995.

(2) Sections 10 and 12 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [June 14, 1995]." [1995 1st sp.s. c 14 § 13.]

Severability--1995 c 396: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 396 § 19.]

RCW 36.100.020 Governance--Board of directors.

(1) A public facilities district shall be governed by a board of directors consisting of five or seven members as provided in this section. If the largest city in the county has a population that is at least forty percent of the total county population, the board of directors of the public facilities district shall consist of five members selected as follows: (a) Two members appointed by the county legislative authority to serve for four-year staggered terms; (b) two members appointed by the city council of the largest city in the county to serve for four-year staggered terms; and (c) one person to serve for a four-year term who is selected by the other directors. If the largest city in the county has a population of less than forty percent of the total county population, the county legislative authority shall establish in the resolution creating the public facilities district whether the board of directors of the public facilities district has either five or

seven members, and the county legislative authority shall appoint the members of the board of directors to reflect the interests of cities and towns in the county, as well as the unincorporated area of the county. However, if the county has a population of one million or more, the largest city in the county has a population of less than forty percent of the total county population, and the county operates under a county charter, which provides for an elected county executive, three members shall be appointed by the governor and the remaining members shall be appointed by the county executive subject to confirmation by the county legislative authority. Of the members appointed by the governor, the speaker of the house of representatives and the majority leader of the senate shall each recommend to the governor a person to be appointed to the board.

(2) At least one member on the board of directors shall be representative of the lodging industry in the public facilities district before the public facilities district imposes the excise tax under RCW 36.100.040.

(3) Members of the board of directors shall serve four-year terms of office, except that two of the initial five board members or three of the initial seven board members shall serve two-year terms of office.

(4) A vacancy shall be filled in the same manner as the original appointment was made and the person appointed to fill a vacancy shall serve for the remainder of the unexpired term of the office for the position to which he or she was appointed.

(5) A director appointed by the governor may be removed from office by the governor. Any other director may be removed from office by action of at least two-thirds of the members of the legislative authority which made the appointment.

[1995 3rd sp.s. c 1 § 302; 1995 1st sp.s. c 14 § 2; 1995 c 396 § 2; 1989 1st ex.s. c 8 § 2; 1988 ex.s. c 1 § 12.]

Notes:

Part headings not law--Effective date--1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

Severability--Effective dates--1995 1st sp.s. c 14: See notes following RCW 36.100.010.

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.030 Facilities--Agreements--Fees.

(1) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, and operate sports facilities, entertainment facilities, convention facilities, or regional centers as defined in RCW 35.57.020, together with contiguous parking facilities. The taxes that are provided for in this chapter may only be imposed for these purposes.

(2) A public facilities district may enter into agreements under chapter 39.34 RCW for the joint provision and operation of such facilities and may enter into contracts under chapter 39.34 RCW where any party to the contract provides and operates such facilities for the other party or parties to the contract.

(3) Notwithstanding the establishment of a career, civil, or merit service system, a public facility [facilities] district may contract with a public or private entity for the operation or management of its public facilities.

(4) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design,

construction, reconstruction, remodel, or alteration of any of its public facilities.

(5) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations.

[1999 c 165 § 16; 1995 1st sp.s. c 14 § 3; 1995 c 396 § 3; 1989 1st ex.s. c 8 § 3; 1988 ex.s. c 1 § 13.]

Notes:

Severability--1999 c 164: See RCW 35.57.900.

Severability--Effective dates--1995 1st sp.s. c 14: See notes following RCW 36.100.010.

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.035 Additional powers and restrictions on district that constructs baseball stadium.

In addition to other powers and restrictions on a public facilities district, the following shall apply to a public facilities district, located in a county with a population of one million or more, that constructs a baseball stadium:

(1) The public facilities district, in consultation with the professional baseball team that will use the stadium, shall have the authority to determine the stadium site;

(2) The public facilities district, in consultation with the professional baseball team that will use the stadium, shall have the authority to establish the overall scope of the stadium project, including, but not limited to, the stadium itself, associated parking facilities, associated retail and office development that are part of the stadium facility, and ancillary services or facilities;

(3) The public facilities district, in consultation with the professional baseball team that will use the stadium, shall have the final authority to make the final determination of the stadium design and specifications;

(4) The public facilities district shall have the authority to contract with the baseball team that will use the stadium to obtain architectural, engineering, environmental, and other professional services related to the stadium site and design options, environmental study requirements, and obtaining necessary permits for the stadium facility;

(5) The public facilities district, in consultation with the professional baseball team that will use the stadium, shall have the authority to establish the project budget and bidding specifications and requirements on the stadium project;

(6) The public facilities district, in consultation with the professional baseball team that will use the stadium and the county in which the public facilities district is located, shall have the authority to structure the financing of the stadium facility project; and

(7) The public facilities district shall consult with the house of representatives executive rules committee and the senate facilities and operations committee before selecting a name for the stadium.

As used in this section, "stadium" and "baseball stadium" mean a "baseball stadium" as defined in RCW 82.14.0485.

[1995 3rd sp.s. c 1 § 303.]

Notes:

Part headings not law--Effective date--1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

RCW 36.100.036 Donated moneys for baseball stadium.

A public facilities district may accept and expend moneys that may be donated for the purpose of a baseball stadium as defined in RCW 82.14.0485.

[1995 3rd sp.s. c 1 § 304.]

Notes:

Part headings not law--Effective date--1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

RCW 36.100.037 Baseball stadium construction agreement.

The public facilities district, the county, and the city with the largest population in the county shall enter into an agreement regarding the construction of a baseball stadium as defined in RCW 82.14.0485. The agreement shall address, but not be limited to:

- (1) Expedited permit processing for the design and construction of the project;
- (2) Expedited environmental review processing;
- (3) Expedited processing of requests for street, right of way, or easement vacations necessary for the construction of the project; and
- (4) Other items deemed necessary for the design and construction of the project.

[1995 3rd sp.s. c 1 § 308.]

Notes:

Part headings not law--Effective date--1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

RCW 36.100.040 Excise tax imposed in public facilities districts--Hotel, motel, rooming house, trailer camp, etc. charges--Ballot proposition--Rate.

A public facilities district may impose an excise tax on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than forty lodging units. However, if a public facilities district has not imposed such an excise tax prior to December 31, 1995, the public facilities district may only impose the excise tax if a ballot proposition authorizing the imposition of the tax has been approved by a simple majority vote of voters of the public facilities district voting on the proposition.

The rate of the tax shall not exceed two percent and the proceeds of the tax shall only be used for the acquisition, design, construction, remodeling, maintenance, equipping, reequipping, repairing, and operation of its public facilities. This excise tax shall not be imposed until the district has approved the proposal to acquire, design, and construct the public facilities.

A public facilities district may not impose the tax authorized in this section if, after the tax authorized in this section was imposed, the effective combined rate of state and local excise taxes, including sales and use taxes and excise taxes on lodging, imposed on the sale of or charge made for furnishing of lodging in any jurisdiction in the public facilities district exceeds eleven and one-half percent.

[1995 c 396 § 4; 1989 1st ex.s. c 8 § 4; 1988 ex.s. c 1 § 14.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.050 Ad valorem property tax.

(1) A public facilities district may levy an ad valorem property tax, in excess of the one percent limitation, upon the property within the district for a one-year period to be used for operating or capital purposes whenever authorized by the voters of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

(2) A public facilities district may provide for the retirement of voter-approved general obligation bonds, issued for capital purposes only, by levying bond retirement ad valorem property tax levies, in excess of the one percent limitation, whenever authorized by the voters of the district pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056.

[1988 ex.s. c 1 § 15.]

RCW 36.100.060 General obligation bonds--Termination, reauthorization of excise tax.

(1) To carry out the purpose of this chapter, a public facilities district may issue general obligation bonds, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to one-half of one percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A facilities district additionally may issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, when authorized by the voters of the public facilities district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in this chapter.

(2) General obligation bonds may be issued with a maturity of up to thirty years, and shall be issued and sold in accordance with the provisions of chapter 39.46 RCW.

(3) The general obligation bonds may be payable from the operating revenues of the public facilities district in addition to the tax receipts of the district.

(4) The excise tax imposed pursuant to RCW 36.100.040 shall terminate upon final payment of all bonded indebtedness for its public facilities, except that the excise tax may be reauthorized by a public vote, in the same manner as originally authorized, for funding of additional public facilities or a regional center.

[1999 c 165 § 15; 1995 1st sp.s. c 14 § 4; 1995 c 396 § 5; 1989 1st ex.s. c 8 § 5; 1988 ex.s. c 1 § 16.]

Notes:

Severability--1999 c 164: See RCW 35.57.900.

Severability--Effective dates--1995 1st sp.s. c 14: See notes following RCW 36.100.010.

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.070 Acquisition and transfer of real and personal property.

A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale.

[1988 ex.s. c 1 § 17.]

RCW 36.100.080 Direct or collateral attack barred after thirty days.

No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the county legislative authority.

[1995 1st sp.s. c 14 § 5.]

Notes:

Severability--Effective dates--1995 1st sp.s. c 14: See notes following RCW 36.100.010.

RCW 36.100.090 Tax deferral--New public facilities.

(1) The governing board of a public facilities district may apply for deferral of taxes on the construction of buildings, site preparation, and the acquisition of related machinery and equipment for a new public facility. Application shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application shall contain information regarding the location of the public facility, estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within sixty days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on the public facility. The use of the certificate shall be governed by rules established by the department of revenue.

(3) The public facilities district shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the public facility is operationally complete. The first payment is due on December 31st of the fifth calendar year after such certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal ten percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of the public facilities district.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of the public facilities district.

(6) Applications and any other information received by the department of revenue under

this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

(7) As used in this section, "public facility" means a baseball stadium with a retractable roof or canopy and natural turf.

[1995 1st sp.s. c 14 § 6.]

Notes:

Severability--Effective dates--1995 1st sp.s. c 14: See notes following RCW 36.100.010.

RCW 36.100.100 Ex officio treasurer.

The treasurer of the county in which a public facilities district is located shall be the ex officio treasurer of the district.

[1995 c 396 § 7.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.110 Travel, expense reimbursement policy--Required.

The board of directors of the public facilities district shall adopt a resolution that may be amended from time to time that shall establish the basic requirements governing methods and amounts of reimbursement payable to such district officials and employees for travel and other business expenses incurred on behalf of the district. The resolution shall, among other things, establish procedures for approving such expenses; the form of the travel and expense voucher; and requirements governing the use of credit cards issued in the name of the district. The resolution may also establish procedures for payment of per diem to board members. The state auditor shall, as provided by general law, cooperate with the public facilities district in establishing adequate procedures for regulating and auditing the reimbursement of all such expenses.

[1995 c 396 § 8.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.120 Travel, expense reimbursement policy--Limitations.

The board of directors of the public facilities district may authorize payment of actual and necessary expenses of officers and employees for lodging, meals, and travel-related costs incurred in attending meetings or conferences on behalf of the public facilities district and strictly in the public interest and for public purposes. Officers and employees may be advanced sufficient sums to cover their anticipated expenses in accordance with rules adopted by the state auditor, which shall substantially conform to the procedures provided in RCW 43.03.150 through

43.03.210.

[1995 c 396 § 9.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.130 Board of directors--Compensation.

Each member of the board of directors of the public facilities district may receive compensation of fifty dollars per day for attending meetings or conferences on behalf of the district, not to exceed three thousand dollars per year. A director may waive all or a portion of his or her compensation under this section as to a month or months during his or her term of office, by a written waiver filed with the public facilities district. The compensation provided in this section is in addition to reimbursement for expenses paid to the directors by the public facilities district.

[1995 c 396 § 10.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.140 Liability insurance.

The board of directors of the public facilities district may purchase liability insurance with such limits as the directors may deem reasonable for the purpose of protecting and holding personally harmless district officers and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties.

[1995 c 396 § 11.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.150 Costs of defense.

Whenever an action, claim, or proceeding is instituted against a person who is or was an officer or employee of the public facilities district arising out of the performance of duties for or employment with the district, the public facilities district may grant a request by the person that the attorney of the district's choosing be authorized to defend the claim, suit, or proceeding, and the costs of defense, attorneys' fees, and obligation for payments arising from the action may be paid from the district's funds. Costs of defense or judgment or settlement against the person shall not be paid in a case where the court has found that the person was not acting in good faith or within the scope of employment with or duties for the public facilities district.

[1995 c 396 § 12.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.160 Expenditure of funds--Purposes.

The board of directors of the public facilities district shall have authority to authorize the expenditure of funds for the public purposes of preparing and distributing information to the general public and promoting, advertising, improving, developing, operating, and maintaining facilities of the district. Nothing contained in this section may be construed to authorize preparation and distribution of information to the general public for the purpose of influencing the outcome of a district election.

[1995 c 396 § 13.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.170 Employees--Benefits.

The public facilities district shall have authority to create and fill positions, fix wages, salaries, and bonds therefor, pay costs involved in securing or arranging to secure employees, and establish benefits for employees, including holiday pay, vacations or vacation pay, retirement benefits, medical, life, accident, or health disability insurance, as approved by the board. Public facilities district board members, at their own expense, shall be entitled to medical, life, accident, or health disability insurance. Insurance for employees and board members shall not be considered compensation. District coverage for the board is not to exceed that provided public facilities district employees.

[1995 c 396 § 14.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.180 Service provider agreements.

The public facilities district may secure services by means of an agreement with a service provider. The public facilities district shall publish notice, establish criteria, receive and evaluate proposals, and negotiate with respondents under requirements set forth by district resolution.

[1995 c 396 § 15.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.190 Purchases and sales--Procedures.

In addition to provisions contained in chapter 39.04 RCW, the public facilities district is

authorized to follow procedures contained in RCW 43.19.1906 and 43.19.1911 for all purchases, contracts for purchase, and sales.

[1995 c 396 § 16.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.

RCW 36.100.200 Revenue bonds--Limitations.

(1) A public facilities district may issue revenue bonds to fund revenue generating facilities, or portions of facilities, which it is authorized to provide or operate. Whenever revenue bonds are to be issued, the board of directors of the district shall create or have created a special fund or funds from which, along with any reserves created pursuant to RCW 39.44.140, the principal and interest on such revenue bonds shall exclusively be payable. The board may obligate the district to set aside and pay into the special fund or funds a fixed proportion or a fixed amount of the revenues from the public improvements, projects, or facilities, and all related additions, that are funded by the revenue bonds. This amount or proportion shall be a lien and charge against these revenues, subject only to operating and maintenance expenses. The board shall have due regard for the cost of operation and maintenance of the public improvements, projects, or facilities, or additions, that are funded by the revenue bonds, and shall not set aside into the special fund or funds a greater amount or proportion of the revenues that in its judgment will be available over and above the cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. The board may also provide that revenue bonds payable out of the same source or sources of revenue may later be issued on a parity with any revenue bonds being issued and sold.

(2) Revenue bonds issued pursuant to this section shall not be an indebtedness of the district issuing the bonds, and the interest and principal on the bonds shall only be payable from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The owner or bearer of a revenue bond or any interest coupon issued pursuant to this section shall not have any claim against the district arising from the bond or coupon except for payment from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each bond issued pursuant to this section.

(3) Revenue bonds with a maturity in excess of thirty years shall not be issued. The board of directors of the district shall by resolution determine for each revenue bond issue the amount, date, form, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, and covenants including the refunding of existing revenue bonds. Facsimile signatures may be used on the bonds and any coupons. Refunding revenue bonds may be issued in the same manner as revenue bonds are issued.

[1995 c 396 § 17.]

Notes:

Severability--1995 c 396: See note following RCW 36.100.010.
Alternative authority to issue revenue bonds: RCW 39.46.150, 39.46.160.
Funds for reserve purposes may be included in issue amount: RCW 39.44.140.

RCW 36.100.210 Tax on admissions.

A public facility district may levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid by the person who pays an admission charge to a regional center, as defined in RCW 35.57.020. This includes a tax on persons who are admitted free of charge or at reduced rates if other persons pay a charge or a regular higher charge for the same privileges or accommodations.

The term "admission charge" includes:

- (1) A charge made for season tickets or subscriptions;
- (2) A cover charge, or a charge made for use of seats and tables reserved or otherwise, and other similar accommodations;
- (3) A charge made for food and refreshment if free entertainment, recreation, or amusement is provided;
- (4) A charge made for rental or use of equipment or facilities for purposes of recreation or amusement; if the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge;
- (5) Automobile parking charges if the amount of the charge is determined according to the number of passengers in the automobile.

[1999 c 165 § 17.]

Notes:

Severability--1999 c 164: See RCW 35.57.900.

RCW 36.100.220 Tax on vehicle parking charges.

A public facility district may levy and fix a tax on any vehicle parking charges imposed at any parking facility that is owned or leased by the public facility district as part of a regional center, as defined in RCW 35.57.020. No county or city or town within which the regional center is located may impose a tax of the same or similar kind on any vehicle parking charges at the facility. For the purposes of this section, "vehicle parking charges" means only the actual parking charges exclusive of taxes and service charges and the value of any other benefit conferred. The tax authorized under this section shall be at the rate of not more than ten percent.

[1999 c 165 § 18.]

Notes:

Severability--1999 c 164: See RCW 35.57.900.

RCW 36.100.900 Severability--1988 ex.s. c 1.

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

[1988 ex.s. c 1 § 27.]

**Chapter 36.102 RCW
STADIUM AND EXHIBITION CENTERS**

Sections

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RCW 36.102.010 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Design" includes architectural, engineering, and other related professional services.

(2) "Develop" means, generally, the process of planning, designing, financing, constructing, owning, operating, and leasing a project such as a stadium and exhibition center.

(3) "Permanent seat license" means a transferable license sold to a third party that, subject to certain conditions, restrictions, and limitations, entitles the third party to purchase a season ticket to professional football games of the professional football team played in the stadium and exhibition center for so long as the team plays its games in that facility.

(4) "Preconstruction" includes negotiations, including negotiations with any team affiliate, planning, studies, design, and other activities reasonably necessary before constructing a stadium and exhibition center.

(5) "Professional football team" means a team that is a member of the national football league or similar professional football association.

(6) "Public stadium authority operation" means the formation and ongoing operation of the public stadium authority, including the hiring of employees, agents, attorneys, and other contractors, and the acquisition and operation of office facilities.

(7) "Site acquisition" means the purchase or other acquisition of any interest in real property including fee simple interests and easements, which property interests constitute the site for a stadium and exhibition center.

(8) "Site preparation" includes demolition of existing improvements, environmental remediation, site excavation, shoring, and construction and maintenance of temporary traffic and pedestrian routing.

(9) "Stadium and exhibition center" means an open-air stadium suitable for national football league football and for Olympic and world cup soccer, with adjacent exhibition facilities, together with associated parking facilities and other ancillary facilities.

(10) "Team affiliate" means a professional football team that will use the stadium and exhibition center, and any affiliate of the team designated by the team. An "affiliate of the team" means any person or entity that controls, is controlled by, or is under common control with the team.

[1997 c 220 § 101 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.020 Public stadium authority--Creation--Powers and duties--Transfer of property.

(1) A public stadium authority may be created in any county that has entered into a letter of intent relating to the development of a stadium and exhibition center under chapter 220, Laws of 1997 with a team affiliate or an entity that has a contractual right to become a team affiliate.

(2) A public stadium authority shall be created upon adoption of a resolution providing for the creation of such an authority by the county legislative authority in which the proposed authority is located.

(3) A public stadium authority shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(4) The legislative authority of the county in which the public stadium authority is located, or the council of any city located in that county, may transfer property to the public stadium authority created under this chapter. Property encumbered by debt may be transferred by a county legislative authority or a city council to a public stadium authority created to develop a stadium and exhibition center under RCW 36.102.050, but obligation for payment of the debt may not be transferred.

[1997 c 220 § 102 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.030 Public stadium authority--Board of directors--Appointment--Terms--Vacancy--Removal.

(1) A public stadium authority shall be governed by a board of directors consisting of seven members appointed by the governor. The speaker of the house of representatives, the minority leader of the house of representatives, the majority leader of the senate, and the minority leader of the senate shall each recommend to the governor a person to be appointed to the board.

(2) Members of the board of directors shall serve four-year terms of office, except that three of the initial seven board members shall serve two-year terms of office. The governor shall designate the initial terms of office for the initial members who are appointed.

(3) A vacancy shall be filled in the same manner as the original appointment was made and the person appointed to fill a vacancy shall serve for the remainder of the unexpired term of the office for the position to which he or she was appointed.

(4) A director appointed by the governor may be removed from office by the governor.

[1997 c 220 § 103 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.040 Public stadium authority advisory committee--Appointment--Review and comment on proposed lease agreement.

(1) There is created a public stadium authority advisory committee comprised of five members. The advisory committee consists of: The director of the office of financial management, who shall serve as chair; two members appointed by the house of representatives, one each appointed by the speaker of the house of representatives and the minority leader of the house of representatives; and two members appointed by the senate, one each appointed by the majority leader of the senate and the minority leader of the senate.

(2) The advisory committee, prior to the final approval of any lease with the master tenant or sale of stadium naming rights, shall review and comment on the proposed lease agreement or sale of stadium naming rights.

[1997 c 220 § 104 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.050 Public stadium authority--Powers and duties--Acquisition, construction, ownership, remodeling, maintenance, equipping, reequipping, repairing, and operation of stadium and exhibition center--Contracts and agreements regarding ownership and operation--Employees unclassified--Supplemental public works contracting procedures--Charges and fees--Gifts, grants, and donations--Prevailing wage and women and minority-business participation.

(1) The public stadium authority is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, and operate a stadium and exhibition center as defined in RCW 36.102.010.

(2) The public stadium authority may enter into agreements under chapter 39.34 RCW for the joint provision and operation of a stadium and exhibition center and may enter into contracts under chapter 39.34 RCW where any party to the contract provides and operates the stadium and exhibition center for the other party or parties to the contract.

(3) Any employees of the public stadium authority shall be unclassified employees not subject to the provisions of chapter 41.06 RCW and a public stadium authority may contract with a public or private entity for the operation or management of the stadium and exhibition center.

(4) The public stadium authority is authorized to use the alternative supplemental public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of a stadium and exhibition center.

(5) The public stadium authority may impose charges and fees for the use of the stadium and exhibition center, and may accept and expend or use gifts, grants, and donations.

(6) The public stadium authority shall comply with the prevailing wage requirements of chapter 39.12 RCW and goals established for women and minority-business participation for the county.

[1997 c 220 § 105 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.060 Public stadium authority--Powers and duties--Site--Project scope--Design and specification--Use of professional services--Budget--Financing

structure--Development agreement--Lease agreement--Profit-sharing discussion--Master tenant funds for Olympics and world cup--Stadium scheduling--Super Bowl acquisition--Mitigation--Demolition filming--Permanent seat licenses.

In addition to other powers and restrictions on a public stadium authority, the following apply to a public stadium authority created to develop a stadium and exhibition center under RCW 36.102.050:

(1) The public stadium authority, in consultation with the team affiliate, shall have the authority to determine the stadium and exhibition center site;

(2) The public stadium authority, in consultation with the team affiliate, shall have the authority to establish the overall scope of the stadium and exhibition center project, including, but not limited to, stadium and exhibition center itself, associated exhibition facilities, associated parking facilities, associated retail and office development that are part of the stadium and exhibition center, and ancillary services and facilities;

(3) The public stadium authority, in consultation with the team affiliate, shall have the authority to make the final determination of the stadium and exhibition center overall design and specification;

(4) The public stadium authority shall have the authority to contract with a team affiliate for the provision of architectural, engineering, environmental, and other professional services related to the stadium and exhibition center site, design options, required environmental studies, and necessary permits for the stadium and exhibition center;

(5) The public stadium authority, in consultation with the team affiliate, shall have the authority to establish the project budget on the stadium and exhibition center project;

(6) The public stadium authority, in consultation with the team affiliate, shall have the authority to make recommendations to the state finance committee regarding the structure of the financing of the stadium and exhibition center project;

(7) The public stadium authority shall have the authority to enter into a development agreement with a team affiliate whereby the team affiliate may control the development of the stadium and exhibition center project, consistent with subsections (1) through (6) of this section, in consideration of which the team affiliate assumes the risk of costs of development that are in excess of the project budget established under subsection (5) of this section. Under the development agreement, the team affiliate shall determine bidding specifications and requirements, and other aspects of development. Under the development agreement, the team affiliate shall determine procurement procedures and other aspects of development, and shall select and engage an architect or architects and a contractor or contractors for the stadium and exhibition center project, provided that the construction, alterations, repairs, or improvements of the stadium and exhibition center shall be subject to the prevailing wage requirements of chapter 39.12 RCW and all phases of the development shall be subject to the goals established for women and minority-business participation for the county where the stadium and exhibition center is located. The team affiliate shall, to the extent feasible, hire local residents and in particular residents from the areas immediately surrounding the stadium and exhibition center during the construction and ongoing operation of the stadium and exhibition center;

(8) The public stadium authority shall have the authority to enter into a long-term lease

agreement with a team affiliate whereby, in consideration of the payment of fair rent and assumption of operating and maintenance responsibilities, risk, legal liability, and costs associated with the stadium and exhibition center, the team affiliate becomes the sole master tenant of the stadium and exhibition center. The master tenant lease agreement must require the team affiliate to publicly disclose, on an annual basis, an audited profit and loss financial statement. The team affiliate shall provide a guarantee, security, or a letter of credit from a person or entity with a net worth in excess of one hundred million dollars that guarantees a maximum of ten years' payments of fair rent under the lease in the event of the bankruptcy or insolvency of the team affiliate. The master tenant shall have the power to sublease and enter into use, license, and concession agreements with various users of the stadium and exhibition center including the professional football team, and the master tenant has the right to name the stadium and exhibition center, subject to RCW 36.102.080. The master tenant shall meet goals, established by the county where the stadium and exhibition center is located, for women and minority employment for the operation of the stadium and exhibition center. Except as provided in subsection (10) of this section, the master tenant shall have the right to retain revenues derived from the operation of the stadium and exhibition center, including revenues from the sublease and uses, license and concession agreements, revenues from suite licenses, concessions, advertising, long-term naming rights subject to RCW 36.102.080, and parking revenue. If federal law permits interest on bonds issued to finance the stadium and exhibition center to be treated as tax exempt for federal income tax purposes, the public stadium authority and the team affiliate shall endeavor to structure and limit the amounts, sources, and uses of any payments received by the state, the county, the public stadium authority, or any related governmental entity for the use or in respect to the stadium and exhibition center in such a manner as to permit the interest on those bonds to be tax exempt. As used in this subsection, "fair rent" is solely intended to cover the reasonable operating expenses of the public stadium authority and shall be not less than eight hundred fifty thousand dollars per year with annual increases based on the consumer price index;

(9) Subject to RCW 43.99N.020(2)(b)(ix), the public stadium authority may reserve the right to discuss profit sharing from the stadium and exhibition center from sources that have not been identified at the time the long-term lease agreement is executed;

(10) The master tenant may retain an amount to cover the actual cost of preparing the stadium and exhibition center for activities involving the Olympic Games and world cup soccer. Revenues derived from the operation of the stadium and exhibition center for activities identified in this subsection that exceed the master tenant's actual costs of preparing, operating, and restoring the stadium and exhibition center must be deposited into the tourism development and promotion account created in RCW 43.330.094;

(11) The public stadium authority, in consultation with a public facilities district that is located within the county, shall work to eliminate the use of the stadium and exhibition center for events during the same time as events are held in the baseball stadium as defined in RCW 82.14.0485;

(12) The public stadium authority, in consultation with the team affiliate, must work to secure the hosting of a Super Bowl, if the hosting requirements are changed by the national football league or similar professional football association;

(13) The public stadium authority shall work with surrounding areas to mitigate the impact of the construction and operation of the stadium and exhibition center;

(14) The public stadium authority, in consultation with the office of financial management, shall negotiate filming rights of the demolition of the existing domed stadium on the stadium and exhibition center site. All revenues derived from the filming of the demolition of the existing domed stadium shall be deposited into the film and video promotion account created in RCW 43.330.092; and

(15) The public stadium authority shall have the authority, upon the agreement of the team affiliate, to sell permanent seat licenses, and the team affiliate may act as the sales agent for this purpose.

[1997 c 220 § 106 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.070 Deferral of taxes--Application by public stadium authority--Department of revenue approval--Repayment--Schedules--Interest--Debt for taxes--Information not confidential.

(1) The governing board of a public stadium authority may apply for deferral of taxes on the construction of buildings, site preparation, and the acquisition of related machinery and equipment for a stadium and exhibition center. Application shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application shall contain information regarding the location of the stadium and exhibition center, estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within sixty days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on the public facility.

(3) The public stadium authority shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the stadium and exhibition center is operationally complete. The first payment is due on December 31st of the fifth calendar year after such certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal ten percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of the public stadium authority.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of the public stadium authority.

(6) The repayment of deferred taxes and interest, if any, shall be deposited into the stadium and exhibition center account created in RCW 43.99N.060 and used to retire bonds issued under RCW 43.99N.020 to finance the construction of the stadium and exhibition center.

(7) Applications and any other information received by the department of revenue under

this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

[1997 c 220 § 201 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.080 Naming rights--Use of revenues.

Revenues from the sales of naming rights of a stadium and exhibition center developed under RCW 36.102.050 may only be used for costs associated with capital improvements associated with modernization and maintenance of the stadium and exhibition center. The sales of naming rights are subject to the reasonable approval of the public stadium authority.

[1997 c 220 § 107 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.090 Donated moneys.

A public stadium authority may accept and expend moneys that may be donated for the purpose of a stadium and exhibition center.

[1997 c 220 § 108 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.100 Construction agreements--Property assembly--Demolition of existing structures.

(1) The public stadium authority, the county, and the city, if any, in which the stadium and exhibition center is to be located shall enter into one or more agreements regarding the construction of a stadium and exhibition center. The agreements shall address, but not be limited to:

- (a) Expedited permit processing for the design and construction of the stadium and exhibition center project;
- (b) Expedited environmental review processing;
- (c) Expedited processing of requests for street, right of way, or easement vacations necessary for the construction of the stadium and exhibition center project; and
- (d) Other items deemed necessary for the design and construction of the stadium and exhibition center project.

(2) The county shall assemble such real property and associated personal property as the public stadium authority and the county mutually determine to be necessary as a site for the stadium and exhibition center. Property that is necessary for this purpose that is owned by the county on or after July 17, 1997, shall be contributed to the authority, and property that is necessary for this purpose that is acquired by the county on or after July 17, 1997, shall be conveyed to the authority. Property that is encumbered by debt may be transferred by the county to the authority, but obligation for payment of the debt may not be transferred.

(3) A new exhibition facility of at least three hundred twenty-five thousand square feet, with adequate on-site parking, shall be constructed and operational before any domed stadium in

the county is demolished or rendered unusable. Demolition of any existing structure and construction of the stadium and exhibition center shall be reasonably executed in a manner that minimizes impacts, including access and parking, upon existing facilities, users, and neighborhoods. No county or city may exercise authority under any landmarks preservation statute or ordinance in order to prevent or delay the demolition of any existing domed stadium at the site of the stadium and exhibition center.

[1997 c 220 § 109 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.110 Property acquisition and sale.

A public stadium authority may acquire and transfer real and personal property by lease, sublease, purchase, or sale.

[1997 c 220 § 110 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.120 Public stadium authority board of directors--Travel and business expenses--Resolution on payment and procedures--Operating budget report.

(1) The board of directors of the public stadium authority shall adopt a resolution that may be amended from time to time that shall establish the basic requirements governing methods and amounts of reimbursement payable to such authority and employees for travel and other business expenses incurred on behalf of the authority. The resolution shall, among other things, establish procedures for approving such expenses; the form of the travel and expense voucher; and requirements governing the use of credit cards issued in the name of the authority. The resolution may also establish procedures for payment of per diem to board members. The state auditor shall, as provided by general law, cooperate with the public stadium authority in establishing adequate procedures for regulating and auditing the reimbursement of all such expenses.

(2) The board of directors shall transmit a copy of the adopted annual operating budget of the public stadium authority to the governor and the majority leader and minority leader of the house of representatives and the senate. The budget information shall include, but is not limited to a statement of income and expenses of the public stadium authority.

[1997 c 220 § 111 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.130 Public stadium authority officers and employees--Expenses.

The board of directors of the public stadium authority may authorize payment of actual and necessary expenses of officers and employees for lodging, meals, and travel-related costs incurred in attending meetings or conferences on behalf of the public stadium authority and strictly in the public interest and for public purposes. Officers and employees may be advanced sufficient sums to cover their anticipated expenses in accordance with rules adopted by the state auditor, which shall substantially conform to the procedures provided in RCW 43.03.150 through

43.03.210.

[1997 c 220 § 112 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.140 Public stadium authority board of directors--Compensation--Waiver.

Each member of the board of directors of the public stadium authority may receive compensation of fifty dollars per day for attending meetings or conferences on behalf of the authority, not to exceed three thousand dollars per year. A director may waive all or a portion of his or her compensation under this section as to a month or months during his or her term of office, by a written waiver filed with the public stadium authority. The compensation provided in this section is in addition to reimbursement for expenses paid to the directors by the public stadium authority.

[1997 c 220 § 113 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.150 Public stadium authority--Liability insurance.

The board of directors of the public stadium authority may purchase liability insurance with such limits as the directors may deem reasonable for the purpose of protecting and holding personally harmless authority officers and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties.

[1997 c 220 § 114 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.160 Public stadium authority--Defense of suit, claim, or proceeding against officer or employee--Costs--Attorneys' fees--Obligation--Exception.

Whenever an action, claim, or proceeding is instituted against a person who is or was an officer or employee of the public stadium authority arising out of the performance of duties for or employment with the authority, the public stadium authority may grant a request by the person that the attorney of the authority's choosing be authorized to defend the claim, suit, or proceeding, and the costs of defense, attorneys' fees, and obligation for payments arising from the action may be paid from the authority's funds. Costs of defense or judgment or settlement against the person shall not be paid in a case where the court has found that the person was not acting in good faith or within the scope of employment with or duties for the public stadium authority.

[1997 c 220 § 115 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.170 Information preparation and distribution.

The board of directors of the public stadium authority shall have authority to authorize the expenditure of funds for the public purposes of preparing and distributing information to the

general public about the stadium and exhibition center.

[1997 c 220 § 116 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.180 Public stadium authority--Employee positions--Wages and benefits--Insurance of employees, board members.

The public stadium authority shall have authority to create and fill positions, fix wages and salaries, pay costs involved in securing or arranging to secure employees, and establish benefits for employees, including holiday pay, vacations or vacation pay, retirement benefits, medical, life, accident, or health disability insurance, as approved by the board. Public stadium authority board members, at their own expense, shall be entitled to medical, life, accident, or health disability insurance. Insurance for employees and board members shall not be considered compensation. Authority coverage for the board is not to exceed that provided public stadium authority employees.

[1997 c 220 § 117 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.190 Public stadium authority--Securing services--Service provider agreement--Resolutions setting procedures.

The public stadium authority may secure services by means of an agreement with a service provider. The public stadium authority shall publish notice, establish criteria, receive and evaluate proposals, and negotiate with respondents under requirements set forth by authority resolution.

[1997 c 220 § 118 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.200 Public stadium authority--Confidentiality of financial information.

The public stadium authority may refuse to disclose financial information on the master tenant, concessioners, the team affiliate, or subleasee under RCW 42.17.310.

[1997 c 220 § 119 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.800 Referendum only measure for taxes for stadium and exhibition center--Limiting legislation upon failure to approve--1997 c 220.

The referendum on this act is the only measure authorizing, levying, or imposing taxes for a stadium and exhibition center that may be put to a public vote. Should the act fail to be approved at the special election on or before June 20, 1997, the legislature shall not pass other legislation to build or finance a stadium and exhibition center, as defined in RCW 36.102.010, for the team affiliate.

[1997 c 220 § 604 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.801 Legislation as opportunity for voter's decision--Not indication of legislators' personal vote on referendum proposal--1997 c 220.

The legislature neither affirms nor refutes the value of this proposal, and by this legislation simply expresses its intent to provide the voter of the state of Washington an opportunity to express the voter's decision. It is also expressed that many legislators might personally vote against this proposal at the polls, or they might not.

[1997 c 220 § 605 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.802 Contingency--Null and void--Team affiliate's agreement for reimbursement for election--1997 c 220.

Notwithstanding any other provision of this act, this act shall be null and void in its entirety unless the team affiliate as defined in RCW 36.102.010 enters into an agreement with the secretary of state to reimburse the state and the counties for the full cost of the special election to be held on or before June 20, 1997.

[1997 c 220 § 606 (Referendum Bill No. 48, approved June 17, 1997).]

Notes:

Reviser's note: The team affiliate entered into an agreement with the secretary of state on May 14, 1997, for reimbursement of the full cost of the special election.

Effective date--1997 c 220 §§ 606 and 607: "Sections 606 and 607 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [April 26, 1997]." [1997 c 220 § 608.]

RCW 36.102.803 Referendum--Submittal--Explanatory statement--Voters' pamphlet--Voting procedures--Canvassing and certification--Reimbursement of counties for costs--No other elections on stadium and exhibition center--1997 c 220.

(1) The secretary of state shall submit sections 101 through 604, chapter 220, Laws of 1997 to the people for their adoption and ratification, or rejection, at a special election to be held in this state on or before June 20, 1997, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation. The special election shall be limited to submission of this act to the people.

(2) The attorney general shall prepare the explanatory statement required by *RCW 29.81.020 and transmit that statement regarding the referendum to the secretary of state no later than the last Monday of April before the special election.

(3) The secretary of state shall prepare and distribute a voters' pamphlet addressing this referendum measure following the procedures and requirements of chapter 29.81 RCW, except that the secretary of state may establish different deadlines for the appointment of committees to draft arguments for and against the referendum, for submitting arguments for and against the referendum, and for submitting rebuttal statements of arguments for and against the referendum. The voters' pamphlet description of the referendum measure shall include information to inform the public that ownership of the KingDome may be transferred to the public stadium authority

and that the KingDome will be demolished in order to accommodate the new football stadium.

(4) A county auditor may conduct the voting at this special election in all precincts of the county by mail using the procedures set forth in **RCW 29.36.121 through 29.36.139.

(5) Notwithstanding the provisions of RCW 29.62.020, the county canvassing board in each county shall canvass and certify the votes cast at this special election in that county to the secretary of state no later than the seventh day following the election. Notwithstanding the provisions of RCW 29.62.120, the secretary of state shall canvass and certify the returns from the counties no later than the ninth day following the special election.

(6) The secretary of state shall reimburse each county for the cost of conducting the special election in that county in the same manner as state primary and general election costs are reimbursed under RCW 29.13.047 (1) and (3).

(7) No other state, county, or local election shall be required or held on any proposition related to or affecting the stadium and exhibition center defined in RCW 36.102.010.

[1997 c 220 § 607 (Referendum Bill No. 48, approved June 17, 1997).] Referendum Bill No. 48 was approved by the electorate at the June 17, 1997, election.

NOTES:

Reviser's note: *(1) RCW 29.81.020 was repealed by 1999 c 260 § 13.

***(2) RCW 29.36.121, 29.36.124, 29.36.126, and 29.36.130 were recodified as RCW 29.38.020, 29.38.040, 29.38.050, and 29.38.060, respectively, pursuant to 2001 c 241 § 25. RCW 29.36.122 and 29.36.139 were repealed by 2001 c 241 § 24.

Effective date--1997 c 220 §§ 606 and 607: See note following RCW 36.102.802.

RCW 36.102.900 Part headings not law--1997 c 220.

Part headings used in this act are not any part of the law.

[1997 c 220 § 601 (Referendum Bill No. 48, approved June 17, 1997).]

RCW 36.102.901 Severability--1997 c 220.

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

[1997 c 220 § 602 (Referendum Bill No. 48, approved June 17, 1997).]

**Chapter 36.105 RCW
COMMUNITY COUNCILS FOR UNINCORPORATED AREAS OF ISLAND
COUNTIES**

Sections

36.105.010	Purpose.
36.105.020	Definitions.
36.105.030	Minimum requirements.

36.105.040	Creation.
36.105.050	Election of initial community councilmembers.
36.105.060	Community councilmembers--Election--Terms.
36.105.070	Responsibility of county legislative authority.
36.105.080	Powers.
36.105.090	Annexation.
36.105.100	Dissolution.

RCW 36.105.010 Purpose.

Voters of the unincorporated areas of the state are authorized to establish community councils as provided in this chapter.

It is the purpose of this chapter to provide voters of unincorporated areas in counties with a population of over thirty thousand that are made up entirely of islands with direct input on the planning and zoning of their community by establishing a governmental mechanism to adopt proposed community comprehensive plans and proposed community zoning ordinances that are consistent with an overall guide and framework adopted by the county legislative authority. In addition, it is the purpose of this chapter to have community councils serve as forums for the discussion of local issues.

[1991 c 363 § 99.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.105.020 Definitions.

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

(1) "Community" means a portion of the unincorporated area for which a community council has been established and which is located in a county with a population of over thirty thousand that is made up entirely of islands.

(2) "Community comprehensive plan" means a comprehensive plan adopted by a community council.

(3) "Community council" means the governing body established under this chapter to adopt community comprehensive plans and community zoning ordinances for a community.

(4) "Community zoning ordinances" means the zoning ordinances adopted by a community council to implement a community comprehensive plan.

[1991 c 363 § 100.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.105.030 Minimum requirements.

A community for which a community council is created may include only unincorporated territory located in a single county with a population of over thirty thousand that is made up entirely of islands and not included within a city or town. A community council must have at least one thousand persons residing within the community when the community council is created or, where the community only includes an entire island, at least three hundred persons must reside on the island when the community council is created. Any portion of such a community that is annexed by a city or town, or is incorporated as a city or town, shall be removed from the community upon the effective date of the annexation or the official date of the incorporation.

[1991 c 363 § 101.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.105.040 Creation.

(1) The process to create a community council shall be initiated by the filing of petitions with the county auditor of the county in which the community is located which: (a) Call for the creation of a community council; (b) set forth the boundaries for the community; (c) indicate the number of community councilmembers, which shall be five, seven, nine, or eleven; and (d) contain signatures of voters residing within the community equal in number to at least ten percent of the voters residing in the community who voted at the last state general election. The county auditor shall determine if the petitions contain a sufficient number of valid signatures and certify the sufficiency of the petitions within fifteen days of when the petitions were filed. If the petitions are certified as having sufficient valid signatures, the county auditor shall transmit the petitions and certificate to the county legislative authority.

(2) The county legislative authority shall hold a public hearing within the community on the creation of the proposed community council no later than sixty days after the petitions and certificate of sufficiency were transmitted to the county legislative authority. Notice of the public hearing shall be published in a newspaper of general circulation in the community for at least once a week for two consecutive weeks, with the last date of publication no more than ten days prior to the date of the public hearing. At least ten days before the public hearing, additional notice shall be posted conspicuously in at least five places within the proposed community in a manner designed to attract public attention.

(3) After receiving testimony on the creation of the proposed community council, the county legislative authority may alter the boundaries of the community, but the boundaries may not be altered to reduce the number of persons living within the community by more than ten percent or below the minimum number of residents who must reside within the community at the time of the creation of the community council. If territory is added to the community, another public hearing on the proposal shall be held.

(4) The county legislative authority shall call a special election within the community to

determine whether the proposed community council shall be created, and to elect the initial community councilmembers, at the next state general election occurring seventy-five or more days after the initial public hearing on the creation of the proposed community council. The community council shall be created if the ballot proposition authorizing the creation of the community is approved by a simple majority vote of the voters voting on the proposition.

[1991 c 363 § 102.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.105.050 Election of initial community councilmembers.

The initial members of the community council shall be elected at the same election as the ballot proposition is submitted authorizing the creation of the community council. However, the election of the initial community councilmembers shall be null and void if the ballot proposition authorizing the creation of the community council is not approved.

No primary election shall be held to nominate candidates for initial council positions. The initial community council shall consist of the candidate for each council position who receives the greatest number of votes for that council position. Staggering of terms of office shall be accomplished by having the majority of the winning candidates who receive the greatest number of votes being elected to four-year terms of office, and the remaining winning candidates being elected to two-year terms of office, if the election was held in an even-numbered year, or the majority of the winning candidates who receive the greatest number of votes being elected to three-year terms of office, and the remaining winning candidates being elected to one-year terms of office, if the election was held in an odd-numbered year, with the term computed from the first day of January in the year following the election. Initial councilmembers shall take office immediately when qualified in accordance with RCW 29.01.135.

However, where the county operates under a charter providing for the election of members of the county legislative authority in odd-numbered years, the terms of office of the initial councilmembers shall be four years and two years, if the election of the initial councilmembers was held on an odd-numbered year, or three years and one year, if the election of the initial councilmembers was held on an even-numbered year.

[1991 c 363 § 103.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.105.060 Community councilmembers--Election--Terms.

Community councilmembers shall be elected to staggered four-year terms until their successors are elected and qualified. Each council position shall be numbered separately. Candidates shall run for specific council positions. The number of council positions shall be five, seven, nine, or eleven, as specified in the petition calling for the creation of the community

council.

Community councilmembers shall be nominated and elected at nonpartisan elections pursuant to general election laws, except the elections shall be held in even-numbered years, unless the county operates under a charter and members of the county legislative authority are elected in odd-numbered years, in which case, community councilmembers shall be elected in odd-numbered years.

The provisions of this section apply to the election and terms of office of the initial community councilmembers, except as provided in RCW 36.105.050.

A councilmember shall lose his or her council position if his or her primary residence no longer is located within the community. Vacancies on a community council shall be filled by action of the remaining councilmembers.

[1991 c 363 § 104.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.105.070 Responsibility of county legislative authority.

(1) Within ninety days of the election at which a community council is created, the county legislative authority shall adopt an ordinance establishing policies and conditions and designating portions or components of the county comprehensive plan and zoning ordinances that serve as an overall guide and framework for the development of proposed community comprehensive plans and proposed community zoning ordinances. The conditions and policies shall conform with the requirements of chapter 36.70A RCW.

(2) Proposed community comprehensive plans and proposed community zoning ordinances that are adopted by a community council shall be submitted to the county legislative authority for its review of the consistency of the proposed plans and proposed ordinances with the ordinance adopted under subsection (1) of this section. The county legislative authority shall either approve the proposed plans and proposed ordinances as adopted, or refer the proposed plans and proposed ordinances back to the community council with written findings specifying the inconsistencies, within ninety days after they were submitted. The county comprehensive plan, or subarea plan and comprehensive plan, and zoning ordinances shall remain in effect in the community until the proposed community comprehensive plans and proposed community zoning ordinances have been approved as provided in this subsection.

(3) Each proposed amendment to approved community comprehensive plans or approved community zoning ordinances that is adopted by a community council shall be submitted to the county legislative authority for its review of the consistency of the amendment with the ordinance adopted under subsection (1) of this section. The county legislative authority shall either approve the proposed amendment as adopted or refer the proposed amendment back to the community council with written findings specifying the inconsistencies within ninety days after the proposed amendment was submitted. The unamended community comprehensive plans and unamended community zoning ordinances shall remain in effect in the community until the

proposed amendment has been approved as provided in this subsection.

(4) If the county legislative authority amends the ordinance it adopted under subsection (1) of this section, a community council shall be given at least one hundred twenty days to amend its community comprehensive plans and community zoning ordinances to be consistent with this amended ordinance. However, the county legislative authority may amend the community comprehensive plans and community zoning ordinances to achieve consistency with this amended ordinance. Nothing in this subsection shall preclude a community council from subsequently obtaining approval of its proposed community comprehensive plans and proposed community zoning ordinances.

(5) Approved community comprehensive plans and approved community zoning ordinances shall be enforced by the county as if they had been adopted by the county legislative authority. All quasi-judicial actions and permits relating to these plans and ordinances shall be made and decided by the county legislative authority or otherwise as provided by the county legislative authority.

(6) The county shall provide administrative and staff support for each community council within its boundaries.

[1991 c 363 § 105.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.105.080 Powers.

A community council shall adopt proposed community comprehensive plans and proposed community zoning ordinances as provided in RCW 36.105.070. Community councils shall not have the authority to take quasi-judicial actions nor to decide permit applications. In addition, a community council shall serve as a forum for the discussion of local issues.

Community councils are subject to chapter 42.30 RCW, the open public meetings act.

[1991 c 363 § 106.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.105.090 Annexation.

A community council may provide for the annexation of adjacent unincorporated areas to the community that are not included within another community for which a community council has been established. Annexations shall be initiated by either resolution of the community council proposing the annexation or petition of voters residing in the adjacent area, which petition: (a) Requests the annexation; (b) sets forth the boundaries of the area proposed to be annexed; and (c) contains signatures of voters residing within the area that is proposed to be annexed equal in number to at least ten percent of the voters residing in that area who voted at the last state general election. Annexation petitions shall be filed with the county auditor who

shall determine if the petitions contain a sufficient number of valid signatures, certify the sufficiency of the petitions, and notify the community council of the sufficiency of the petitions within fifteen days of when the petitions are submitted.

A ballot proposition authorizing the annexation shall be submitted to the voters of the area that is proposed to be annexed at a primary or general election in either an odd-numbered or even-numbered year, if the community council initiated the annexation by resolution or if the community council concurs in an annexation that was initiated by the submission of annexation petitions containing sufficient valid signatures. The annexation shall occur if the ballot proposition authorizing the creation of the community is approved by a simple majority vote of the voters voting on the proposition. The county's comprehensive plan, and where applicable to the county's subarea plan, and zoning ordinances shall continue in effect in the annexed area until proposed amendments to the approved community comprehensive plans and approved community zoning ordinance have been approved that apply to the annexed area.

[1991 c 363 § 107.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 36.105.100 Dissolution.

A community council shall be dissolved if the population of the community is reduced to less than five hundred persons, or less than two hundred persons if the community only includes an entire island.

At the next general election at which community councilmembers would be elected, occurring at least four years after the creation or reestablishment of a community, a ballot proposition shall be submitted to the voters of the community on whether the community shall be reestablished. If reestablished, the newly elected members of the community council and the retained members of the community council shall constitute the members of the community council.

[1991 c 363 § 108.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

**Chapter 36.110 RCW
JAIL INDUSTRIES PROGRAM**

Sections

36.110.010	Finding--Purpose, intent.
36.110.020	Definitions.
36.110.030	Board of directors established--Membership.
36.110.050	Local advisory groups.
36.110.060	Board of directors--Duties.

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36.110.070	Board of directors may receive funds, establish fee schedule.
36.110.080	Board of directors--Meetings--Terms--Compensation.
36.110.085	Board of directors--Immunity.
36.110.090	City or county special revenue funds.
36.110.100	Comprehensive work programs.
36.110.110	Deductions from offenders' earnings.
36.110.120	Free venture industries, tax reduction industries--Employment status of inmates--Insurance coverage.
36.110.130	Free venture industry agreements--Effect of failure.
36.110.140	Education and training.
36.110.150	Department of corrections to provide staff assistance.
36.110.160	Technical training assistance.
36.110.900	Severability--1993 c 285.

RCW 36.110.010 Finding--Purpose, intent.

Cities and counties have a significant interest in ensuring that inmates in their jails are productive citizens after their release in the community. The legislature finds that there is an expressed need for cities and counties to uniformly develop and coordinate jail industries technical information and program and public safety standards state-wide. It further finds that meaningful jail work industries programs that are linked to formal education and adult literacy training can significantly reduce recidivism, the rising costs of corrections, and criminal activities. It is the purpose and intent of the legislature, through this chapter, to establish a state-wide jail industries program designed to promote inmate rehabilitation through meaningful work experience and reduce the costs of incarceration. The legislature recognizes that inmates should have the responsibility for contributing to the cost of their crime through the wages earned while working in jail industries programs and that such income shall be used to offset the costs of implementing and maintaining local jail industries programs and the costs of incarceration.

[1993 c 285 § 1.]

RCW 36.110.020 Definitions.

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

(1) "Board" means the state-wide jail industries board of directors.

(2) "City" means any city, town, or code city.

(3) "Cost accounting center" means a specific industry program operated under the private sector prison industry enhancement certification program as specified in 18 U.S.C. Sec. 1761.

(4) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior, district, or municipal court of the state of Washington for payment of restitution to a victim, a statutorily imposed crime victims compensation fee, court costs, a county or interlocal

drug fund, court appointed attorneys' fees and costs of defense, fines, and other legal financial obligations that are assessed as a result of a felony or misdemeanor conviction.

(5) "Free venture employer model industries" means an agreement between a city or county and a private sector business or industry or nonprofit organization to produce goods or services to both public and private sectors utilizing jail inmates whose compensation and supervision are provided by the private sector business or entity.

"Free venture customer model industries" means an agreement between a city or county and a private sector business or industry, or nonprofit organization to provide Washington state manufacturers or businesses with products or services currently produced, provided, or assembled by out-of-state or foreign suppliers utilizing jail inmates whose compensation and supervision are provided by the incarcerating facility or local jurisdiction.

(6) "Jail inmate" means a preconviction or postconviction resident of a city or county jail who is determined to be eligible to participate in jail inmate work programs according to the eligibility criteria of the work program.

(7) "Private sector prison industry enhancement certification program" means that program authorized by the United States justice assistance act of 1984, 18 U.S.C. Sec. 1761.

(8) "Tax reduction industries" means those industries as designated by a city or county owning and operating such an industry to provide work training and employment opportunities for jail inmates, in total confinement, which reduce public support costs. The goods and services of these industries may be sold to public agencies, nonprofit organizations, and private contractors when the goods purchased will be ultimately used by a public agency or nonprofit organization. Surplus goods from these operations may be donated to government and nonprofit organizations.

[1995 c 154 § 1; 1993 c 285 § 2.]

RCW 36.110.030 Board of directors established--Membership.

A state-wide jail industries board of directors is established. The board shall consist of the following members:

(1) One sheriff and one police chief, to be selected by the Washington association of sheriffs and police chiefs;

(2) One county commissioner or one county councilmember to be selected by the Washington state association of counties;

(3) One city official to be selected by the association of Washington cities;

(4) Two jail administrators to be selected by the Washington state jail association, one of whom shall be from a county or a city with an established jail industries program;

(5) One prosecuting attorney to be selected by the Washington association of prosecuting attorneys;

(6) One administrator from a city or county corrections department to be selected by the Washington correctional association;

(7) One county clerk to be selected by the Washington association of county clerks;

(8) Three representatives from labor to be selected by the governor. The representatives

may be chosen from a list of nominations provided by state-wide labor organizations representing a cross-section of trade organizations;

(9) Three representatives from business to be selected by the governor. The representatives may be chosen from a list of nominations provided by state-wide business organizations representing a cross-section of businesses, industries, and all sizes of employers;

(10) The governor's representative from the employment security department;

(11) One member representing crime victims, to be selected by the governor;

(12) One member representing on-line law enforcement officers, to be selected by the governor;

(13) One member from the department of community, trade, and economic development to be selected by the governor;

(14) One member representing higher education, vocational education, or adult basic education to be selected by the governor; and

(15) The governor's representative from the correctional industries division of the state department of corrections shall be an ex officio member for the purpose of coordination and cooperation between prison and jail industries and to further a positive relationship between state and local government offender programs.

[1995 c 399 § 45; 1993 c 285 § 3.]

RCW 36.110.050 Local advisory groups.

The board shall require a city or a county that establishes a jail industries program to develop a local advisory group, or to use an existing advisory group of the appropriate composition, to advise and guide jail industries program operations. Such an advisory group shall include an equal number of representatives from labor and business. Representation from a sheltered workshop, as defined in RCW 82.04.385, and a crime victim advocacy group, if existing in the local area, should also be included.

A local advisory group shall have among its tasks the responsibility of ensuring that a jail industry has minimal negative impact on existing private industries or the labor force in the locale where the industry operates and that a jail industry does not negatively affect employment opportunities for people with developmental disabilities contracted through the operation of sheltered workshops as defined in RCW 82.04.385. In the event a conflict arises between the local business community or labor organizations concerning new jail industries programs, products, services, or wages, the city or county must use the arbitration process established pursuant to RCW 36.110.060.

[1993 c 285 § 5.]

RCW 36.110.060 Board of directors--Duties.

The board, in accordance with chapter 34.05 RCW, shall:

(1) Establish an arbitration process for resolving conflicts arising among the local business community and labor organizations concerning new industries programs, products,

services, or wages;

(2) Encourage the development of the collection and analysis of jail industries program data, including long-term tracking information on offender recidivism;

(3) Determine, by applying established federal guidelines and criteria, whether a city or a county jail free venture industries program complies with the private sector prison industry enhancement certification program. In so doing, also determine if that industry should be designated as a cost accounting center for the purposes of the federal certification program; and

(4) Provide technical assistance with product marketing.

[1993 c 285 § 6.]

RCW 36.110.070 Board of directors may receive funds, establish fee schedule.

The board may receive funds from local, county, state, or federal sources and may receive grants to support its activities. The board may establish a reasonable schedule of suggested fees that will support state-wide efforts to promote and facilitate jail industries that would be presented to cities and counties that have established jail industries programs.

[1993 c 285 § 7.]

RCW 36.110.080 Board of directors--Meetings--Terms--Compensation.

The board shall initially convene at the call of the representative of the correctional industries division of the state department of corrections, together with the jail administrator selected from a city or a county with an established jail industries program, no later than six months after July 25, 1993. Subsequent meetings of the board shall be at the call of the board chairperson. The board shall meet at least twice a year.

The board shall elect a chairperson and other such officers as it deems appropriate. However, the chairperson may not be the representative of the correctional industries division of the state department of corrections nor any representative from a state executive branch agency.

Members of the board shall serve terms of three years each on a staggered schedule to be established by the first board. For purposes of initiating a staggered schedule of terms, some members of the first board may initially serve two years and some members may initially serve four years.

The members of the board shall serve without compensation but may be reimbursed for travel expenses from funds acquired under this chapter.

[1993 c 285 § 8.]

RCW 36.110.085 Board of directors--Immunity.

Any member serving in their official capacity on the Washington state jail industries board, in either an appointed or advisory capacity, or either their employer or employers, or other entity that selected the members to serve, are immune from a civil action based upon an act

performed in good faith.

[1995 c 154 § 5.]

RCW 36.110.090 City or county special revenue funds.

A city or a county that implements a jail industries program may establish a separate fund for the operation of the program. This fund shall be a special revenue fund with continuing authority to receive income and pay expenses associated with the jail industries program.

[1993 c 285 § 9.]

RCW 36.110.100 Comprehensive work programs.

Cities and counties participating in jail industries are authorized to provide for comprehensive work programs using jail inmate workers at worksites within jail facilities or at such places within the city or county as may be directed by the legislative authority of the city or county, as similarly provided under RCW 36.28.100.

[1993 c 285 § 10.]

RCW 36.110.110 Deductions from offenders' earnings.

When an offender is employed in a jail industries program for which pay is allowed, deductions may be made from these earnings for court-ordered legal financial obligations as directed by the court in reasonable amounts that do not unduly discourage the incentive to work. These deductions shall be disbursed as directed in *RCW 9.94A.760.

In addition, inmates working in jail industries programs shall contribute toward costs to develop, implement, and operate jail industries programs. This amount shall be a reasonable amount that does not unduly discourage the incentive to work. The amount so deducted shall be deposited in the jail industries special revenue fund.

Upon request of the offender, family support may also be deducted and disbursed to a designated family member.

[1993 c 285 § 11.]

NOTES:

*Reviser's note: This RCW reference has been corrected to reflect the reorganization of chapter 9.94A RCW by 2001 c 10 § 6.

RCW 36.110.120 Free venture industries, tax reduction industries--Employment status of inmates--Insurance coverage.

(1) A jail inmate who works in a free venture industry or a tax reduction industry shall be considered an employee of that industry only for the purpose of the Washington industrial safety and health act, chapter 49.17 RCW, as long as the public safety is not compromised, and for eligibility for industrial insurance benefits under Title 51 RCW, as provided in this section.

(2) For jail inmates participating in free venture employer model industries, the private sector business or industry or the nonprofit organization that is party to the agreement, shall provide industrial insurance coverage under Title 51 RCW. Local jurisdictions shall not be responsible for obligations under Title 51 RCW in a free venture employer model industry except as provided in RCW 36.110.130.

(3) For jail inmates participating in free venture customer model industries, the incarcerating entity or jurisdiction, the private sector business or industry, or the nonprofit organization that is party to the agreement, shall provide industrial insurance coverage under Title 51 RCW dependent upon how the parties to the agreement choose to finalize the agreement.

(4) For jail inmates incarcerated and participating in tax reduction industries:

(a) Local jurisdictions that are self-insured may elect to provide medical aid benefits coverage only under chapter 51.36 RCW through the state fund.

(b) Local jurisdictions, to include self-insured jurisdictions, may elect to provide industrial insurance coverage under Title 51 RCW through the state fund.

(5) If industrial insurance coverage under Title 51 RCW is provided for inmates under this section, eligibility for benefits for either the inmate or the inmate's dependents or beneficiaries for temporary total disability or permanent total disability under RCW 51.32.090 or 51.32.060, respectively, shall not take effect until the inmate is discharged from custody by order of a court of appropriate jurisdiction. Nothing in this section shall be construed to confer eligibility for any industrial insurance benefits to any jail inmate who is not employed in a free venture industry or a tax reduction industry.

[1995 c 154 § 2; 1993 c 285 § 12.]

RCW 36.110.130 Free venture industry agreements--Effect of failure.

In the event of a failure such as a bankruptcy or dissolution, of a private sector business, industry, or nonprofit organization engaged in a free venture industry agreement, responsibility for obligations under Title 51 RCW shall be borne by the city or county responsible for establishment of the free venture industry agreement, as if the city or county had been the employing agency. To ensure that this obligation can be clearly identified and accomplished, and to provide accountability for purposes of the department of labor and industries, a free venture jail industry agreement entered into by a city or county and private sector business, industry, or nonprofit organization should be filed under a separate master business application, establishing a new and separate account with the department of labor and industries, and not be reported under an existing account for parties to the agreement.

[1995 c 154 § 3; 1993 c 285 § 13.]

RCW 36.110.140 Education and training.

To the extent possible, jail industries programs shall be augmented by education and training to improve worker literacy and employability skills. Such education and training may

include, but is not limited to, basic adult education, work towards a certificate of educational competence following successful completion of the general educational development test, vocational and preemployment work maturity skills training, and apprenticeship classes.

[1993 c 285 § 14.]

RCW 36.110.150 Department of corrections to provide staff assistance.

Until sufficient funding is secured by the board to adequately provide staffing, basic staff assistance shall be provided, to the extent possible, by the department of corrections.

[1993 c 285 § 15.]

RCW 36.110.160 Technical training assistance.

Technical training assistance shall be provided to local jurisdictions by the board at the jurisdiction's request. To facilitate and promote the development of local jail industries programs, this training and technical assistance may include the following: (1) Delivery of state-wide jail industry implementation workshops for administrators of jail industries programs; (2) development of recruitment and education programs for local business and labor to gain their participation; (3) ongoing staff assistance regarding local jail industries issues, such as sound business management skills, development of a professional business plan, responding to questions regarding risk management, industrial insurance, and similar matters; and (4) provision of guidelines and assistance for the coordination of basic educational programs and jail industries as well as other technical skills required by local jails in the implementation of safe, productive, and effective jail industries programs.

[1995 c 154 § 4.]

RCW 36.110.900 Severability--1993 c 285.

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

[1993 c 285 § 17.]

**Chapter 36.115 RCW
SERVICE AGREEMENTS**

Sections

36.115.010	Purpose.
36.115.020	Definitions.
36.115.030	Coordination--Consistency.
36.115.040	Geographic area covered--Contents--When effective.

36.115.050	Matters included.
36.115.060	Procedure for establishment--Counties affected.
36.115.070	Legislative intent.
36.115.080	Duties, requirements, authorities under growth management act not altered.

RCW 36.115.010 Purpose.

The purpose of chapter 266, Laws of 1994 is to establish a flexible process by which local governments enter into service agreements that will establish which jurisdictions should provide various local government services and facilities within specified geographic areas and how those services and facilities will be financed.

[1994 c 266 § 1.]

RCW 36.115.020 Definitions.

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

(1) "City" means a city or town, including a city operating under Title 35A RCW.

(2) "Governmental service" includes a service provided by local government, and any facilities and equipment related to the provision of such services, including but not limited to utility services, health services, social services, law enforcement services, fire prevention and suppression services, community development activities, environmental protection activities, economic development activities, and transportation services and facilities, but shall not include the generation, conservation, or distribution of electrical energy nor maritime shipping activities.

(3) "Regional service" means a governmental service established by agreement among local governments that delineates the government entity or entities responsible for the service provision and allows for that delivery to extend over jurisdictional boundaries.

(4) "Local government" means a county, city, or special district.

(5) "Service agreement" means an agreement among counties, cities, and special districts established pursuant to this chapter.

(6) "Special district" means a municipal or quasi-municipal corporation in the state, other than a county, city, or school district.

[1994 c 266 § 2.]

RCW 36.115.030 Coordination--Consistency.

A service agreement addressing children and family services shall enhance coordination and shall be consistent with the comprehensive plan developed under chapter 7, Laws of 1994 sp. sess.

[1994 c 266 § 3.]

RCW 36.115.040 Geographic area covered--Contents--When effective.

(1) Agreements among local governments concerning one or more governmental service should be established for a designated geographic area as provided in this section.

(2) A service agreement must describe: (a) The governmental service or services addressed by the agreement; (b) the geographic area covered by the agreement; (c) which local government or local governments are to provide each of the governmental services addressed by the agreement within the geographic area covered by the agreement; and (d) the term of the agreement, if any.

(3) A service agreement becomes effective when approved by: (a) The county legislative authority of each county that includes territory located within the geographic area covered by the agreement; (b) the governing body or bodies of at least a simple majority of the total number of cities that includes territory located within the geographic area covered by the agreement, which cities include at least seventy-five percent of the total population of all cities that includes territory located within the geographic area covered by the agreement; and (c) for each governmental service addressed by the agreement, the governing body or bodies of at least a simple majority of the special districts that include territory located within the geographic area covered by the agreement and which provide the governmental service within such territory. The participants may agree to use another formula. An agreement pursuant to this section shall be effective upon adoption by the county legislative authority following a public hearing.

(4) A service agreement may cover a geographic area that includes territory located in more than a single county.

[1994 c 266 § 4.]

RCW 36.115.050 Matters included.

A service agreement may include, but is not limited to, any or all of the following matters:

- (1) A dispute resolution arrangement;
- (2) How joint land-use planning and development regulations by the county and a city or cities, or by two or more cities, may be established, made binding, and enforced;
- (3) How common development standards between the county and a city or cities, or between two or more cities, may be established, made binding, and enforced;
- (4) How capital improvement plans of the county, cities, and special districts shall be coordinated;
- (5) How plans and policies adopted under chapter 36.70A RCW will be implemented by the service agreement;
- (6) A transfer of revenues between local governments in relationship to their obligations for providing governmental services;
- (7) The designation of additional area-wide governmental services to be provided by the county.

[1994 c 266 § 5.]

RCW 36.115.060 Procedure for establishment--Counties affected.

(1) The county legislative authority of every county with a population of one hundred fifty thousand or more shall convene a meeting on or before March 1, 1995, to develop a process for the establishment of service agreements. Invitations to attend this meeting shall be sent to the governing body of each city located in the county, and to the governing body of each special district located in the county that provides one or more of the governmental services as defined in RCW 36.115.020(2).

The legislative authorities of counties of less than one hundred fifty thousand population may utilize this chapter by adopting a resolution stating their intent to do so. In that case or in the case of counties whose populations reach one hundred fifty thousand after March 1, 1995, this meeting shall be convened no later than sixty days after the date the county adopts its resolution of intention or was certified by the office of financial management as having a population of one hundred fifty thousand or more.

(2) On or before January 1, 1997, a service agreement must be adopted in each county under this chapter or a progress report must be submitted to the appropriate committees of the legislature.

(3) In other counties that choose to utilize this chapter or whose population reaches one hundred fifty thousand, the service agreement must be adopted two years after the initial meeting provided for in subsection (1) of this section is convened or a progress report must be submitted to the appropriate committees of the legislature.

[1994 c 266 § 6.]

RCW 36.115.070 Legislative intent.

It is the intent of the legislature to permit the creation of a flexible process to establish service agreements and to recognize that local governments possess broad authority to shape a variety of government service agreements to meet their local needs and circumstances. However, it is noted that in general, cities are the unit of local government most appropriate to provide urban governmental services and counties are the unit of local government most appropriate to provide regional governmental services.

The process to establish service agreements should assure that all directly affected local governments, and Indian tribes at their option, are allowed to be heard on issues relevant to them.

[1994 c 266 § 7.]

RCW 36.115.080 Duties, requirements, authorities under growth management act not altered.

Nothing contained in this chapter alters the duties, requirements, and authorities of cities and counties contained in chapter 36.70A RCW.

[1994 c 266 § 8.]

Chapter 36.900 RCW CONSTRUCTION

Sections

36.900.010	Continuation of existing law.
36.900.020	Title, chapter, section headings not part of law.
36.900.030	Invalidity of part of title not to affect remainder.
36.900.040	Repeals and saving.

RCW 36.900.010 Continuation of existing law.

The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

[1963 c 4 § 36.98.010. Formerly RCW 36.98.010.]

RCW 36.900.020 Title, chapter, section headings not part of law.

Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

[1963 c 4 § 36.98.020. Formerly RCW 36.98.020.]

RCW 36.900.030 Invalidity of part of title not to affect remainder.

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

[1963 c 4 § 36.98.030. Formerly RCW 36.98.030.]

Notes:

Severability--1967 ex.s. c 144: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected." [1967 ex.s. c 144 § 21.]

RCW 36.900.040 Repeals and saving.

See 1963 c 4 § 36.98.040.

**Title 37 RCW
FEDERAL AREAS--INDIANS**

Chapters

- 37.04 General cession of jurisdiction.**
- 37.08 Jurisdiction in special cases.**
- 37.12 Indians and Indian lands--Jurisdiction.**
- 37.14 Indian cultural facility bond issue.**
- 37.16 Acquisition of lands for permanent military installations.**

Notes:

Daylight saving time--Prohibition not applicable to federal areas: RCW 1.20.050.

Excise taxes--Extension of excises to federal areas: Chapter 82.52 RCW.

Federal employees classified as resident students: RCW 28B.15.014.

Federal forest reserve funds, distribution of: RCW 28A.520.010, 28A.520.020.

San Juan Island national historical park, donation of state lands: Chapter 94, Laws of 1967 (uncodified).

School districts--Agreements with other governmental entities for transportation of students or the public, or for other noncommon school purposes--Limitations: RCW 28A.160.120.

**Chapter 37.04 RCW
GENERAL CESSION OF JURISDICTION**

Sections

- 37.04.010 Consent given to acquisition of land by United States.
- 37.04.020 Concurrent jurisdiction ceded--Reverter.
- 37.04.030 Reserved jurisdiction of state.
- 37.04.040 Previous cessions of jurisdiction saved.
- 37.04.050 Concurrent jurisdiction--Governor authorized to accept--Procedures.

Notes:

Authority of federal government over federal areas: State Constitution Art. 25.

Taxation of federal agencies and instrumentalities: State Constitution Art. 7 § 3 (Amendment 19).

RCW 37.04.010 Consent given to acquisition of land by United States.

The consent of this state is hereby given to the acquisition by the United States, or under its authority, by purchase, lease, condemnation, or otherwise, of any land acquired, or to be acquired, in this state by the United States, from any individual, body politic or corporate, as sites for forts, magazines, arsenals, dockyards, and other needful buildings or for any other purpose whatsoever. The evidence of title to such land shall be recorded as in other cases.

[1939 c 126 § 1; RRS § 8108-1.]

RCW 37.04.020 Concurrent jurisdiction ceded--Reverter.

Concurrent jurisdiction with this state in and over any land so acquired by the United States shall be, and the same is hereby, ceded to the United States for all purposes for which the land was acquired; but the jurisdiction so ceded shall continue no longer than the United States shall be the owner of such lands, and if the purposes of any grant to or acquisition by the United States shall cease, or the United States shall for five consecutive years fail to use any such land for the purposes of the grant or acquisition, the jurisdiction hereby ceded over the same shall cease and determine, and the right and title thereto shall revert in this state. The jurisdiction ceded shall not vest until the United States shall acquire title of record to such land.

[1939 c 126 § 2; RRS § 8108-2.]

RCW 37.04.030 Reserved jurisdiction of state.

The state of Washington hereby expressly reserves such jurisdiction and authority over land acquired or to be acquired by the United States as aforesaid as is not inconsistent with the jurisdiction ceded to the United States by virtue of such acquisition.

[1939 c 126 § 3; RRS § 8108-3.]

RCW 37.04.040 Previous cessions of jurisdiction saved.

Sections 8108 and 8109, Remington's Revised Statutes [1891 pp 31, 32 §§ 1, 2], and all other acts and parts of acts inconsistent with the provisions of this chapter are hereby repealed: PROVIDED, That jurisdiction heretofore ceded to the United States over any land within this state by any previous act of the legislature shall continue according to the terms of the respective cessions: PROVIDED FURTHER, That if jurisdiction so ceded by any previous act of the legislature has not been affirmatively accepted by the United States, or if the United States has failed or ceased to use any such land for the purposes for which acquired, jurisdiction thereover shall be governed by the provisions of this chapter.

[1939 c 126 § 4; RRS § 8108-4.]

RCW 37.04.050 Concurrent jurisdiction--Governor authorized to accept--Procedures.

(1) Upon the filing of a legally adequate notice with the governor by the secretary or administrator of any agency of the United States of America owning or having exclusive jurisdiction over certain property, the governor is authorized and directed to accept such jurisdiction as is necessary to establish concurrent jurisdiction between the United States and the state of Washington over the property as described in such notice and to the extent and periods of time authorized in such notice. The acquisition of such concurrent jurisdiction shall become

effective upon filing the documents signifying such acceptance in the office of the secretary of state of the state of Washington.

(2) The authorization contained in subsection (1) of this section shall not be exclusive, shall not affect any existing jurisdiction or concurrent jurisdiction by the state over federal property, and shall be in addition to any other method or methods of assuming jurisdiction or concurrent jurisdiction over federal property.

[1979 ex.s. c 49 § 1.]

Chapter 37.08 RCW JURISDICTION IN SPECIAL CASES

Sections

37.08.180	Jurisdiction ceded.
37.08.200	Rainier National Park.
37.08.210	Olympic National Park.
37.08.220	National forests, establishment, consolidation, extension of.
37.08.230	Migratory bird preserves.
37.08.240	Lake Washington ship canal.
37.08.250	Additional right-of-way.
37.08.260	Auburn general depot.
37.08.270	Cession of jurisdiction.
37.08.280	Veterans hospitals.

RCW 37.08.180 Jurisdiction ceded.

Jurisdiction ceded when acquisition of land for permanent military installations, see RCW 37.16.180.

RCW 37.08.200 Rainier National Park.

Exclusive jurisdiction shall be, and the same is hereby ceded to the United States over and within all the territory that is now or may hereafter be included in that tract of land in the state of Washington, set aside for the purposes of a national park, and known as the Rainier National Park; saving, however, to the said state, the right to serve civil or criminal process within the limits of the aforesaid park, in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state, but outside of said park; and saving further to the said state the right to tax persons and corporations, their franchises and property on the lands included in said park: PROVIDED, HOWEVER, This jurisdiction shall not vest until the United States through the proper officer, notifies the governor of this state that they assume police or military jurisdiction over said park.

[1901 c 92 § 1; RRS § 8110.]

RCW 37.08.210 Olympic National Park.

Exclusive jurisdiction shall be, and the same is hereby ceded to the United States over and within all the territory that is now or hereafter included in that tract of land in the state of Washington, set aside for the purposes of a national park, and known as the Olympic National Park; saving, however, to the said state, the right to serve civil and criminal process within the limits of the aforesaid park, in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state, but outside of said park; and saving further to the said state the right to tax persons and corporations, their franchises and property on the lands included in said park: PROVIDED, HOWEVER, This jurisdiction shall not vest until the United States, through the proper officer, notifies the governor of this state that they assume police or military jurisdiction over said park: AND PROVIDED FURTHER, That full jurisdiction over a strip of land two hundred fifty feet wide, being one hundred twenty-five feet wide on each side of the now existing center line of primary state highway No. 9 together with existing pit sites and stockpile sites within said park shall be retained by the state of Washington.

[1945 c 114 § 1; 1941 c 51 § 1; 1939 c 170 § 1; Rem. Supp. 1945 § 8110-1.]

RCW 37.08.220 National forests, establishment, consolidation, extension of.

The legislature of the state of Washington hereby consents to the acquisition by the United States by purchase or gift of such lands in the state of Washington as in the opinion of the government of the United States may be needed for the establishment, consolidation and extension of national forests in this state under the provisions of the act of congress approved March 1, 1911, and entitled: "An act to enable any state to cooperate with any other state or states or with the United States for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended: PROVIDED, The state of Washington shall retain a concurrent jurisdiction with the United States in and over lands so acquired so far that civil processes in all cases, and such criminal processes as may issue under the authority of the state of Washington against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this consent had not been granted: PROVIDED FURTHER, That before any acquirement of lands be made under the provisions of this section, such acquisition shall be approved by the department of natural resources: AND FURTHER PROVIDED, That the state of Washington shall retain concurrent jurisdiction to tax persons and corporations and their property and transaction on such lands so acquired.

[1988 c 128 § 8; 1935 c 58 § 1; RRS § 9663-23.]

Notes:

County may convey forest lands to United States: RCW 36.34.210.

RCW 37.08.230 Migratory bird preserves.

Consent of the state of Washington is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land or water, or of land and water, in the state of Washington, as the United States may deem necessary for the establishment of migratory-bird reservations in accordance with the act of congress approved February 18, 1929, entitled "An Act to more effectively meet the obligations of the United States under the migratory bird treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes," reserving, however, to the state of Washington full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of said act of congress.

[1933 c 159 § 1; no RRS.]

RCW 37.08.240 Lake Washington ship canal.

That in aid of the construction, maintenance and operation of a ship canal, by the United States of America, to connect the waters of Lakes Union and Washington, in King county, with Puget Sound, together with all necessary and convenient locks, landways, spillways, buildings, power plant and other proper appurtenances, there be and hereby is granted by this state to said United States the right to place, construct, maintain, and operate, such ship canal, landways, spillways, buildings, power plant and other proper appurtenances, upon, along, through and over any and all lands belonging to and waters of this state in said King county, within such limits as shall be defined by the plans and specifications for such improvement as the same shall be approved by the United States secretary of war, and the right to raise the waters of Salmon Bay and the right to lower the waters of Lake Washington, in prosecution of such improvement, and this state hereby releases the United States from all liability to damages to this state, its successors or assigns, that shall or might arise from such lowering or raising of waters, or otherwise from such improvement. But nothing in this section contained shall operate as an assumption of nor create any liability on the part of the state, for any damages which may result to any person, company or corporation.

[1901 c 6 § 1; RRS § 8120.]

RCW 37.08.250 Additional right-of-way.

That a right-of-way of not exceeding five hundred feet in width is hereby granted to the United States of America through any lands or shorelands belonging to the state of Washington, or to the University of Washington, and lying in King county between Lakes Union and Washington, or in or adjoining either of them, the southern boundary of such right-of-way on the upland to be coincident with the southern boundary of the lands now occupied by the University of Washington adjacent to the present right-of-way of said canal; the width and definite location of such right-of-way before the same is taken possession of by said United States shall be plainly

and completely platted and a plat thereof approved by the secretary of war of the United States filed with the department of natural resources: PROVIDED, That nothing in this section contained shall be construed to repeal or impair any right, interest, privilege or grant expressed or intended in the act of the legislature of the state of Washington approved February 8, 1901, entitled, "An Act relative to and in aid of the construction, maintenance and operation by the United States of America of a ship canal with proper locks and appurtenances to connect the waters of Lakes Union and Washington in King county with Puget Sound and declaring an emergency."

[1988 c 128 § 9; 1907 c 216 § 1; RRS § 8121.]

RCW 37.08.260 Auburn general depot.

Concurrent jurisdiction shall be, and the same is hereby ceded to the United States over and within all the land comprising the Auburn General Depot area, being 570.08 acres, more or less, situate in King county, state of Washington; saving, however, to the state the right to serve civil and criminal process within the limits of the aforesaid area in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state, but outside of said area. The metes and bounds description of the land over which jurisdiction is ceded hereby is as follows:

A parcel of land in sections 24 and 25, Township 21 North, Range 4 East, Willamette Meridian, King County, as follows: Beginning at a point on the west line of the Northern Pacific Railway right-of-way which point is S 89°16'55" W, 423.65 feet and N 2°12'33" W, 20 feet from the southeast corner of section 25, thence S 89°16'55" W, 1548.93 feet along the north right-of-way line of Ellingson Road to a point, thence N 0°10'45" E, 1298.11 feet to a point, thence S 89°31'28" W, 638.25 feet to the east right-of-way line of Greenhalgh Road, thence N 0°08'47" E, 1351.31 feet along said east right-of-way line to its intersection with the north right-of-way line of Algona Road, thence S 89°46'07" W, 1724.35 feet along said north right-of-way line to a point on the easterly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad, thence N 0°04'38" W, 1223.74 feet along said right-of-way to a point of spiral curve, thence along a spiral curve whose central angle is 1°36'14" and whose long chord bears N 0°27'20" E, 158.51 feet, thence along a circular curve to the right, whose radius bears S 88°28'24" E, 2822.01 feet, through a central angle of 21°16'24" for a distance of 1047.78 feet to a point of spiral, thence along a spiral curve whose central angle is 1°36'14", and whose long chord bears N 23°51'42" E, 158.51 feet, thence N 24°24'15" E, 3088.12 feet to a point of spiral curve, thence along a spiral whose central angle is 1°35'51", and whose long chord bears N 23°51'55" E, 161.51 feet to point of circular curve, thence along a circular curve, to the left, whose radius bears N 67°11'36" W, 2908.01 feet, through a central angle of 20°58'46" for a distance of 1064.80 feet, thence along a spiral curve to the left, whose central angle is 1°35'51", and whose long chord bears N 0°45'10" E, 161.51 feet, thence N 0°13'47" E, 1148.81 feet to the centerline of the Chicago, Milwaukee, St. Paul and Pacific Railroad and Northern Pacific crossover track being a point in a curve, thence along centerline of said crossover track on a curve to the left in a southeasterly direction, from a radius which bears N 63°36'26" E, 351.28

feet, through a central angle of 26°50'13" for a distance of 164.54 feet, thence S 53°13'47" E, 1840.78 feet along said centerline, thence along a curve to the right in a southeasterly direction, from a radius which bears S 36°46'13" W, 386.60 feet, through a central angle of 10°26'06" for a distance of 70.41 feet to the intersection of the westerly right-of-way line of county road No. 76, thence *S 2°12'33" E, 6596.21 feet along the westerly right-of-way line of county road No. 76 to the East-West centerline of said section 25, thence N 89°46'02" E, 60.04 feet to the westerly right-of-way line of the Northern Pacific Railway Company, thence S 2°12'33" E, 2605.01 feet to point of beginning. The jurisdiction ceded hereby does not extend to any existing perimeter railroad or county road right-of-way.

[1951 c 40 § 1.]

Notes:

***Reviser's note:** In the third from the last course, the "2" in the description "S 2°12'33" E" was by typographical error omitted from the session laws. The digit is inserted by the reviser after verification from original sources.

RCW 37.08.270 Cession of jurisdiction.

Cession of jurisdiction, lease or conveyances to United States for flood control, navigation and allied purposes, see RCW 36.34.220-36.34.240.

RCW 37.08.280 Veterans hospitals.

Upon the filing of an appropriate notice thereof with the governor by the administrator of veterans affairs, an agency of the United States of America, pursuant to the provisions of section 302 of Public Law 93-82 (87 Stat. 195; 38 U.S.C. Sec. 5007), the governor is hereby authorized and directed to accept such legislative jurisdiction as is necessary to establish concurrent jurisdiction between the United States and the state of Washington to all land comprising the veterans hospital located at Vancouver in Clark county, Washington; the veterans administration hospital located at Walla Walla in Walla Walla county, Washington, and the veterans administration hospital located at American Lake in Pierce county, Washington. The acquisition of such concurrent jurisdiction shall become effective upon filing the documents signifying such acceptance in the office of the secretary of state.

[1975 1st ex.s. c 142 § 1.]

**Chapter 37.12 RCW
INDIANS AND INDIAN LANDS--JURISDICTION**

Sections

- | | |
|-----------|--|
| 37.12.010 | Assumption of criminal and civil jurisdiction by state. |
| 37.12.021 | Assumption of criminal and civil jurisdiction by state--Resolution of request--Proclamation by governor, 1963 act. |
| 37.12.030 | Effective date for assumption of jurisdiction--Criminal causes. |
| 37.12.040 | Effective date for assumption of jurisdiction--Civil causes. |

- 37.12.050 State's jurisdiction limited by federal law.
- 37.12.060 Chapter limited in application.
- 37.12.070 Tribal ordinances, customs, not inconsistent with law applicable in civil causes.
- 37.12.100 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations--Retrocession of criminal jurisdiction--Intent.
- 37.12.110 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations--Retrocession of criminal jurisdiction--Definitions.
- 37.12.120 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations--Retrocession of criminal jurisdiction--Proclamation by governor.
- 37.12.130 Quileute, Chehalis, Swinomish, and Colville Indian reservations--Retrocession of criminal jurisdiction--Savings.
- 37.12.140 Quileute, Chehalis, Swinomish, and Colville Indian reservations--Retrocession of criminal jurisdiction--Short title.
- 37.12.150 Retrocession of federal jurisdiction over lands excluded from Olympic National Park.

Notes:

Alienation of land by Indians: Chapter 64.20 RCW.

Annexation of federal areas by first class city: RCW 35.13.185.

Compact with the United States: State Constitution Art. 26 § 2.

Daylight saving time--Prohibition not applicable to federal areas: RCW 1.20.050.

Qualifications of voters: State Constitution Art. 6 § 1 (Amendment 63).

RCW 37.12.010 Assumption of criminal and civil jurisdiction by state.

The state of Washington hereby obligates and binds itself to assume criminal and civil jurisdiction over Indians and Indian territory, reservations, country, and lands within this state in accordance with the consent of the United States given by the act of August 15, 1953 (Public Law 280, 83rd Congress, 1st Session), but such assumption of jurisdiction shall not apply to Indians when on their tribal lands or allotted lands within an established Indian reservation and held in trust by the United States or subject to a restriction against alienation imposed by the United States, unless the provisions of RCW 37.12.021 have been invoked, except for the following:

- (1) Compulsory school attendance;
- (2) Public assistance;
- (3) Domestic relations;
- (4) Mental illness;
- (5) Juvenile delinquency;
- (6) Adoption proceedings;
- (7) Dependent children; and

(8) Operation of motor vehicles upon the public streets, alleys, roads and highways: PROVIDED FURTHER, That Indian tribes that petitioned for, were granted and became subject to state jurisdiction pursuant to this chapter on or before March 13, 1963 shall remain subject to state civil and criminal jurisdiction as if *chapter 36, Laws of 1963 had not been enacted.

[1963 c 36 § 1; 1957 c 240 § 1.]

Notes:

***Reviser's note:** Chapter 36, Laws of 1963, which became effective on March 13, 1963, amended RCW 37.12.010, 37.12.030, 37.12.040, and 37.12.060, repealed RCW 37.12.020, and enacted a new section codified herein as RCW 37.12.021.

RCW 37.12.021 Assumption of criminal and civil jurisdiction by state--Resolution of request--Proclamation by governor, 1963 act.

Whenever the governor of this state shall receive from the majority of any tribe or the tribal council or other governing body, duly recognized by the Bureau of Indian Affairs, of any Indian tribe, community, band or group in this state a resolution expressing its desire that its people and lands be subject to the criminal or civil jurisdiction of the state of Washington to the full extent authorized by federal law, he shall issue within sixty days a proclamation to the effect that such jurisdiction shall apply to all Indians and all Indian territory, reservations, country, and lands of the Indian body involved to the same extent that this state exercises civil and criminal jurisdiction or both elsewhere within the state: PROVIDED, That jurisdiction assumed pursuant to this section shall nevertheless be subject to the limitations set forth in RCW 37.12.060.

[1963 c 36 § 5.]

RCW 37.12.030 Effective date for assumption of jurisdiction--Criminal causes.

Upon March 13, 1963 the state of Washington shall assume jurisdiction over offenses as set forth in RCW 37.12.010 committed by or against Indians in the lands prescribed in RCW 37.12.010 to the same extent that this state has jurisdiction over offenses committed elsewhere within this state, and such criminal laws of this state shall have the same force and effect within such lands as they have elsewhere within this state.

[1963 c 36 § 2; 1957 c 240 § 3.]

RCW 37.12.040 Effective date for assumption of jurisdiction--Civil causes.

Upon March 13, 1963 the state of Washington shall assume jurisdiction over civil causes of action as set forth in RCW 37.12.010 between Indians or to which Indians are parties which arise in the lands prescribed in RCW 37.12.010 to the same extent that this state has jurisdiction over other civil causes of action and, except as otherwise provided in this chapter, those civil laws of this state that are of general application to private persons or private property shall have the same force and effect within such lands as they have elsewhere within this state.

[1963 c 36 § 3; 1957 c 240 § 4.]

RCW 37.12.050 State's jurisdiction limited by federal law.

The jurisdiction assumed pursuant to this chapter shall be subject to the limitations and provisions of the federal act of August 15, 1953 (Public Law 280, 83rd Congress, 1st Session).

[1957 c 240 § 5.]

RCW 37.12.060 Chapter limited in application.

Nothing in this chapter shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights and tidelands, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under federal treaty, agreement, statute, or executive order with respect to Indian land grants, hunting, trapping, or fishing or the control, licensing, or regulation thereof.

[1963 c 36 § 4; 1957 c 240 § 6.]

RCW 37.12.070 Tribal ordinances, customs, not inconsistent with law applicable in civil causes.

Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the state, be given full force and effect in the determination of civil causes of action pursuant to this section.

[1957 c 240 § 7.]

RCW 37.12.100 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations--Retrocession of criminal jurisdiction--Intent.

It is the intent of the legislature to authorize a procedure for the retrocession, to the Quileute Tribe, Chehalis Tribe, Swinomish Tribe, Skokomish Tribe, Muckleshoot Tribe, Tulalip Tribes, and the Colville Confederated Tribes of Washington and the United States, of criminal jurisdiction over Indians for acts occurring on tribal lands or allotted lands within the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville Indian reservation and held in trust by the United States or subject to a restriction against alienation imposed by the United States.

RCW 37.12.100 through 37.12.140 in no way expand the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville tribe's criminal or civil jurisdiction, if any, over non-Indians or fee title property. RCW 37.12.100 through 37.12.140 shall have no effect whatsoever on water rights, hunting and fishing rights, the established pattern of civil jurisdiction existing on the lands of the Quileute, Chehalis, Swinomish, Skokomish,

Muckleshoot, Tulalip, or Colville Indian reservation, the established pattern of regulatory jurisdiction existing on the lands of the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, or Colville Indian reservation, taxation, or any other matter not specifically included within the terms of RCW 37.12.100 through 37.12.140.

[1995 c 202 § 1; 1995 c 177 § 1; 1994 c 12 § 1; 1988 c 108 § 1; 1986 c 267 § 2.]

Notes:

Reviser's note: This section was amended by 1995 c 177 § 1 and by 1995 c 202 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1986 c 267: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 267 § 8.]

RCW 37.12.110 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations--Retrocession of criminal jurisdiction--Definitions.

Unless the context clearly requires otherwise, the following definitions apply throughout RCW 37.12.100 through 37.12.140:

(1) "Colville reservation" or "Colville Indian reservation," "Quileute reservation" or "Quileute Indian reservation," "Chehalis reservation" or "Chehalis Indian reservation," "Swinomish reservation" or "Swinomish Indian reservation," "Skokomish reservation" or "Skokomish Indian reservation," "Muckleshoot reservation" or "Muckleshoot Indian reservation," or "Tulalip reservation" or "Tulalip Indian reservation" means all tribal lands or allotted lands lying within the reservation of the named tribe and held in trust by the United States or subject to a restriction against alienation imposed by the United States, but does not include those lands which lie north of the present Colville Indian reservation which were included in original reservation boundaries created in 1872 and which are referred to as the "diminished reservation."

(2) "Indian tribe," "tribe," "Colville tribes," or "Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip tribe" means the confederated tribes of the Colville reservation or the tribe of the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip reservation.

(3) "Tribal court" means the trial and appellate courts of the Colville tribes or the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip tribe.

[1995 c 202 § 2; 1995 c 177 § 2; 1994 c 12 § 2; 1988 c 108 § 2; 1986 c 267 § 3.]

Notes:

Reviser's note: This section was amended by 1995 c 177 § 2 and by 1995 c 202 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1986 c 267: See note following RCW 37.12.100.

RCW 37.12.120 Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, Tulalip, and Colville Indian reservations--Retrocession of criminal jurisdiction--Proclamation by governor.

Whenever the governor receives from the confederated tribes of the Colville reservation or the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, or Tulalip tribe a resolution expressing their desire for the retrocession by the state of all or any measure of the criminal jurisdiction acquired by the state pursuant to RCW 37.12.021 over lands of that tribe's reservation, the governor may, within ninety days, issue a proclamation retroceding to the United States the criminal jurisdiction previously acquired by the state over such reservation. However, the state of Washington shall retain jurisdiction as provided in RCW 37.12.010. The proclamation of retrocession shall not become effective until it is accepted by an officer of the United States government in accordance with 25 U.S.C. Sec. 1323 (82 Stat. 78, 79) and in accordance with procedures established by the United States for acceptance of such retrocession of jurisdiction. The Colville tribes and the Quileute, Chehalis, Swinomish, Skokomish, Muckleshoot, and Tulalip tribes shall not exercise criminal or civil jurisdiction over non-Indians.

[1995 c 202 § 3; 1995 c 177 § 3; 1994 c 12 § 3; 1988 c 108 § 3; 1986 c 267 § 4.]

Notes:

Reviser's note: This section was amended by 1995 c 177 § 3 and by 1995 c 202 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1986 c 267: See note following RCW 37.12.100.

RCW 37.12.130 Quileute, Chehalis, Swinomish, and Colville Indian reservations--Retrocession of criminal jurisdiction--Savings.

An action or proceeding which has been filed with any court or agency of the state or local government preceding the effective date of retrocession of jurisdiction under RCW 37.12.100 through 37.12.140 shall not abate by reason of the retrocession or determination of jurisdiction.

[1986 c 267 § 6.]

Notes:

Severability--1986 c 267: See note following RCW 37.12.100.

RCW 37.12.140 Quileute, Chehalis, Swinomish, and Colville Indian reservations--Retrocession of criminal jurisdiction--Short title.

RCW 37.12.100 through 37.12.140 may be known and cited as the Indian reservation criminal jurisdiction retrocession act.

[1988 c 108 § 4; 1986 c 267 § 1.]

Notes:

Severability--1986 c 267: See note following RCW 37.12.100.

RCW 37.12.150 Retrocession of federal jurisdiction over lands excluded from Olympic National Park.

The state of Washington hereby accepts retrocession from the United States of the jurisdiction which the United States acquired over those lands excluded from the boundaries of the Olympic National Park by 16 U.S.C. Sec. 251e. The lands restored to the Quileute Indian Reservation by Public Law 94-578 shall be subject to the same Washington state and tribal jurisdiction as all other lands within the Quileute Reservation.

[1988 c 108 § 5.]

**Chapter 37.14 RCW
INDIAN CULTURAL FACILITY BOND ISSUE**

Sections

37.14.010	General obligation bonds--Authorized--Issuance, sale, terms, etc.
37.14.020	Anticipation notes--Proceeds of bonds and notes.
37.14.030	Administration of proceeds.
37.14.040	Retirement of bonds from Indian cultural center construction bond redemption fund--Source--Remedies of bond holders.
37.14.050	Legal investment for public funds.
37.14.900	Severability--1975-'76 2nd ex.s. c 128.

RCW 37.14.010 General obligation bonds--Authorized--Issuance, sale, terms, etc.

Solely for the purpose of providing a matching grant for the planning, design, acquisition, construction, furnishing, equipping, remodeling, and landscaping of a regional Indian cultural, educational, tourist, and economic development facility designated as the "people's lodge," the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million dollars or so much thereof as shall be required to finance that portion of the grant by the state for said project as is set forth by appropriation from the Indian cultural center construction account in the state treasury for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington. All earnings of investments of balances in the Indian cultural center construction account shall be credited to the general fund.

If one hundred fifteen thousand dollars or more in additional federal and/or private funding is not secured within five years of September 1, 1979, and applied toward the completion of the "people's lodge," ownership of the property and/or facility developed with the proceeds of the bonds issued under this section shall be transferred to the state. Expenditure of these bond proceeds shall be conditioned on prior approval by the director of general

administration of any real estate acquisitions and of construction plans for any building and/or grounds projects. The director's approval shall be based on a finding that any real estate to be acquired is appraised at or above the purchase price, that any construction plans for building and/or grounds projects provide for completion of any facilities contemplated therein, and that there are funds in an amount sufficient to finish the project so that it is fully operational for its intended uses.

The state finance committee is authorized to prescribe the form of such bonds, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

[1985 c 57 § 20; 1983 1st ex.s. c 54 § 7; 1979 ex.s. c 246 § 1; 1975-'76 2nd ex.s. c 128 § 1.]

Notes:

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--1983 1st ex.s. c 54: See RCW 43.83.196.

RCW 37.14.020 Anticipation notes--Proceeds of bonds and notes.

At the time the state finance committee determines to issue such bonds authorized in RCW 37.14.010 or a portion thereof, it may issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by this chapter shall be deposited in the Indian cultural center construction account of the general fund hereby created in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of such bonds and notes: PROVIDED, Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 37.14.040.

[1975-'76 2nd ex.s. c 128 § 2.]

RCW 37.14.030 Administration of proceeds.

The principal proceeds from the sale of the bonds authorized in this chapter and deposited in the Indian cultural center construction account in the general fund shall be administered by the executive director of the arts commission.

[1975-'76 2nd ex.s. c 128 § 3.]

RCW 37.14.040 Retirement of bonds from Indian cultural center construction bond redemption fund--Source--Remedies of bond holders.

The Indian cultural center construction bond redemption fund of 1976 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds and notes authorized by this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the Indian cultural center construction bond redemption fund of 1976 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein.

[1975-'76 2nd ex.s. c 128 § 4.]

RCW 37.14.050 Legal investment for public funds.

The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1975-'76 2nd ex.s. c 128 § 5.]

RCW 37.14.900 Severability--1975-'76 2nd ex.s. c 128.

If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1975-'76 2nd ex.s. c 128 § 6.]

Chapter 37.16 RCW

ACQUISITION OF LANDS FOR PERMANENT MILITARY INSTALLATIONS

Sections

37.16.180 Jurisdiction ceded.

Notes:

Reviser's note: Chapter 4, Laws of 1917, herein codified as chapter 37.16 RCW, is discussed in *State ex rel. Board of Commissioners v. Clausen*, 95 Wash. 214, 163 Pac. 744 (1917), where it is considered in conjunction with 1917 c 3, a special act authorizing (and directing) Pierce county to condemn property and issue bonds in payment of awards therefor in order to secure the location of Camp (now Fort) Lewis in that county. In prior compilations, Remington omitted 1917 c 4, and Pierce omitted all but section 22, ceding the state's jurisdiction to

the United States. 1917 c 4 appears to have been a general act and for that reason was codified herein. Most of the sections in this chapter were subsequently repealed by 1971 c 76 § 6.

Appropriation authorized in aid of federal or state improvement: RCW 8.08.090.

Condemnation for military purposes: RCW 8.04.170, 8.04.180.

Eminent domain by counties: Chapter 8.08 RCW.

Joint armory sites: RCW 36.64.050.

Lease or conveyance to the state or to United States for military, housing and other purposes: RCW 36.34.250.

Leases to United States for national defense: RCW 79.08.120.

Long term leases to United States by counties: RCW 36.34.310.

Tide and shore land grants to United States: RCW 79.94.410 through 79.94.440.

Transfer of property to state or United States for military purposes or housing projects: RCW 36.34.260.

RCW 37.16.180 Jurisdiction ceded.

Pursuant to the Constitution and laws of the United States, and especially to paragraph seventeen of section eight of article one of such Constitution, the consent of the legislature of the state of Washington is hereby given to the United States to acquire by donation from any county acting under the provisions of this chapter, title to all the lands herein intended to be referred to, to be evidenced by the deed or deeds of such county, signed by the chairman of its board of county commissioners and attested by the clerk of such board under the seal of such board, and the consent of the state of Washington is hereby given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever, over such tracts or parcels of land so conveyed to it: PROVIDED, Upon such conveyance being concluded, a sufficient description by metes and bounds and an accurate plat or map of each such tract or parcel of land be filed in the auditor's office of the county in which such lands are situated, together with copies of the orders, deeds, patents, or other evidences in writing of the title of the United States: AND PROVIDED, That all civil process issued from the courts of this state, and such criminal process as may issue under the authority of this state against any person charged with crime in cases arising outside of such reservation, may be served and executed thereon in the same mode and manner and by the same officers as if the consent herein given had not been made.

[1917 c 4 § 22; no RRS. Formerly RCW 37.08.180.]

Notes:

General cession of jurisdiction: Chapter 37.04 RCW.

Jurisdiction in special cases: Chapter 37.08 RCW.

Title 38 RCW MILITIA AND MILITARY AFFAIRS

Chapters

38.04 General provisions.

38.08 Powers and duties of governor.

38.10 Emergency management assistance compact.

- 38.12 Militia officers and advisory council.**
- 38.14 Washington state guard.**
- 38.16 Enlistments and reserves.**
- 38.20 Armories and rifle ranges.**
- 38.24 Claims and compensation.**
- 38.32 Offenses--Punishment.**
- 38.36 Trial procedure.**
- 38.38 Washington code of military justice.**
- 38.40 Miscellaneous provisions.**
- 38.44 Enrollment of persons.**
- 38.48 State and national defense.**
- 38.52 Emergency management.**
- 38.54 State fire services mobilization.**

NOTES:

Explosives, manufacture, sale or storage: Chapter 70.74 RCW.

Limitation on members of the legislature holding office in the state--Exception: State Constitution Art. 2 § 14.

Microfilming of records to provide continuity of civil government: Chapter 40.10 RCW.

Military subordinate to civil power: State Constitution Art. 1 § 18.

National guard conditional scholarship program: Chapter 28B.103 RCW.

Quartering soldiers in residences: State Constitution Art. 1 § 31.

Right to bear arms: State Constitution Art. 1 § 24.

Special act relating to aerospace science and modeling center at Camp Murray: 1969 ex.s. c 85.

SPECIAL ACTS RELATING TO ARMORIES: *The following special or temporary acts relating to particular armories are not codified herein:*

(1) 1959 c 181; 1961 c 135; 1963 c 146, Seattle.

(2) 1967 c 37, Prosser.

(3) 1967 c 43, Centralia.

(4) 1967 c 44, Chewelah.

(5) 1967 c 214, Stevens County.

(6) 1967 c 224, Tacoma and Pierce County.

(7) 1967 c 226, Yakima.

(8) 1969 ex.s. c 22, Kirkland.

Special legislation: State Constitution Art. 2 § 28(2).

Standing army in time of peace prohibited: State Constitution Art. 1 § 31.

State flag furnished to armed forces: RCW 1.20.010.

State militia: State Constitution Art. 10.

Veterans and veterans' affairs: Title 73 RCW.

Chapter 38.04 RCW GENERAL PROVISIONS

Sections

- 38.04.010 General definitions.
- 38.04.020 "Officer," "enlisted men," "enlisted persons" defined--Convictions and punishments.
- 38.04.030 Composition of the militia.
- 38.04.040 Composition of organized militia.

Notes:

Acknowledgments and powers of attorney of military personnel: Chapter 73.20 RCW.

Military personnel classified as resident students: RCW 28B.15.014.

RCW 38.04.010 General definitions.

When used in this title, the following words, terms, phrases shall have the following meaning:

The word "militia" shall mean the military forces provided for in the Constitution and laws of the state of Washington.

The term "organized militia" shall be the general term to include both state and national guard and whenever used applies equally to all such organizations.

The term "national guard" shall mean that part of the military force of the state that is organized, equipped and federally recognized under the provisions of the national defense act of the United States, and, in the event the national guard is called into federal service or in the event the state guard or any part or individual member thereof is called into active state service by the commander-in-chief, the term shall also include the "Washington state guard" or any temporary organization set up in times of emergency to replace either the "national guard" or "state guard" while in actual service of the United States.

The term "state guard" shall mean that part of the military forces of the state that is organized, equipped, and recognized under the provisions of the State Defense Forces Act of the United States (32 U.S.C. Sec. 109, as amended).

The term "active state service" or "active training duty" shall be construed to be any service on behalf of the state, or at encampments whether ordered by state or federal authority or any other duty requiring the entire time of any organization or person except when called or drafted into the federal service by the president of the United States.

The term "inactive duty" shall include periods of drill and such other training and service not requiring the entire time of the organization or person, as may be required under state or federal laws, regulations, or orders, including travel to and from such duty.

The terms "in service of United States" and "not in service of United States" as used herein shall be understood to mean the same as such terms when used in the national defense act of congress and amendments thereto.

The term "military" refers to any or all of the armed forces.

The term "armory" refers to any state-owned building, warehouse, vehicle storage compound, organizational maintenance shop or other facility and the lands appurtenant thereto used by the Washington national guard for the storage and maintenance of arms or military equipment or the administration or training of the organized militia.

The term "member" refers to a soldier or airman of the organized militia.

[1991 c 43 § 1; 1989 c 19 § 1; 1963 c 220 § 133; 1943 c 130 § 12; Rem. Supp. 1943 § 8603-12. Prior: 1917 c 107 §§ 1, part, 3, part; 1909 c 134 § 10, part; 1895 c 108 § 10, part.]

Notes:

Short title: "This act shall be known as the Military Code of the state of Washington." [1943 c 130 § 1.]

Severability--1943 c 130: "If any provisions of this act or the application thereof to any person or circumstances is held invalid for any reason, such determination shall not affect other provisions or applications of the act which can be given effect without the invalid provisions, and to this end, the provisions of this act are declared to be severable." [1943 c 130 § 95.]

Martial law: RCW 38.08.030.

RCW 38.04.020 "Officer," "enlisted men," "enlisted persons" defined--Convictions and punishments.

Whenever used in this title, the word "officer" shall be understood to designate commissioned and warrant officers, and the words "enlisted men" or "enlisted persons" shall be understood to designate members of the organized militia of Washington other than commissioned or warrant officers. The convictions and punishments mentioned unless otherwise specifically designated, shall be understood to be respectively convictions and punishments by military courts.

[1989 c 19 § 2; 1943 c 130 § 80; Rem. Supp. 1943 § 8603-80. Prior: 1917 c 107 § 60.]

RCW 38.04.030 Composition of the militia.

The militia of the state of Washington shall consist of all able bodied citizens of the United States and all other able bodied persons who have declared their intention to become citizens of the United States, residing within this state, who shall be more than eighteen years of age, and shall include all persons who are members of the national guard and the state guard, and said militia shall be divided into two classes, the organized militia and the unorganized militia.

[1989 c 19 § 3; 1973 1st ex.s. c 154 § 55; 1963 c 74 § 1; 1943 c 130 § 2; Rem. Supp. 1943 § 8603-2. Prior: 1917 c 107 § 1; 1909 c 134 § 2; 1895 c 108 § 2.]

Notes:

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

Militia--Who liable to military duty: State Constitution Art. 10 § 1.

RCW 38.04.040 Composition of organized militia.

The organized militia of Washington shall consist of the commissioned officers, warrant officers, enlisted persons, organizations, staffs, corps, and departments of the regularly commissioned, warranted and enlisted militia of the state, organized and maintained pursuant to law. Its numerical strength, composition, distribution, organization, arms, uniforms, equipment, training and discipline shall be prescribed by the governor in conformity with, and subject to the limitations imposed by the laws and regulations of the United States and the laws of this state: PROVIDED, HOWEVER, That the minimum enlisted strength of the organized militia of this state shall never be less than two thousand. The organized militia may include persons residing

outside the state of Washington.

[1989 c 19 § 4; 1943 c 130 § 4; Rem. Supp. 1943 § 8603-4. Prior: 1917 c 107 § 3. Cf. 1909 c 108 § 10, part; 1895 c 108 § 10, part.]

Chapter 38.08 RCW POWERS AND DUTIES OF GOVERNOR

Sections

38.08.010	Conformance with federal laws.
38.08.020	Governor as commander-in-chief--Adjutant general executive head.
38.08.030	Proclamation of complete or limited martial law.
38.08.040	Governor may order out organized militia.
38.08.050	Governor may order out unorganized militia.
38.08.060	Governor's decision final.
38.08.070	Personal staff for governor.
38.08.090	Governor to promulgate rules.
38.08.100	Compacts with other states for guarding boundaries.
38.08.500	National guard mutual assistance counter-drug activities compact.

Notes:

Commander-in-chief: State Constitution Art. 3 § 8.

Commander-in-chief may order enrollment: RCW 38.44.010.

Militia--Organization--Discipline--Officers--Power to call out: State Constitution Art. 10 § 2.

RCW 38.08.010 Conformance with federal laws.

The governor shall cause the organized militia of this state at all times to conform to all federal laws and regulations as are now or may hereafter from time to time become operative and applicable, notwithstanding anything in the laws of this state to the contrary. Except as and when otherwise specifically provided by federal laws, the organized militia of Washington, or any part thereof, shall be subject to call for United States service at such times, in such manner, and in such numbers as may from time to time be prescribed by the United States.

In conformity with the provisions of federal statutes, officers and enlisted persons of the organized militia called or drafted into federal service by order or proclamation of the president of the United States, shall upon release from federal service revert to their former status, grade and rank, as members of the organized militia of Washington, and shall continue to serve in the organized militia of Washington until separated therefrom in the manner provided by law.

[1989 c 19 § 5; 1943 c 130 § 5; Rem. Supp. 1943 § 8603-5. Prior: 1921 c 75 § 1; 1917 c 107 § 4; 1909 c 134 § 93; 1895 c 108 § 170.]

RCW 38.08.020 Governor as commander-in-chief--Adjutant general executive head.

The militia of the state not in the service of the United States shall be governed and its

affairs administered pursuant to law, by the governor, as commander-in-chief, through the adjutant general's department, of which the adjutant general shall be the executive head.

[1961 c 210 § 1; 1943 c 130 § 3; Rem. Supp. 1943 § 8603-3. Prior: 1917 c 107 § 2; 1909 c 134 §§ 13, 14; 1895 c 108 § 13.]

Notes:

Governor commander-in-chief: State Constitution Art. 3 § 8.

RCW 38.08.030 Proclamation of complete or limited martial law.

The governor may by proclamation declare the county or city in which troops are serving, or any specific portion thereof, to be under either complete or limited martial law to the extent, in his or her opinion, that the reestablishment or maintenance of law and order may be promoted.

"Complete martial law" is the subordination of all civil authority to the military;

"Limited military law" is a partial subordination of civil authority by the setting up of an additional police power vested in the military force which shall have the right to try all persons apprehended by it in such area by a military tribunal or turn such offender over to civil authorities within five days for further action, during which time the writ of habeas corpus shall be suspended in behalf of such person.

[1989 c 19 § 6; 1943 c 130 § 8; Rem. Supp. 1943 § 8603-8.]

RCW 38.08.040 Governor may order out organized militia.

In event of war, insurrection, rebellion, invasion, tumult, riot, mob, or organized body acting together by force with intent to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws of this state, or the United States, or in case of the imminent danger of the occurrence of any of said events, or at the lawful request of competent state or local authority in support of enforcement of controlled substance statutes, or whenever responsible civil authorities shall, for any reason, fail to preserve law and order, or protect life or property, or the governor believes that such failure is imminent, or in event of public disaster, the governor shall have power to order the organized militia of Washington, or any part thereof, into active service of the state to execute the laws, and to perform such duty as the governor shall deem proper.

[1993 c 263 § 1; 1989 c 19 § 7; 1943 c 130 § 6; Rem. Supp. 1943 § 8603-6. Prior: 1917 c 107 § 7; 1913 c 66 § 2; 1909 c 134 § 15.]

RCW 38.08.050 Governor may order out unorganized militia.

In event of, or imminent danger of, war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, if the governor shall have ordered into active service all of the available forces of the organized militia of Washington and shall consider them

insufficient in number to properly accomplish the purpose, he or she may then in addition order out the unorganized militia or such portion thereof as he may deem necessary, and cause them to perform such military duty as the circumstances may require.

[1989 c 19 § 8; 1943 c 130 § 9; Rem. Supp. 1943 § 8603-9. Prior: 1917 c 107 § 9; 1909 c 134 § 17; 1903 c 155 § 15; 1895 c 108 § 112.]

RCW 38.08.060 Governor's decision final.

Whenever any portion of the militia is ordered to duty by the governor, the decision of the governor shall be final, incontrovertible, and unimpeachable.

Whenever any portion of the militia has been ordered out by the governor, it shall be deemed that local law and order and the enforcement thereof has failed, and that the militia shall become an additional police power, retaining its separate entity and operating at all times as a military organization under military command, to cooperate with existing peace forces wherever possible, for the reestablishment of law and order and for the protection of life and property.

[1943 c 130 § 7; Rem. Supp. 1943 § 8603-7.]

RCW 38.08.070 Personal staff for governor.

Whenever the governor shall desire the attendance of a personal staff upon any occasion, he or she shall detail therefor officers from the active list of the organized militia of Washington; the officers detailed shall attend in uniform and shall constitute the personal staff of the governor for that occasion, reverting upon completion of such duty to their regular assignments.

[1989 c 19 § 9; 1943 c 130 § 15; Rem. Supp. 1943 § 8603-15. Prior: 1917 c 107 § 6; 1909 c 134 § 14. Cf. 1895 c 108 § 13, part.]

RCW 38.08.090 Governor to promulgate rules.

The governor, through the adjutant general, shall promulgate in orders such rules and amendments not inconsistent with law as the governor may deem necessary for the organization, maintenance and training of the militia, and the acquisition, use, issue or disposal of military property. The governor's regulatory powers herein with respect to military property shall include reasonable authority to make regulations controlling the use and temporary disposal of military property including real property for civic purposes where consistent with federal law and regulations, in a manner similar to the law pertaining to the use of armories. The adopted regulations shall have the same force and effect as if enacted.

[1989 c 19 § 10; 1969 ex.s. c 86 § 1; 1943 c 130 § 92; Rem. Supp. 1943 § 8603-92. Prior: 1917 c 107 § 123; 1909 c 134 § 94; 1895 c 108 § 171.]

Notes:

Commander-in-chief authorized to make rules for specific armories (special or temporary acts not codified in this title):

- (1) 1907 c 55 § 11, *Armories at Seattle, Spokane and Tacoma*;
- (2) 1909 c 68 § 10, *Armory at Bellingham*;
- (3) 1913 c 67 § 9, *Armory at North Yakima*;
- (4) 1917 c 108 § 9, *Armory at Walla Walla*;
- (5) 1917 c 109 § 9, *Armory at Aberdeen*;
- (6) 1917 c 166 § 9, *Armory at Everett*.

RCW 38.08.100 Compacts with other states for guarding boundaries.

The governor, with consent of congress, is authorized to enter into compacts and agreements with governors of bordering states concerning guarding and patrol of bridges crossing the common boundaries of said states, and for the patrol of said common boundaries. In any such compact or agreement the governor is authorized to permit militia of any bordering state to enter into areas of this state adjacent to said border, or to send militia of this state into areas of any bordering state adjacent to the common boundary as may be necessary to provide effective protection.

[1951 c 253 § 1.]

RCW 38.08.500 National guard mutual assistance counter-drug activities compact.

(1) The governor, with the consent of congress, is authorized to enter into compacts and agreements for the deployment of the national guard with governors of other states concerning drug interdiction, counter-drug, and demand reduction activities. Article 1, section 10 of the Constitution of the United States permits a state to enter into a compact or agreement with another state, subject to the consent of congress. Congress, through enactment of Title 4 of the U.S.C. Section 112, encourages the states to enter such compacts for cooperative effort and mutual assistance.

(2) The compact language contained in this subsection is intended to deal comprehensively with the supportive relationships between states in utilizing national guard assets in counter-drug activities.

NATIONAL GUARD MUTUAL ASSISTANCE
COUNTER-DRUG ACTIVITIES COMPACT

ARTICLE I
PURPOSE

The purposes of this compact are to:

(a) Provide for mutual assistance and support among the party states in the utilization of the national guard in drug interdiction, counter-drug, and demand reduction activities.

(b) Permit the national guard of this state to enter into mutual assistance and support agreements, on the basis of need, with one or more law enforcement agencies operating within this state, for activities within this state, or with a national guard of one or more other states,

whether said activities are within or without this state in order to facilitate and coordinate efficient, cooperative enforcement efforts directed toward drug interdiction, counter-drug activities, and demand reduction.

(c) Permit the national guard of this state to act as a receiving and a responding state as defined within this compact and to ensure the prompt and effective delivery of national guard personnel, assets, and services to agencies or areas that are in need of increased support and presence.

(d) Permit and encourage a high degree of flexibility in the deployment of national guard forces in the interest of efficiency.

(e) Maximize the effectiveness of the national guard in those situations that call for its utilization under this compact.

(f) Provide protection for the rights of national guard personnel when performing duty in other states in counter-drug activities.

(g) Ensure uniformity of state laws in the area of national guard involvement in interstate counter-drug activities by incorporating said uniform laws within the compact.

ARTICLE II ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force when enacted into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states.

ARTICLE III MUTUAL ASSISTANCE AND SUPPORT

(a) As used in this article:

(1) "Drug interdiction and counter-drug activities" means the use of national guard personnel, while not in federal service, in any law enforcement support activities that are intended to reduce the supply or use of illegal drugs in the United States. These activities include, but are not limited to:

(i) Providing information obtained during either the normal course of military training or operations or during counter-drug activities, to federal, state, or local law enforcement officials that may be relevant to a violation of any federal or state law within the jurisdiction of such officials;

(ii) Making available any equipment, including associated supplies or spare parts, base facilities, or research facilities of the national guard to any federal, state, or local civilian law enforcement official for law enforcement purposes, in accordance with other applicable law or regulation;

(iii) Providing available national guard personnel to train federal, state, or local civilian law enforcement in the operation and maintenance of equipment, including equipment made available above, in accordance with other applicable law;

(iv) Providing available national guard personnel to operate and maintain equipment provided to federal, state, or local law enforcement officials pursuant to activities defined and referred to in this compact;

(v) Operation and maintenance of equipment and facilities of the national guard or law enforcement agencies used for the purposes of drug interdiction and counter-drug activities;

(vi) Providing available national guard personnel to operate equipment for the detection, monitoring, and communication of the movement of air, land, and sea traffic, to facilitate communications in connection with law enforcement programs, to provide transportation for civilian law enforcement personnel, and to operate bases of operations for civilian law enforcement personnel;

(vii) Providing available national guard personnel, equipment, and support for administrative, interpretive, analytic, or other purposes;

(viii) Providing available national guard personnel and equipment to aid federal, state, and local officials and agencies otherwise involved in the prosecution or incarceration of individuals processed within the criminal justice system who have been arrested for criminal acts involving the use, distribution, or transportation of controlled substances as defined in 21 U.S.C. Sec. 801 et seq., or otherwise by law, in accordance with other applicable law.

(2) "Demand reduction" means providing available national guard personnel, equipment, support, and coordination to federal, state, local, and civic organizations, institutions and agencies for the purposes of the prevention of drug abuse and the reduction in the demand for illegal drugs.

(3) "Requesting state" means the state whose governor requested assistance in the area of counter-drug activities.

(4) "Responding state" means the state furnishing assistance, or requested to furnish assistance, in the area of counter-drug activities.

(5) "Law enforcement agency" means a lawfully established federal, state, or local public agency that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory, game, immigration, postal, customs, or controlled substances laws.

(6) "Official" means the appointed, elected, designated, or otherwise duly selected representative of an agency, institution, or organization authorized to conduct those activities for which support is requested.

(7) "Mutual assistance and support agreement" or "agreement" means an agreement between the national guard of this state and one or more law enforcement agencies or between the national guard of this state and the national guard of one or more other states, consistent with the purposes of this compact.

(8) "Party state" refers to a state that has lawfully enacted this compact.

(9) "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(b) Upon the request of a governor of a party state for assistance in the area of

interdiction and counter-drug, and demand reduction activities, the governor of a responding state shall have authority under this compact to send without the borders of his or her state and place under the temporary operational control of the appropriate national guard or other military authorities of the requesting state, for the purposes of providing such requested assistance, all or any part of the national guard forces of his or her state as he or she may deem necessary, and the exercise of his or her discretion in this regard shall be conclusive.

(c) The governor of a party state may, within his or her discretion, withhold the national guard forces of his or her state from such use and recall any forces or part or member thereof previously deployed in a requesting state.

(d) The national guard of this state is hereby authorized to engage in interdiction and counter-drug activities and demand reduction.

(e) The adjutant general of this state, in order to further the purposes of this compact, may enter into a mutual assistance and support agreement with one or more law enforcement agencies of this state, including federal law enforcement agencies operating within this state, or with the national guard of one or more other party states to provide personnel, assets, and services in the area of interdiction and counter-drug activities and demand reduction. However, no such agreement may be entered into with a party that is specifically prohibited by law from performing activities that are the subject of the agreement.

(f) The agreement must set forth the powers, rights, and obligations of the parties to the agreement, where applicable, as follows:

- (1) Its duration;
- (2) The organization, composition, and nature of any separate legal entity created thereby;
- (3) The purpose of the agreement;
- (4) The manner of financing the agreement and establishing and maintaining its budget;
- (5) The method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;
- (6) Provision for administering the agreement, which may include creation of a joint board responsible for such administration;
- (7) The manner of acquiring, holding, and disposing of real and personal property used in this agreement, if necessary;
- (8) The minimum standards for national guard personnel implementing the provisions of this agreement;
- (9) The minimum insurance required of each party to the agreement, if necessary;
- (10) The chain of command or delegation of authority to be followed by national guard personnel acting under the provisions of the agreement;
- (11) The duties and authority that the national guard personnel of each party state may exercise; and
- (12) Any other necessary and proper matters.

Agreements prepared under the provisions of this section are exempt from any general law pertaining to intergovernmental agreements.

(g) As a condition precedent to an agreement becoming effective under this part, the

agreement must be submitted to and receive the approval of the office of the attorney general of Washington. The attorney general of the state of Washington may delegate his or her approval authority to the appropriate attorney for the Washington national guard subject to those conditions which he or she decides are appropriate. The delegation must be in writing and is subject to the following:

(1) The attorney general, or his or her agent as stated above, shall approve an agreement submitted to him or her under this part unless he or she finds that it is not in proper form, does not meet the requirements set forth in this part, or otherwise does not conform to the laws of Washington. If the attorney general disapproves an agreement, he or she shall provide a written explanation to the adjutant general of the Washington national guard; and

(2) If the attorney general, or his or her authorized agent as stated above, does not disapprove an agreement within thirty days after its submission to him or her, it is considered approved by him or her.

(h) Whenever national guard forces of any party state are engaged in the performance of duties, in the area of drug interdiction, counter-drug, and demand reduction activities, pursuant to orders, they shall not be held personally liable for any acts or omissions which occur during the performance of their duty.

ARTICLE IV RESPONSIBILITIES

(a) Nothing in this compact shall be construed as a waiver of any benefits, privileges, immunities, or rights otherwise provided for national guard personnel performing duty pursuant to Title 32 of the United States Code nor shall anything in this compact be construed as a waiver of coverage provided for under the Federal Tort Claims Act. In the event that national guard personnel performing counter-drug activities do not receive rights, benefits, privileges, and immunities otherwise provided for national guard personnel as stated above, the following provisions shall apply:

(1) Whenever national guard forces of any responding state are engaged in another state in carrying out the purposes of this compact, the members thereof so engaged shall have the same powers, duties, rights, privileges, and immunities as members of national guard forces of the requesting state. The requesting state shall save and hold members of the national guard forces of responding states harmless from civil liability, except as otherwise provided herein, for acts or omissions that occur in the performance of their duty while engaged in carrying out the purposes of this compact, whether responding forces are serving the requesting state within the borders of the responding state or are attached to the requesting state for purposes of operational control.

(2) Subject to the provisions of paragraphs (3), (4), and (5) of this Article, all liability that may arise under the laws of the requesting state or the responding states, on account of or in connection with a request for assistance or support, shall be assumed and borne by the requesting state.

(3) Any responding state rendering aid or assistance pursuant to this compact shall be

reimbursed by the requesting state for any loss or damage to, or expense incurred in the operation of, any equipment answering a request for aid, and for the cost of the materials, transportation, and maintenance of national guard personnel and equipment incurred in connection with such request, provided that nothing herein contained shall prevent any responding state from assuming such loss, damage, expense, or other cost.

(4) Unless there is a written agreement to the contrary, each party state shall provide, in the same amounts and manner as if they were on duty within their state, for pay and allowances of the personnel of its national guard units while engaged without the state pursuant to this compact and while going to and returning from such duty pursuant to this compact.

(5) Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its national guard forces in case such members sustain injuries or are killed within their own state shall provide for the payment of compensation and death benefits in the same manner and on the same terms in the event such members sustain injury or are killed while rendering assistance or support pursuant to this compact. Such benefits and compensation shall be deemed items of expense reimbursable pursuant to paragraph (3) of this Article.

(b) Officers and enlisted personnel of the national guard performing duties subject to proper orders pursuant to this compact shall be subject to and governed by the provisions of their home state code of military justice whether they are performing duties within or without their home state. In the event that any national guard member commits, or is suspected of committing, a criminal offense while performing duties pursuant to this compact without his or her home state, he or she may be returned immediately to his or her home state and said home state shall be responsible for any disciplinary action to be taken. However, nothing in this section shall abrogate the general criminal jurisdiction of the state in which the offense occurred.

ARTICLE V DELEGATION

Nothing in this compact shall be construed to prevent the governor of a party state from delegating any of his or her responsibilities or authority respecting the national guard, provided that such delegation is otherwise in accordance with law. For purposes of this compact, however, the governor shall not delegate the power to request assistance from another state.

ARTICLE VI LIMITATIONS

Nothing in this compact shall:

(a) Authorize or permit national guard units or personnel to be placed under the operational control of any person not having the national guard rank or status required by law for the command in question.

(b) Deprive a properly convened court of jurisdiction over an offense or a defendant merely because of the fact that the national guard, while performing duties pursuant to this

compact, was utilized in achieving an arrest or indictment.

ARTICLE VII
CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of the United States or of any state or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

[1993 c 263 § 2.]

Chapter 38.10 RCW
EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Sections

38.10.010 Emergency management assistance compact.
38.10.900 Severability--2001 c 288.

RCW 38.10.010 Emergency management assistance compact.

The emergency management assistance compact is enacted and entered into by this state with all other states legally joining the compact in the form substantially as follows:

ARTICLE I
PURPOSES AND AUTHORITIES

This compact is made and entered into by and between the participating party states which enact this compact. For the purposes of this agreement, the term "states" means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state or states, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any

aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the national guard mutual assistance compact, or by mutual agreement between states.

ARTICLE II GENERAL IMPLEMENTATION

Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to the emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III PARTY STATE RESPONSIBILITIES

(1) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, as is practical, shall:

(a) Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack;

(b) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

(c) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

(d) Assist in warning communities adjacent to or crossing the state boundaries;

(e) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

(f) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness;

(g) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the responsibilities listed in this compact.

(2) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

(a) A description of the emergency services function for which assistance is needed, such as, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

(b) The amount and type of personnel, equipment, materials, and supplies needed, and a reasonable estimate of the length of time they will be needed;

(c) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(3) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV LIMITATIONS

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms of this compact. However, it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for the state. Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercise or training for mutual aid are in progress, the state

of emergency or disaster remains in effect, or loaned resources remain in the receiving state or states, whichever is longer.

ARTICLE V LICENSES AND PERMITS

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI LIABILITY

Officers or employees of a party state rendering aid in another state under this compact shall be considered agents of the requesting state for tort liability and immunity purposes; and no party state or its officers or employees rendering aid in another state under this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article may not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII SUPPLEMENTARY AGREEMENTS

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party to this compact, this instrument contains elements of a broad base common to all states, and nothing in this compact shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII COMPENSATION

Each party state shall provide for payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid under this compact, in the same manner and on the same terms as if the injury or death were sustained within their

own state.

ARTICLE IX REIMBURSEMENT

Any party state rendering aid in another state under this compact shall be reimbursed by the party state receiving the aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with the requests. However, any aiding party state may assume in whole or in part the loss, damage, expense, or other cost, or may loan equipment or donate services to the receiving party state without charge or cost; and any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses may not be reimbursable under this article.

ARTICLE X EVACUATION

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuation might occur. The plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for the evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of the evacuees.

ARTICLE XI IMPLEMENTATION

(1) This compact shall become operative immediately upon its enactment into law by any two states. After the first enactment, this compact shall become effective as to any other state upon its enactment by such state.

(2) Any party state may withdraw from this compact by enacting a statute repealing the compact, but no withdrawal may take effect until thirty days after the governor of the

withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. This action may not relieve the withdrawing state from obligations assumed under this compact before the effective date of withdrawal.

(3) Duly authenticated copies of this compact and such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states, and with the federal emergency management agency and other appropriate agencies of the United States government.

ARTICLE XII ADDITIONAL PROVISIONS

Nothing in this compact shall authorize or permit the use of military force by the national guard of a state at any place outside that state in any emergency for which the president is authorized by law to call into federal service the militia, or for any purpose for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under 18 U.S.C. Sec. 1385.

[2001 c 288 § 1.]

RCW 38.10.900 Severability--2001 c 288.

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

[2001 c 288 § 2.]

Chapter 38.12 RCW MILITIA OFFICERS AND ADVISORY COUNCIL

Sections

38.12.010	Adjutant general--Bond.
38.12.015	Department organized into separate divisions--Army national guard--Air national guard--Assistant adjutants general.
38.12.020	Powers and duties.
38.12.030	Adjutant general and assistant adjutants general--How chosen--Annual salaries--Members of judiciary eligible to serve in guard.
38.12.060	Officers to be commissioned by the governor.
38.12.070	Examining board.
38.12.095	Appointment or promotion of commissioned officers to be made by officer promotion board--Exceptions.
38.12.105	Criteria and guidelines for promotion of commissioned officers.
38.12.115	Officer promotion board--Meetings--Powers and duties.
38.12.125	Officer promotion board--Composition.
38.12.135	Officer promotion board--Official acts--Approval requirements--Rules.
38.12.150	Officer to take oath.
38.12.160	Oath, form of.

- 38.12.170 Termination of officers' membership--Review of retention potential.
38.12.180 Retirement of officers.
38.12.200 Uniform allowance to officers.

Notes:

Militia--Organization--Discipline--Officers--Power to call out: State Constitution Art. 10 § 2.

RCW 38.12.010 Adjutant general--Bond.

The governor, with the advice and consent of the senate, shall appoint an adjutant general who shall be chief of staff to the governor, and may be removed by the governor at will. The adjutant general shall appoint the civilian employees and other personnel of the department and may remove any of them in accordance with applicable law.

The expenses of the adjutant general's department, necessary to the military service, shall be audited, allowed, and paid as other military expenditures.

The adjutant general must execute an official bond running to the state in the penal sum of twenty thousand dollars conditioned for the faithful performance of his or her duties. The bond shall be submitted to the attorney general for approval, and when approved shall be filed in the office of the secretary of state. The cost of the bond shall be paid by the state.

The adjutant general may obtain and pay for, from funds appropriated for military purposes, a surety bond or bonds running to the state covering such officers of the organized militia responsible to the state for money or military property, as may be advisable to insure proper accountability. The bond or bonds shall be approved and filed in the same manner as the adjutant general's bond.

[1989 c 19 § 11; 1981 c 338 § 3; 1957 c 250 § 2. Prior: 1943 c 130 § 16, part; 1917 c 107 § 11, part; 1913 c 66 § 4, part; 1909 c 134 § 27, part; 1901 c 78 § 4, part; 1895 c 108 § 38, part; Rem. Supp. 1943 § 8603-16, part.]

RCW 38.12.015 Department organized into separate divisions--Army national guard--Air national guard--Assistant adjutants general.

The adjutant general's department shall be organized into separate divisions for the Washington army national guard and the Washington air national guard. Each division may have a general officer at its head who will be referred to as the assistant adjutant general for the Washington army national guard and the assistant adjutant general for the Washington air national guard.

[1961 c 210 § 2.]

RCW 38.12.020 Powers and duties.

The adjutant general shall:

(1) Keep rosters of all active, reserve, and retired officers of the militia, and all other records, and papers required to be kept and filed therein, and shall submit to the governor such

reports of the operations and conditions of the organized militia as the governor may require.

(2) Cause the military law, and such other military publications as may be necessary for the military service, to be prepared and distributed at the expense of the state, to the departments and units of the organized militia.

(3) Keep just and true accounts of all moneys received and disbursed by him or her.

(4) Attest all commissions issued to military officers of this state.

(5) Make out and transmit all militia reports, returns, and communications prescribed by acts of congress or by direction of the department of defense and the national guard bureau.

(6) Have a seal, and all copies, orders, records, and papers in his or her office, duly certified and authenticated under the seal, shall be evidence in all cases in like manner as if the originals were produced. The seal now used in the office of the adjutant general shall be the seal of his or her office and shall be delivered by him or her to the successor. All orders issued from his or her office shall be authenticated with the seal.

(7) Make such regulations pertaining to the preparation of reports and returns and to the use, maintenance, care, and preservation of property in possession of the state for military purposes, whether belonging to the state or to the United States, as in his or her opinion the conditions demand.

(8) Attend to the care, preservation, safekeeping, and repairing of the arms, ordinance, accoutrements, equipment, and all other military property belonging to the state, or issued to the state by the United States for military purposes, and keep accurate accounts thereof. Any property of the state military department which, after proper inspection, is found unsuitable or no longer needed for use of the state military forces, shall be disposed of in such manner as the governor shall direct and the proceeds thereof used for replacements in kind or by other needed authorized military supplies, and the adjutant general may execute the necessary instruments of conveyance to effect such sale or disposal.

(9) Issue the military property as the necessity of service requires and make purchases for that purpose. No military property shall be issued or loaned to persons or organizations other than those belonging to the militia, except as permitted by applicable state or federal law.

(10) Keep on file in his office the reports and returns of military units, and all other writings and papers required to be transmitted to and preserved at the general headquarters of the state militia.

(11) Keep all records of volunteers commissioned or enlisted for all wars or insurrections, and of individual claims of citizens for service rendered in these wars or insurrections, and he or she shall also be the custodian of all records, relics, trophies, colors, and histories relating to such wars now in possession of, or which may be acquired by the state.

(12) Establish and maintain as part of his or her office a bureau of records of the services of the organized militia of the state, and upon request furnish a copy thereof or extract therefrom, attested under seal of his or her office, and such attested copy shall be prima facie proof of service, birthplace, and citizenship.

(13) Keep a record of all real property owned or used by the state for military purposes, and in connection therewith he or she shall have sole power to execute all leases to acquire the use of real property by the state for military purposes, or lease it to other agencies for use for

authorized activities. The adjutant general shall also have full power to execute and grant easements for rights of way for construction, operation, and maintenance of utility service, water, sewage, and drainage for such realty.

[1989 c 19 § 12; 1977 c 75 § 32; 1957 c 250 § 3. Prior: 1943 c 130 § 16, part; 1917 c 107 § 11, part; 1913 c 66 § 4, part; 1909 c 134 § 27, part; 1901 c 78 § 4, part; 1895 c 108 § 38, part; Rem. Supp. 1943 § 8603-16, part.]

RCW 38.12.030 Adjutant general and assistant adjutants general--How chosen--Annual salaries--Members of judiciary eligible to serve in guard.

Whenever a vacancy has occurred, or is about to occur in the office of the adjutant general, the governor shall order to active service for that position from the active list of the Washington army national guard or Washington air national guard an officer not below the rank of a field grade officer who has had at least ten years service as an officer on the active list of the Washington army national guard or the Washington air national guard during the fifteen years next prior to such detail. The officer so detailed shall during the continuance of his or her service as the adjutant general hold the rank of a general officer.

Whenever a vacancy has occurred, or is about to occur, in the offices of assistant adjutants general for the Washington army national guard or the Washington air national guard, the adjutant general with the concurrence of the governor may appoint an officer of the army national guard or the air national guard, who has had at least ten years service in the active list of his respective branch during the fifteen years next prior to such detail. The officer so detailed, may during the continuance of his service as assistant adjutant general hold the rank of a general officer.

If, by reason of the call or draft of officers of the Washington army national guard and/or air national guard into federal service, there is no officer of the Washington national guard available for detail as the adjutant general or as an assistant adjutant general who possesses the requisite qualifications, the governor may appoint any officer or former officer of the organized militia of Washington as acting adjutant general or as an acting assistant adjutant general. If the officers on detail as the adjutant general or as assistant adjutants general are appointed, called, or drafted into the military service of the United States by order or proclamation of the president, they shall be granted leaves of absence by the governor, and are entitled, upon release from federal service, to return to their former status as adjutant general or as assistant adjutants general of Washington, and during the period that they are in federal service, the duties of these offices shall be performed by an acting adjutant general and acting assistant adjutants general, appointed by the governor, as provided in this section, who shall receive the same pay provided for the adjutant general and/or assistant adjutants general respectively, during the period of such assignments.

The adjutant general shall receive an annual salary equal to the base pay of a major general in the United States army. The assistant adjutant general for the Washington army national guard and the assistant adjutant general for the Washington air national guard shall each receive an annual salary equal to the base pay of an officer of equivalent grade in the United States army or United States air force but not to exceed that of a brigadier general. So long as a

member of the judiciary of the state of Washington is available for judicial work at such times and under such conditions as may be set forth by local rules and custom, that member may serve as an active member of the national guard or air national guard.

[1989 c 19 § 13; 1983 c 218 § 1; 1965 ex.s. c 100 § 1; 1961 c 210 § 3; 1943 c 130 § 21; Rem. Supp. 1943 § 8603-21. Prior: 1921 c 75 § 2; 1917 c 107 § 14; 1909 c 134 § 31, part; 1895 c 108 § 42, part.]

RCW 38.12.060 Officers to be commissioned by the governor.

All commissioned and warrant officers of the organized militia of Washington shall be appointed and commissioned or warranted by the governor only as hereinafter provided. No person shall be so appointed and commissioned or warranted unless he or she shall be a citizen of the United States and of this state and more than eighteen years of age. Every commissioned and warranted officer shall hold office under his or her commission or warrant until he or she shall have been regularly appointed and commissioned or warranted to another rank or office, or until he or she shall have been regularly retired, discharged, dismissed or placed in the reserve.

[1989 c 19 § 14; 1971 ex.s. c 292 § 41; 1943 c 130 § 19; Rem. Supp. 1943 § 8603-19. Prior: 1917 c 107 § 12, part; 1909 c 134 § 31, part; 1895 c 108 § 42, part.]

Notes:

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

RCW 38.12.070 Examining board.

No person shall be appointed and commissioned or warranted to any office in the organized militia of Washington unless he or she shall have been examined and adjudged qualified therefor by an examining board, appointed by the adjutant general, and whose report shall have been approved by the authority appointing the board. The composition, appointment and procedure of examining boards and the nature and scope of examinations shall be as prescribed by the laws or regulations of the United States or those of this state. Whenever a commissioned officer shall have been examined for promotion pursuant to this section and shall have been adjudged not qualified therefor, upon approval by the authority appointing the board of its report to that effect such officer may be honorably discharged, retired or placed in the reserve as the governor shall direct.

[1989 c 19 § 15; 1943 c 130 § 20; Rem. Supp. 1943 § 8603-20. Prior: 1917 c 107 § 13; 1909 c 134 § 32; 1895 c 108 § 53.]

RCW 38.12.095 Appointment or promotion of commissioned officers to be made by officer promotion board--Exceptions.

Whenever a commissioned officer is to be appointed or promoted either to fill a vacancy in the organized militia (Washington army national guard, Washington air national guard and the Washington state guard) or for any other reason, the officer to be appointed or promoted shall be selected by the officer promotion board. This selection in no way will change the powers of the

governor under RCW 38.12.060. This section in no way applies to appointments or promotions to adjutant general or assistant adjutant general, to the appointment of officers to the rank of captain, lieutenant, or warrant officer, or to the promotion of second lieutenants, first lieutenants, or warrant officers.

[1989 c 19 § 16; 1974 ex.s. c 34 § 1.]

RCW 38.12.105 Criteria and guidelines for promotion of commissioned officers.

All promotions of commissioned officers in the organized militia will be made on a best-qualified basis. The officer promotion board will select the best-qualified officer for each promotion from among those officers fully qualified for promotion. To be promoted, the selected officer must also meet the requirements of RCW 38.12.070. In no event will seniority be the sole guideline for selecting the officer to be promoted. The officer promotion board will, in determining the best qualified officer, consider the overall qualifications of an officer and not just the qualifications for one position.

[1974 ex.s. c 34 § 2.]

RCW 38.12.115 Officer promotion board--Meetings--Powers and duties.

The officer promotion board will meet from time to time as directed by the adjutant general. The board will select the best qualified officer for each promotion to be made in the organized militia, and will do any other act pertaining thereto directed by the adjutant general or allowed or directed by statute.

[1989 c 19 § 17; 1974 ex.s. c 34 § 3.]

RCW 38.12.125 Officer promotion board--Composition.

The officer promotion board shall be composed as follows:

(1) For promotions or appointments of army national guard officers, the board will consist of the adjutant general, the assistant adjutant general army, and the five commanders senior in grade and date of rank in that grade in the Washington army national guard. If the board is selecting an officer for promotion to the rank of colonel, any member of the board who is a lieutenant colonel will be automatically disqualified and will not be replaced. If the board is selecting an officer for promotion to the rank of brigadier general, any member of the board who is a lieutenant colonel or who is a colonel will be automatically disqualified and will not be replaced.

(2) For promotions or appointments of air national guard officers, the board will consist of the adjutant general, the assistant adjutant general air, and the five commanders senior in grade and date of rank in that grade in the Washington air national guard. If the board is selecting an officer for promotion to the rank of colonel, any member of the board who is a lieutenant colonel will be automatically disqualified and will not be replaced. If the board is

selecting an officer for promotion to the rank of brigadier general, any member of the board who is a lieutenant colonel or who is a colonel will be automatically disqualified and will not be replaced.

(3) For promotions or appointments of state guard officers, the board will consist of the adjutant general, the assistant adjutant general army, and the five officers senior in grade and in date of rank in that grade in the state guard. If the board is selecting an officer for promotion to the rank of colonel, any member of the board who is a lieutenant colonel will be automatically disqualified and will not be replaced. If the board is selecting an officer for promotion to the rank of brigadier general, any member of the board who is a lieutenant colonel or who is a colonel will be automatically disqualified and will not be replaced.

[1989 c 19 § 18; 1974 ex.s. c 34 § 4.]

RCW 38.12.135 Officer promotion board--Official acts--Approval requirements--Rules.

To be an official act of the officer promotion board, an act of that board must be approved by not less than four of the members of the board: PROVIDED, HOWEVER, That if the board consists of less than four officers, the approval of the board shall be unanimous.

An action of an officer promotion board may be an official act of the board without a meeting if all members of the board approve in writing the act in question.

The adjutant general will from time to time fix the rules under which the board will operate.

[1974 ex.s. c 34 § 5.]

RCW 38.12.150 Officer to take oath.

Every officer, duly commissioned or warranted shall within such time as may be provided by law or by regulations, take the oath of office prescribed by law, and give bond, if required. In case of neglect or refusal so to do, the officer shall be considered to have resigned such office and a new appointment may be made as provided by law.

[1989 c 19 § 19; 1943 c 130 § 29; Rem. Supp. 1943 § 8603-29. Prior: 1917 c 107 § 26; 1909 c 134 § 36, part; 1895 c 108 § 51.]

RCW 38.12.160 Oath, form of.

The oath of office for commissioned and warrant officers in the organized militia of Washington shall be substantially as follows: "I,, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the state of Washington, against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the president of the United States and of the governor of the state of Washington, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of in the

organized militia of the state of Washington upon which I am about to enter, so help me God."

[1943 c 130 § 30; Rem. Supp. 1943 § 8603-30. Prior: 1917 c 107 § 27; 1909 c 134 § 37.]

Notes:

Subversive activities: Chapter 9.81 RCW.

RCW 38.12.170 Termination of officers' membership--Review of retention potential.

The governor may terminate the membership of any commissioned or warrant officer of the organized militia of Washington for any of the following reasons:

- (1) Conviction of an infamous crime;
- (2) Absence from his or her command for more than thirty days without proper leave;
- (3) Sentence of dismissal by court martial, duly approved;
- (4) Upon muster out of the organization to which the officer is then assigned;
- (5) Acceptance of the resignation of the officer, but no officer may be discharged or his or her resignation accepted while under arrest or against whom military charges have been preferred, or until he or she has turned over to his or her successor or satisfactorily accounted for all state and federal moneys and military property for which he or she is accountable or responsible;
- (6) Removal of his or her actual residence to such distance from the station of his or her command as to render it impracticable for him or her to perform the duties of his or her office;
- (7) Incompetence or unfitness for military service as determined by the duly approved findings of a board of officers appointed for that purpose by the adjutant general.

The adjutant general shall annually appoint and convene qualitative retention boards to review the military personnel records of officers who have completed three or more years service in the Washington state guard to determine their retention potential and acceptability for continuation in an active status. In the conduct of the reviews, the regulation issued by the adjutant general to implement this provision shall conform to the extent practicable to that governing the army national guard.

[1989 c 19 § 20; 1984 c 198 § 1; 1943 c 130 § 31; 1925 ex.s. c 72 § 1; Rem. Supp. 1943 § 8603-31. Prior: 1917 c 107 § 28; 1909 c 134 § 39; 1895 c 108 § 63.]

RCW 38.12.180 Retirement of officers.

Commissioned officers of the organized militia of Washington shall be retired by order of the commander-in-chief with the rank respectively held by them at the time of such retirement for the following reasons:

- (1) Unfitness for military service by reason of permanent physical disability.
- (2) Upon request after at least five years continuous service as an officer in the organized militia of Washington.

Commissioned officers of the state guard shall upon reaching the age of sixty-four years be retired.

Retired officers shall draw no pay or allowance from the state unless recalled to service.

Retired officers are subject, with their consent, to temporary detail on active state service by the commander-in-chief, and while on such duty shall receive the same pay and allowances as officers of like rank on the active list.

[1989 c 19 § 21; 1984 c 198 § 2; 1943 c 130 § 33; Rem. Supp. 1943 § 8603-33. Prior: 1909 c 134 § 40; 1895 c 108 § 66.]

RCW 38.12.200 Uniform allowance to officers.

Every commissioned officer of the organized militia of Washington shall, within sixty days from the date of the order whereby he or she shall have been appointed, provide at the officer's own expense the uniform and equipment prescribed by the governor for his or her rank and assignment.

There shall be audited and may be paid, at the option of the adjutant general, to each properly uniformed and equipped officer of the active list of the organized militia of Washington, not in federal service an initial uniform allowance of one hundred dollars and annually thereafter for each twelve months state service an additional uniform allowance of fifty dollars, subject to such regulations as the commander-in-chief may prescribe to be audited and paid upon presentation of proper voucher.

[1991 c 43 § 2; 1989 c 19 § 22; 1982 c 93 § 1; 1943 c 130 § 37; Rem. Supp. 1943 § 8603-37. Prior: 1923 c 49 § 1; 1917 c 107 § 32; 1909 c 134 § 49; 1903 c 155 § 11; 1901 c 78 § 8; 1895 c 108 § 76.]

**Chapter 38.14 RCW
WASHINGTON STATE GUARD**

Sections

38.14.006	Availability and composition of state guard.
38.14.012	Federal military service.
38.14.018	Pay of state guard members.
38.14.024	Equipment and supplies.
38.14.030	Training.
38.14.036	Qualifications for appointment of officers.

RCW 38.14.006 Availability and composition of state guard.

The Washington state guard will be available to serve, at the call of the governor in the place of the national guard of the state of Washington under the provisions of this title when the national guard is in the service of the United States, or when otherwise ordered to active state service by the governor. The Washington state guard shall consist of commissioned and warrant officers and enlisted persons commissioned, warranted, or enlisted under the provisions of this title. Persons enlisted under RCW 38.16.015 shall be enrolled in accordance with regulations

promulgated by the adjutant general.

[1989 c 19 § 23.]

RCW 38.14.012 Federal military service.

No member of the Washington state guard shall by reason of such membership be exempt from federal military service under the laws of the United States.

[1989 c 19 § 24.]

RCW 38.14.018 Pay of state guard members.

Members of the Washington state guard shall serve without pay except when on active state service with the state as defined in RCW 38.04.010, or when serving on inactive duty as defined in RCW 38.04.010 under orders of the governor specifically authorizing pay. When ordered to active state service or when serving on inactive duty in a pay status, members of the Washington state guard will be paid as prescribed for members of the national guard in RCW 38.24.050, except longevity adjustments for pay will be based solely on total service with the Washington state guard.

[1989 c 19 § 25.]

RCW 38.14.024 Equipment and supplies.

The governor may obtain from the federal government such arms and other equipment and supplies as may be available for issue, donation or loan for the use of the Washington state guard. When such property is provided by the federal government, it will be utilized, maintained, and disposed of in accordance with federal requirements and with property rules and regulations promulgated under the provisions of RCW 38.08.090.

[1989 c 19 § 26.]

RCW 38.14.030 Training.

Members of the Washington state guard may participate in such training opportunities as may be available from the federal government and as approved by the adjutant general. Where required as a condition of such participation, the military department may reimburse the federal government for the costs of such training.

[1989 c 19 § 27.]

RCW 38.14.036 Qualifications for appointment of officers.

The adjutant general shall establish by regulation qualifications for appointment of commissioned and warrant officers in the Washington state guard.

[1989 c 19 § 28.]

Chapter 38.16 RCW
ENLISTMENTS AND RESERVES

Sections

38.16.010	Period of enlistment in national guard.
38.16.015	Period of enlistment in state guard.
38.16.020	Discharge of enlisted persons.
38.16.030	Inactive national guard.
38.16.040	State guard reserve.
38.16.050	Appointment of members of the committee for employer support of the guard and reserve to civil affairs unit.

RCW 38.16.010 Period of enlistment in national guard.

The period of enlistment in the Washington national guard shall conform to the laws and regulations of the United States department of defense governing such enlistments including the term of such enlistments and the maximum and minimum age of enlistment.

[1989 c 19 § 29; 1943 c 130 § 35; Rem. Supp. 1943 § 8603-35. Prior: 1917 c 107 § 30; 1909 c 134 § 41; 1895 c 108 § 57.]

RCW 38.16.015 Period of enlistment in state guard.

The period of enlistment in the Washington state guard shall be set by regulation by the adjutant general: PROVIDED, That no original enlistment may be consummated unless the term thereof can be completed before the applicant attains the age of sixty-four.

[1989 c 19 § 30.]

RCW 38.16.020 Discharge of enlisted persons.

An enlisted person discharged from service in the organized militia of Washington shall receive a notice of discharge in writing in such form and classification as is or shall be prescribed by law or regulations, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as may be prescribed by competent authority.

[1989 c 19 § 31; 1943 c 130 § 36; Rem. Supp. 1943 § 8603-36. Prior: 1917 c 107 § 31; 1909 c 134 § 45, part; 1895 c 108 § 67, part.]

RCW 38.16.030 Inactive national guard.

The inactive national guard of this state shall respectively be organized by the governor in regulations in conformance with the laws, rules and regulations of the United States. It shall consist of such organizations, officers and enlisted men as the governor shall prescribe. No commissioned officer shall be transferred or furloughed to the inactive national guard without the officer's written consent, except as otherwise expressly provided by law. Any officer of the inactive national guard may be restored to the active list by order of the governor, subject to the same examination as in the case of an original appointment to his or her rank, and in such event his or her service in the inactive national guard shall not be counted in computing total length of service for relative seniority.

[1991 c 43 § 3; 1989 c 19 § 32; 1943 c 130 § 34; Rem. Supp. 1943 § 8603-34. Prior: 1917 c 107 § 29.]

RCW 38.16.040 State guard reserve.

In order to afford the utmost protection to the state of Washington and to the lives and property of citizens thereof, in times of emergency or anticipation thereof, the governor, through the state military department may provide for the organization and training of state guard reserve companies in communities not allocated a federally recognized or authorized state guard unit.

[1943 c 130 § 86; Rem. Supp. 1943 § 8603-86.]

RCW 38.16.050 Appointment of members of the committee for employer support of the guard and reserve to civil affairs unit.

To assist the state of Washington in the event of mobilization of state and federal military forces in the state, and notwithstanding other provisions of the state military law and other regulations governing appointment and promotion of officers and enlisted personnel of the Washington state guard, members of the Washington committee for employer support of the guard and reserve may be appointed to serve in a civil affairs unit of the Washington state guard. The rank shall be determined by the adjutant general.

[1988 c 288 § 17.]

**Chapter 38.20 RCW
ARMORIES AND RIFLE RANGES**

Sections

- | | |
|-----------|--|
| 38.20.010 | Regulations governing armories. |
| 38.20.020 | City may acquire armory site. |
| 38.20.030 | Counties may expend moneys for armory site. |
| 38.20.040 | Rental of property, armories, and small arms ranges. |
| 38.20.050 | Small arms ranges. |

Notes:

ESTABLISHMENT OF ARMORIES: *The following special or temporary acts relating to the establishment of*

armories are not codified herein:

- (1) 1907 c 55, *Armories at Seattle, Spokane and Tacoma;*
- (2) 1909 c 68, *Armory at Bellingham;*
- (3) 1913 c 67, *Armory at North Yakima;*
- (4) 1917 c 108, 1919 c 19, *Armory at Walla Walla;*
- (5) 1917 c 109, 1919 c 20, *Armory at Aberdeen;*
- (6) 1917 c 166, 1919 c 21, *Armory at Everett;*
- (7) 1939 c 152, *Armory at Olympia;*
- (8) 1939 c 215, *Naval and marine corps reserve armory at Seattle;*
- (9) 1941 c 236, *Naval and marine corps reserve armory at Tacoma;*
- (10) 1953 c 277 §§ 1, 2 and 3, *Armory at Spokane.*

Explosives, manufacture, sale or storage: Chapter 70.74 RCW.

Joint armory sites: RCW 36.64.050.

Militia--Public arms: State Constitution Article 10 § 4.

State, county and municipal indebtedness--Powers extended in certain cases: State Constitution Article 8 § 2.

RCW 38.20.010 Regulations governing armories.

Except as provided in this section, state-owned armories shall be used strictly for military purposes.

(1) One room, together with the necessary furniture, heat, light, and janitor service, may be set aside for the exclusive use of bona fide veterans' organizations subject to the direction of the officer in charge. Members of these veterans' organizations and their auxiliaries shall have access to the room and its use at all times.

(2) A bona fide veterans' organization may use any state armory for athletic and social events without payment of rent whenever the armory is not being used by the organized militia. The adjutant general may require the veterans' organization to pay the cost of heating, lighting, or other miscellaneous expenses incidental to this use.

(3) The adjutant general may, during an emergency, permit transient lodging of service personnel in armories.

(4) The adjutant general may, upon the recommendation of the executive head or governing body of a county, city or town, permit transient lodging of anyone in armories. The adjutant general may require the county, city or town to pay no more than the actual cost of staffing, heating, lighting and other miscellaneous expenses incidental to this use.

(5) Civilian rifle clubs affiliated with the National Rifle Association of America are permitted to use small arms ranges in the armories at least one night each week under regulations prescribed by the adjutant general.

(6) State-owned armories shall be available, at the discretion of the adjutant general, for use for casual civic purposes, and amateur and professional sports and theatricals upon payment of fixed rental charges and compliance with regulations of the state military department. Children attending primary and high schools have a preferential right to use these armories.

The adjutant general shall prepare a schedule of rental charges, including a cleaning deposit, and utility costs for each state-owned armory which may not be waived except for

activities sponsored by the organized militia or activities provided for in subsection (4) of this section. The rental charges derived from armory rentals less the cleaning deposit shall be paid into the state general fund.

[1989 c 19 § 33; 1985 c 295 § 1; 1983 c 268 § 1; 1975 1st ex.s. c 121 § 1; 1973 1st ex.s. c 154 § 56; 1963 c 149 § 1; 1949 c 125 § 1; 1947 c 204 § 1; 1943 c 130 § 93; Rem. Supp. 1949 § 8603-93. Prior: 1923 c 49 § 5; 1917 c 8 § 1; 1909 c 134 § 97; 1907 c 55 § 11; 1903 c 115 §§ 19, 20.]

Notes:

Effective date--1975 1st ex.s. c 121: "The effective date of this act shall be July 1, 1977." [1975 1st ex.s. c 121 § 2.]

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

SPECIAL ACTS RELATING TO ARMORIES: *The following special or temporary acts relating to particular armories are not codified herein:*

(1) 1959 c 181; 1961 c 135; 1963 c 146, Seattle

(2) 1967 c 37, Prosser

(3) 1967 c 43, Centralia

(4) 1967 c 44, Chewelah

(5) 1967 c 214, Stevens County

(6) 1967 c 224, Tacoma and Pierce County

(7) 1967 c 226, Yakima

(8) 1969 ex.s. c 22, Kirkland.

RCW 38.20.020 City may acquire armory site.

Any city in the state of Washington in which a unit of the national guard is stationed, or is to be stationed, is hereby authorized and empowered to acquire a site for an armory by gift or purchase, and to construct an armory thereon, and to issue and sell its general obligation bonds for said purposes, within the debt limits prescribed by the Constitution, with full power to sell or lease the same to the state of Washington or to the United States.

[1933 ex.s. c 16 § 1; RRS § 8598-1.]

RCW 38.20.030 Counties may expend moneys for armory site.

Any county of the state of Washington is hereby authorized and empowered to appropriate money for the purchase of an armory site whenever the legislature of this state shall appropriate money for or authorize the construction of an armory therein.

[1907 c 55 § 3 1/2; No RRS.]

RCW 38.20.040 Rental of property, armories, and small arms ranges.

All armories and small arms ranges and all property, real or personal, used by the national guard and not owned by the state of Washington or the United States, shall be leased or rented to the state upon such terms and conditions as shall be approved by the commander-in-chief.

[1989 c 19 § 34; 1909 c 134 § 98; RRS § 8599.]

RCW 38.20.050 Small arms ranges.

Under the direction of the governor, the adjutant general shall, at the expense and in the name of the state, buy or lease, establish, equip, maintain and control such small arms ranges and issue such ammunition, transportation and supplies as may be necessary to provide each unit of the organized militia of Washington with adequate means and opportunity for thorough instruction in small arms practice.

[1989 c 19 § 35; 1943 c 130 § 91; Rem. Supp. 1943 § 8603-91. Prior: 1917 c 107 § 120; 1909 c 134 § 92; 1895 c 108 § 168.]

**Chapter 38.24 RCW
CLAIMS AND COMPENSATION**

Sections

38.24.010	Payment of military claims.
38.24.020	Audit and payment of awards.
38.24.050	Pay of officers and enlisted personnel.
38.24.060	Employment and reemployment rights upon return from militia duty.

RCW 38.24.010 Payment of military claims.

All bills, claims and demands for military purposes shall be certified or verified and audited in the manner prescribed by regulations promulgated by the governor and shall be paid by the state treasurer from funds available for that purpose. In all cases where the organized militia, or any part of the organized militia, is called into the service of the state to execute or enforce the laws or in case of war, riot, insurrection, invasion, breach of the peace, public disaster, or the imminent danger of the occurrence of any of these events, warrants for allowed pay and expenses for such services or compensation for injuries or death shall be drawn upon the general fund of the state treasury and paid out of any moneys in said fund not otherwise appropriated. All such warrants shall be the obligation of the state and shall bear interest at the legal rate from the date of their presentation for payment.

[1991 c 43 § 4; 1989 c 19 § 36; 1973 c 106 § 14; 1943 c 130 § 42; Rem. Supp. 1943 § 8603-42. Prior: 1917 c 107 § 36; 1909 c 134 § 56, part; 1895 c 108 § 91, part.]

RCW 38.24.020 Audit and payment of awards.

All compensation shall be payable in monthly installments and shall be audited and paid as any other claim against the military department and shall be payable from the general fund out of any moneys not otherwise appropriated.

[1943 c 130 § 41; Rem. Supp. 1943 § 8603-41. Prior: 1917 c 107 § 35; 1909 c 134 § 56, part; 1895 c 108 § 41, part.]

RCW 38.24.050 Pay of officers and enlisted personnel.

Commissioned officers, warrant officers, and enlisted personnel of the organized militia of Washington, while in active state service or inactive duty, are entitled to and shall receive the same amount of pay and allowances from the state of Washington as provided by federal laws and regulations for commissioned officers, warrant officers, and enlisted personnel of the United States army only if federal pay and allowances are not authorized. For periods of such active state service, commissioned officers, warrant officers, and enlisted personnel of the organized militia of Washington shall receive either such pay and allowances or an amount equal to one and one-half of the federal minimum wage, whichever is greater.

The value of articles issued to any member and not returned in good order on demand, and legal fines or forfeitures, may be deducted from the member's pay.

If federal pay and allowances are not authorized, all members detailed to serve on any board or commission ordered by the governor, or on any court-martial ordered by proper authority, may, at the discretion of the adjutant general, be paid a sum equal to one day's active state service for each day actually employed on the board or court or engaged in the business thereof, or in traveling to and from the same; and in addition thereto travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended when such duty is at a place other than the city or town of his residence.

Necessary transportation, quartermasters' stores, and subsistence for troops when ordered on active state service may be contracted for and paid for as are other military bills.

[1989 c 19 § 37; 1984 c 198 § 3; 1975-'76 2nd ex.s. c 34 § 81; 1974 ex.s. c 46 § 1; 1943 c 130 § 43; Rem. Supp. 1943 § 8603-43. Prior: 1925 c 28 § 2, part; 1919 c 137 § 1, part; 1917 c 107 § 37, part; 1915 c 47 § 1, part; 1913 c 66 § 10, part; 1909 c 134 § 157, part; 1907 c 122 § 5, part; 1903 c 155 § 13, part; 1901 c 78 § 11, part; 1895 c 108 § 89, part.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 38.24.060 Employment and reemployment rights upon return from militia duty.

All members of the organized militia of Washington who are called to active state service or inactive duty shall, upon return from such duty, have those rights accorded under RCW 73.16.031, 73.16.035, 73.16.041, 73.16.051, and 73.16.061.

[1989 c 19 § 38; 1984 c 198 § 4; 1974 ex.s. c 46 § 2.]

**Chapter 38.32 RCW
OFFENSES--PUNISHMENT**

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38.32.010	Offenses against laws of this state by members on duty status.
38.32.020	Offenses under Washington code of military justice.
38.32.030	Exemptions while on duty.
38.32.070	Member removed from state, request for discharge.
38.32.080	Penalty for failure to obey call.
38.32.090	Penalty for physician making false certificate.
38.32.100	Buying and receiving military property.
38.32.120	Authority of commanding officer.
38.32.140	Sentence to confinement.

Notes:

Militia--Organization--Discipline--Officers--Power to call out: State Constitution Art. 10 § 2.

RCW 38.32.010 Offenses against laws of this state by members on duty status.

Any member of the organized militia on duty status as provided in RCW 38.38.624, or within state armories, committing offenses against the laws of the state, shall be promptly arrested by the military authorities and turned over to the civil authorities of the county or city in which the offense was committed.

[1989 c 19 § 39; 1963 c 220 § 134; 1943 c 130 § 82; Rem. Supp. 1943 § 8603-82.]

RCW 38.32.020 Offenses under Washington code of military justice.

Offenses under chapter 38.38 RCW committed while on inactive duty or active state service as defined in RCW 38.04.010 may be tried and punished as provided under chapter 38.38 RCW after this duty or service has terminated, and if found guilty the accused shall be punished accordingly. Any member of the organized militia on "inactive duty" or "active state service," as defined in RCW 38.04.010, committing any offense under chapter 38.38 RCW, where the offense charged is also made an offense by the civil law of this state, may, in the discretion of the officer whose duty it is to approve the charge, be turned over to the proper civil authorities for trial.

Any member of the organized militia on "inactive duty" or "active state service," as defined in RCW 38.04.010, committing any offense under chapter 38.38 RCW, may, if such offense is committed upon a military reservation of the United States within this state, be turned over to the civil authorities for trial as provided by federal law.

[1989 c 19 § 40; 1963 c 220 § 135; 1943 c 130 § 81; Rem. Supp. 1943 § 8603-81.]

RCW 38.32.030 Exemptions while on duty.

No person belonging to the military forces of this state shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from any place at which he may be required to attend military duty. Any members of the organized militia parading, or performing any duty according to the law shall have the right of way in any street or highway

through which they may pass and while on field duty shall have the right to enter upon, cross or occupy any uninclosed lands, or any inclosed lands where no damage will be caused thereby: PROVIDED, That the carriage of the United States mail and legitimate functions of the police and fire departments shall not be interfered with thereby.

[1943 c 130 § 45; Rem. Supp. 1943 § 8603-45. Prior: 1917 c 107 § 40; 1909 c 134 § 66; 1895 c 108 § 103.]

RCW 38.32.070 Member removed from state, request for discharge.

If any member is known to have removed from the state, and, through ignorance or neglect, has failed to apply for discharge, the discharge may be requested by his or her immediate commanding officer.

[1989 c 19 § 41; 1963 c 220 § 136; 1943 c 130 § 84; Rem. Supp. 1943 § 8603-84. Cf. 1917 c 107 § 83.]

RCW 38.32.080 Penalty for failure to obey call.

Any member of the militia who shall have been ordered out for either state or federal service and who shall refuse or wilfully or negligently fail to report at the time and place and to the officer designated in the order or to the representative or successor of such officer, shall be deemed guilty of desertion, and shall suffer such penalty as a general court martial may direct, unless he or she shall produce a sworn certificate from a licensed physician of good standing that he or she was physically unable to appear at the time and place designated. Any person chargeable with desertion under this section may be taken by force and compelled to serve.

[1989 c 19 § 42; 1943 c 130 § 10; Rem. Supp. 1943 § 8603-10. Prior: 1917 c 107 § 10; 1909 c 134 § 21; 1895 c 108 § 114.]

RCW 38.32.090 Penalty for physician making false certificate.

Any physician who shall knowingly make and deliver a false certificate of physical disability concerning any member of the militia who shall have been ordered out or summoned for active service shall be guilty of perjury and, upon conviction, as an additional penalty, shall forfeit forever his or her license and right to practice in this state.

[1989 c 19 § 43; 1943 c 130 § 11; Rem. Supp. 1943 § 8603-11. Prior: 1909 c 134 § 22.]

RCW 38.32.100 Buying and receiving military property.

Any person who shall purchase or receive in pawn or pledge any military property of the state or of the United States shall be guilty of a gross misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or imprisoned for not more than six months or both such fine and imprisonment.

[1943 c 130 § 87; Rem. Supp. 1943 § 8603-87. Cf. 1917 c 107 § 68.]

RCW 38.32.120 Authority of commanding officer.

The commanding officer at any drill, parade, encampment or other duty may place in arrest for the time of such drill, parade, encampment or other duty any person or persons who shall trespass on the camp grounds, parade grounds, rifle range or armory, or in any way or manner interrupt or molest the orderly discharge of duty of those on duty, or who shall disturb or prevent the passage of troops going to or returning from any regularly ordered tour of duty; and may prohibit and prevent the sale or use of all spirituous liquors, wines, ale or beer, or holding of huckster or auction sales, and all gambling therein, and remove disorderly persons beyond the limits of such parade or encampment, or within a distance of two miles therefrom, and the commanding officer shall have full authority to abate as common nuisances all disorderly places, and bar all unauthorized sales within such limits. Any person violating any of the provisions of this section, or any order issued in pursuance thereof, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than one hundred dollars, or imprisoned not more than thirty days, or by both such fine and imprisonment.

No license or renewal thereof shall be issued or granted to any person, firm or corporation for the sale of intoxicating or spirituous liquors within a distance of three hundred feet from any armory used by the state of Washington for military purposes, without the approval of the adjutant general.

[1989 c 19 § 44; 1963 c 220 § 137; 1943 c 130 § 52; Rem. Supp. 1943 § 8603-52. Prior: 1937 c 51 § 1; 1909 c 134 § 62; 1895 c 108 § 99.]

RCW 38.32.140 Sentence to confinement.

All military courts of the organized militia of Washington shall have power to sentence to confinement in lieu of fines authorized to be imposed: PROVIDED, That such sentence of confinement shall not exceed one day for each dollar of fine authorized.

[1943 c 130 § 61; 1917 c 107 § 53; Rem. Supp. 1943 § 8603-61.]

**Chapter 38.36 RCW
TRIAL PROCEDURE**

Sections

38.36.120 Fees and mileage.

RCW 38.36.120 Fees and mileage.

Fees and mileage allowed for the service of process and for civilian witnesses shall be the same as in civil actions. All expenditures necessary to carry the provisions of chapter 130, Laws of 1943, into effect are hereby authorized to be incurred, and paid out of the appropriations for

the maintenance of the organized militia of Washington.

[1943 c 130 § 78; Rem. Supp. 1943 § 8603-78. Prior: 1917 c 107 § 59; 1909 c 134 § 90.]

Notes:

Compensation of jurors: RCW 2.36.150.

Travel expense in lieu of mileage in certain cases: RCW 2.40.030.

Witness fees and mileage: RCW 2.40.010.

**Chapter 38.38 RCW
WASHINGTON CODE OF MILITARY JUSTICE**

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Notes:

Reviser's note: Article numbers in this chapter parallel equivalent sections in the federal Uniform Code of Military Justice and do not constitute part of the law.

PART I--GENERAL PROVISIONS

RCW 38.38.004 [Art. 1] Definitions.

In this chapter, unless the context otherwise requires:

- (1) "Organized militia" means the national guard of the state, as defined in section 101(3) of title 32, United States Code, and any other military force organized under the laws of the state of Washington.
- (2) "Officer" means commissioned or warrant officer.
- (3) "Commissioned officer" includes a commissioned warrant officer.
- (4) "Commanding officer" includes only commissioned officers in command of a unit.
- (5) "Superior commissioned officer" means a commissioned officer superior in rank or command.
- (6) "Enlisted member" means a person in an enlisted grade.
- (7) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(8) "Rank" means the order of precedence among members of the organized militia.

(9) The term "active state service" or "active training duty" shall be construed to be any service on behalf of the state, or at encampments whether ordered by state or federal authority or any other duty requiring the entire time of any organization or person except when called or drafted into the federal service by the president of the United States.

The term "inactive duty" shall include periods of drill and such other training and service not requiring the entire time of the organization or person, as may be required under state or federal laws, regulations, or orders, including travel to and from such duty.

(10) "Military court" means a court-martial or a court of inquiry.

(11) "Military judge" means the presiding officer of a general or special court-martial detailed in accordance with RCW 38.38.256.

(12) "State judge advocate" means the commissioned officer responsible for supervising the administration of the military justice in the organized militia.

(13) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused.

(14) "Military" refers to any or all of the armed forces.

(15) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.

(16) "May" is used in a permissive sense. The words "no person may. . ." mean that no person is required, authorized, or permitted to do the act prescribed.

(17) "Shall" is used in an imperative sense.

(18) "Code" means this chapter.

(19) "A month's pay" or fraction thereof shall be calculated based upon a member's basic pay entitlement as if the member were serving for a thirty-day period.

[1989 c 48 § 1; 1963 c 220 § 1.]

Notes:

Effective date--1963 c 220: "This act shall take effect on July 1, 1963." [1963 c 220 § 140.] For codification of 1963 c 220, see Codification Tables, Volume 0.

RCW 38.38.008 [Art. 2] Persons subject to this code.

This code applies to all members of the organized militia who are not in federal service.

[1989 c 48 § 2; 1963 c 220 § 2.]

RCW 38.38.012 [Art. 3] Jurisdiction to try certain personnel.

No person who has deserted from the organized militia may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service.

[1989 c 48 § 3; 1989 c 11 § 9; 1963 c 220 § 3.]

Notes:

Reviser's note: This section was amended by 1989 c 11 § 9 and by 1989 c 48 § 3, each without reference
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to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1989 c 11: See note following RCW 9A.56.220.

RCW 38.38.016 [Art. 4] Dismissal of commissioned officer.

(1) If any commissioned officer, dismissed by order of the governor, makes a written application for trial by court-martial, setting forth, under oath, that he or she has been wrongfully dismissed, the governor, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which the officer was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and the officer shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which the officer is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the chief of staff to the governor or adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(2) If the governor fails to convene a general court-martial within six months from the presentation of an application for trial under this code, the chief of staff to the governor or adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(3) If a discharge is substituted for a dismissal under this code, the governor alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the governor, that former officer would have attained had the officer not been dismissed. The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

(4) If an officer is discharged from the organized militia by administrative action or by board proceedings under law, or is dropped from the rolls by order of the governor, the officer has no right to trial under this section.

[1989 c 48 § 4; 1963 c 220 § 4.]

RCW 38.38.020 [Art. 5] Territorial applicability of the code.

(1) This code applies throughout the state. It also applies to all persons otherwise subject to this code while they are serving outside the state, and while they are going to and returning from such service outside the state, in the same manner and to the same extent as if they were serving inside the state.

(2) Courts-martial and courts of inquiry may be convened and held in units of the organized militia while those units are serving outside the state with the same jurisdiction and powers as to persons subject to this code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state.

[1989 c 48 § 5; 1963 c 220 § 5.]

RCW 38.38.024 [Art. 6] Judge advocates and legal officers.

(1) The governor, on the recommendation of the adjutant general, shall appoint an officer of the organized militia as state judge advocate. To be eligible for appointment, an officer must be a member of the bar of the highest court of the state and must have been a member of the bar of the state for at least five years.

(2) The adjutant general may appoint as many assistant state judge advocates as he or she considers necessary. To be eligible for appointment, assistant state judge advocates must be officers of the organized militia and members of the bar of the highest court of the state.

(3) The state judge advocate or assistants shall make frequent inspections in the field in supervision of the administration of military justice.

(4) Convening authorities shall at all times communicate directly with their staff judge advocates in matters relating to the administration of military justice; and the staff judge advocate of any command is entitled to communicate directly with the staff judge advocate of a superior or subordinate command, or with the state judge advocate.

(5) No person who has acted as member, law officer, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense, in any case may later act as staff judge advocate to any reviewing authority upon the same case.

[1989 c 48 § 6; 1963 c 220 § 6.]

PART II--APPREHENSION AND RESTRAINT

RCW 38.38.064 [Art. 7] Apprehension.

(1) Apprehension is the taking of a person into custody.

(2) Any person authorized by this code, or by regulations issued under it, to apprehend persons subject to this code, any marshal of a court-martial appointed pursuant to the provisions of this code, and any peace officer authorized to do so by law, may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(3) Commissioned officers, warrant officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein.

[1989 c 48 § 7; 1963 c 220 § 7.]

RCW 38.38.068 [Art. 8] Apprehension of deserters.

Any civil officer having authority to apprehend offenders under the laws of the United States or of a state, territory, commonwealth, or possession, or the District of Columbia may

summarily apprehend a deserter from the state of Washington organized militia and deliver the offender into the custody of the state of Washington organized militia. If an offender is apprehended outside of the state of Washington, the return to the area must be in accordance with normal extradition procedures or reciprocal agreement.

[1989 c 48 § 8; 1963 c 220 § 8.]

RCW 38.38.072 [Art. 9] Imposition of restraint.

(1) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing the person to remain within certain specified limits. Confinement is the physical restraint of a person.

(2) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code or through any person authorized by this code to apprehend persons. A commanding officer may authorize warrant officers or noncommissioned officers to order enlisted members of the officer's command or subject to the officer's authority into arrest or confinement.

(3) A commissioned officer or a warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority the officer is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons apprehended or into arrest or confinement may not be delegated.

(4) No person may be ordered apprehended or into arrest or confinement except for probable cause.

(5) This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

[1989 c 48 § 9; 1963 c 220 § 9.]

RCW 38.38.076 [Art. 10] Restraint of persons charged with offenses.

Any person subject to this code charged with an offense under this code shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, such person shall not ordinarily be placed in confinement. When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform the person of the specific wrong of which he or she is accused and to try the person or to dismiss the charges and release the person.

[1989 c 48 § 10; 1963 c 220 § 10.]

RCW 38.38.080 [Art. 10a] Confinement in jails.

Persons confined other than in a guard house, whether before, during or after trial by a military court, shall be confined in civil jails, penitentiaries, or prisons designated by the governor or by such person as the governor may authorize to act.

[1989 c 48 § 11; 1963 c 220 § 11.]

RCW 38.38.084 [Art. 11] Reports and receiving of prisoners.

(1) No provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or any other jail, penitentiary, or prison designated under RCW 38.38.080, may refuse to receive or keep any prisoner committed to his or her charge, when the committing person furnishes a statement, signed by the committing person, of the offense charged against the prisoner.

(2) Every commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or of any other jail, penitentiary, or prison designated under RCW 38.38.080, to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he or she is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against the prisoner, and the name of the person who ordered or authorized the commitment.

[1989 c 48 § 12; 1963 c 220 § 12.]

RCW 38.38.088 [Art. 13] Punishment prohibited before trial.

Subject to RCW 38.38.488, no person, while being held for trial or the result of trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against the person, nor shall the arrest or confinement imposed upon the person be any more rigorous than the circumstances require to insure his or her presence, but the person may be subjected to minor punishment during that period for infractions of discipline.

[1989 c 48 § 13; 1963 c 220 § 13.]

RCW 38.38.092 [Art. 14] Delivery of offenders to civil authorities.

(1) Under such regulations as may be prescribed under this code a person subject to this code who is on active state service or inactive duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(2) When delivery under this section is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for the offense shall, upon the request of competent military authority, be returned to military custody for the completion of the sentence.

[1989 c 48 § 14; 1963 c 220 § 14.]

PART III--NONJUDICIAL PUNISHMENT

RCW 38.38.132 [Art. 15] Commanding officer's nonjudicial punishment--Suspension--Appeal.

(1) Under such regulations as the governor may prescribe, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of this section to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, except in the case of a member attached to or embarked in a vessel, punishment may not be imposed upon any member of the organized militia under this section if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. If authorized by regulations of the governor, a commanding officer exercising general court-martial jurisdiction or an officer of general rank in command may delegate powers under this section to a principal assistant.

(2) Subject to subsection (1) of this section, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(a) Upon officers of his or her command:

(i) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive duty or drill days;

(ii) If imposed by an officer exercising general court-martial jurisdiction or an officer of general rank in command:

(A) Forfeiture of up to thirty days' pay, but not more than fifteen days' pay per month;

(B) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive drill or duty days;

(C) Detention of up to forty-five days' pay, but not more than fifteen days' pay per month;

(b) Upon other personnel of his or her command:

(i) If imposed upon a person attached to or embarked in a vessel, confinement for not more than three consecutive days;

(ii) Forfeiture of not more than seven days' pay;

(iii) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(iv) Extra duties, including fatigue or other duties for not more than fourteen duty or drill days, which need not be consecutive, and for not more than two hours per day, holidays included;

(v) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days;

(vi) Detention of not more than fourteen days' pay;

(vii) If imposed by an officer of the grade of major or above:

(A) The punishment authorized in subsection (2)(b)(i) of this section;

(B) Forfeiture of up to thirty days' pay, but not more than fifteen days' pay per month;

(C) Reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

(D) Extra duties, including fatigue or other duties, for not more than fourteen drill or duty days, which need not be consecutive, and for not more than two hours per day, holidays included;

(E) Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days;

(F) Detention of up to forty-five days' pay, but not more than fifteen days' pay per month. Detention of pay shall be for a stated period of not more than one year but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. Extra duties and restriction may not be combined to run consecutively in the maximum amount impossible for each. Whenever any such punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment.

(3) An officer in charge may impose upon enlisted members assigned to the unit of which the officer is in charge such of the punishment authorized under subsection (2)(b) of this section as the governor may specifically prescribe by regulation.

(4) The officer who imposes the punishment authorized in subsection (2) of this section, or a successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (2) of this section, whether or not executed. In addition, the officer may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. The officer may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating extra duties to restriction, the restriction shall not be longer than the number of hours of extra duty that may have been imposed. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(5) A person punished under this section who considers the punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (4) of this section by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

(a) Forfeiture of more than seven days' pay;

(b) Reduction of one or more pay grades from the fourth or a higher pay grade;

(c) Extra duties for more than ten days;

(d) Restriction for more than ten days; or

(e) Detention of more than fourteen days' pay;

the authority who is to act on the appeal shall refer the case to a judge advocate for consideration and advice, and may so refer the case upon appeal from any punishment imposed under subsection (2) of this section.

(6) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(7) The governor may by regulation prescribe the form of records to be kept of proceedings under this section and may also prescribe that certain categories of those proceedings shall be in writing.

[1991 c 43 § 5; 1989 c 48 § 15; 1963 c 220 § 15.]

PART IV--COURTS-MARTIAL JURISDICTION

RCW 38.38.172 [Art. 16] Courts-martial of organized militia not in federal service--Composition--Jurisdiction--Powers and proceedings.

(1) In the organized militia not in federal service, there are general, special, and summary courts-martial constituted like similar courts of the armed forces of the United States. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures provided for those courts.

(2) The three kinds of courts-martial are:

(a) General courts-martial, consisting of a military judge and not less than five members, or only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing a court composed only of a military judge and the military judge approves;

(b) Special courts-martial, consisting of not less than three members, or a military judge and not less than three members, or only a military judge, if one has been detailed to the court, and the accused under the same conditions as those prescribed in (a) of this subsection so requests; and

(c) Summary courts-martial, consisting of one commissioned officer.

[1989 c 48 § 16; 1963 c 220 § 16.]

RCW 38.38.176 [Art. 17] Jurisdiction of courts-martial in general.

Each force of the organized militia has court-martial jurisdiction over all persons subject to this code. The exercise of jurisdiction by one force over personnel of another force shall be in

accordance with regulations prescribed by the governor.

[1989 c 48 § 17; 1963 c 220 § 17.]

RCW 38.38.180 [Art. 18] Jurisdiction of general courts-martial.

Subject to RCW 38.38.176, general courts martial have jurisdiction to try persons subject to this code for any offense made punishable by this code and may, under such limitations as the governor may prescribe, adjudge any of the following punishments:

- (1) A fine of not more than two hundred dollars;
- (2) Forfeiture of pay and allowances;
- (3) A reprimand;
- (4) Dismissal or dishonorable discharge;
- (5) Reduction of a noncommissioned officer to the ranks; or
- (6) Any combination of these punishments.

[1963 c 220 § 18.]

RCW 38.38.184 [Art. 19] Jurisdiction of special courts-martial--Dishonorable discharge.

Subject to RCW 38.38.176, special courts-martial have jurisdiction to try persons subject to this code for any offense for which they may be punished under this code. A special court-martial has the same powers of punishment as a general court-martial, except that a fine imposed by a special court-martial may not be more than one hundred dollars for a single offense. A dishonorable discharge may not be adjudged unless a complete record of the proceedings and testimony has been made, counsel having the qualifications prescribed under RCW 38.38.260 was detailed to represent the accused, and a military judge was detailed to the trial, except in any case in which a military judge could not be detailed to the trial because of physical conditions or military exigencies. In any such case in which a military judge was not detailed to the trial, the convening authority shall make a detailed written statement, to be appended to the record, stating the reason or reasons a military judge could not be detailed.

[1989 c 48 § 18; 1963 c 220 § 19.]

RCW 38.38.188 [Art. 20] Jurisdiction of summary courts-martial.

(1) Subject to RCW 38.38.176, summary courts-martial have jurisdiction to try persons subject to this code, except officers for any offense made punishable by this code.

(2) No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if the person objects thereto, unless under RCW 38.38.132 the person has been permitted and has elected to refuse punishment under that section. If objection to trial by summary court-martial is made by an accused who has been permitted to refuse punishment under RCW 38.38.132, trial shall be ordered by special or general

court-martial, as may be appropriate.

(3) A summary court-martial may sentence to a fine of not more than twenty-five dollars for a single offense, to forfeiture of pay and allowances, and to reduction of a noncommissioned officer to the ranks.

[1989 c 48 § 19; 1963 c 220 § 20.]

RCW 38.38.192 Sentences of dismissal or dishonorable discharge to be approved by the governor.

In the organized militia not in federal service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the governor.

[1963 c 220 § 21.]

RCW 38.38.196 Complete record of proceedings and testimony if dishonorable discharge or dismissal adjudged.

A dishonorable discharge or dismissal may not be adjudged by any court-martial unless a complete record of the proceedings and testimony before the court has been made.

[1989 c 48 § 20; 1963 c 220 § 22.]

RCW 38.38.200 Confinement instead of fine.

In the organized militia not in federal service, a court-martial may, instead of imposing a fine, sentence to confinement for not more than one day for each dollar of the authorized fine.

[1989 c 48 § 21; 1963 c 220 § 23.]

PART V--APPOINTMENT AND COMPOSITION OF COURTS-MARTIAL

RCW 38.38.240 [Art. 22] Who may convene general courts-martial.

In the organized militia not in federal service, general courts-martial may be convened by the president or by the governor, or by the commanding general of the national guard of the District of Columbia.

[1989 c 48 § 22; 1963 c 220 § 24.]

RCW 38.38.244 [Art. 23] Special courts-martial of organized militia not in federal service--Who may convene.

(1) In the organized militia not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached

command, may convene special courts-martial. Special courts-martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.

(2) A special court-martial may not try a commissioned officer.

[1989 c 48 § 23; 1963 c 220 § 25.]

RCW 38.38.248 [Art. 24] Summary courts-martial of organized militia not in federal service--Who may convene.

(1) In the organized militia not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of one commissioned officer. The proceedings shall be informal.

(2) When only one commissioned officer is present with a command or detachment the commissioned officer shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him or her. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable.

[1989 c 48 § 24; 1963 c 220 § 26.]

RCW 38.38.252 [Art. 25] Who may serve on courts-martial.

(1) Any commissioned officer of or on duty with the organized militia is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(2) Any warrant officer of or on duty with the organized militia is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(3)(a) Any enlisted member of the organized militia who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before such courts for trial, but shall serve as a member of a court only if, before the conclusion of a session called by the military judge under RCW 38.38.380(1) prior to trial or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused personally has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

(b) In this section, the word "unit" means any regularly organized body of the organized militia not larger than a company, a squadron, or a body corresponding to one of them.

(4)(a) When it can be avoided, no person subject to this code may be tried by a court-martial any member of which is junior to the person in rank or grade.

(b) When convening a court-martial, the convening authority shall detail as members thereof such members as, in his or her opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member is eligible to serve as a member of a general or special court-martial when the member is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

(c) Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. Under such regulations as the governor may prescribe, the convening authority may delegate his or her authority under this subsection to the staff judge advocate or to any other principal assistant.

[1989 c 48 § 25; 1963 c 220 § 27.]

RCW 38.38.256 [Art. 26] Military judge of a general or special court-martial.

(1) A military judge shall be detailed to each general court-martial. Subject to regulations of the governor, a military judge may be detailed to any special court-martial. The governor shall prescribe regulations providing for the manner in which military judges are detailed for such courts-martial and for the persons who are authorized to detail military judges for such courts-martial. The military judge shall preside over each open session of the court-martial to which he or she has been detailed.

(2) A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a federal court or a member of the bar of the highest court of a state and who is certified to be qualified for duty as a military judge by the state judge advocate.

(3) The military judge of a general court-martial shall be designated by the state judge advocate or a designee for detail in accordance with regulations prescribed under subsection (1) of this section. Unless the court-martial was convened by the governor, neither the convening authority nor any member of the staff shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to performance of duty as a military judge. A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial may perform such duties only when he or she is assigned and directly responsible to the state judge advocate or designee, and may perform duties of a judicial or nonjudicial nature other than those relating to the primary duty as a military judge of a general court-martial when such duties are assigned by or with the approval of the state judge advocate or designee.

(4) No person is eligible to act as military judge in a case if the person is the accuser or a witness for the prosecution or has acted as investigating officer or a counsel in the same case.

(5) The military judge of a court-martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor may the military

judge vote with the members of the court.

[1989 c 48 § 26; 1963 c 220 § 28.]

RCW 38.38.260 [Art. 27] Detail of trial counsel and defense counsel.

(1)(a) Trial counsel and defense counsel shall be detailed for each general and special court-martial. Assistant trial counsel and assistant and associate defense counsel may be detailed for each general and special court-martial. The governor shall prescribe regulations providing for the manner in which counsel are detailed for such courts-martial and for the persons who are authorized to detail counsel for such courts-martial.

(b) No person who has acted as investigating officer, military judge, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant or associate defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(2) Trial counsel or defense counsel detailed for a general court-martial:

(a) Must be a judge advocate who is a graduate of an accredited law school or is a member of the bar of a federal court or of the highest court of a state, or must be a member of the bar of a federal court or of the highest court of a state; and

(b) Must be certified as competent to perform such duties by the state judge advocate.

(3) In the case of a special court-martial:

(a) The accused shall be afforded the opportunity to be represented at the trial by counsel having the qualifications prescribed under subsection (2) of this section unless counsel having such qualifications cannot be obtained on account of physical conditions or military exigencies. If counsel having such qualifications cannot be obtained, the court may be convened and the trial held but the convening authority shall make a detailed written statement, to be appended to the record, stating why counsel with such qualifications could not be obtained;

(b) If the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

(c) If the trial counsel is a judge advocate or a member of the bar of a federal court or the highest court of a state, the defense counsel detailed by the convening authority must be one of the foregoing.

[1991 c 43 § 6; 1989 c 48 § 27; 1963 c 220 § 29.]

RCW 38.38.264 [Art. 28] Detail or employment of reporters and interpreters.

Under such regulations as the governor may prescribe, the convening authority of a general or special court martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court. Under like regulations the convening authority of a military court may detail or employ interpreters who shall interpret for the court.

[1963 c 220 § 30.]

RCW 38.38.268 [Art. 29] Absent and additional members.

(1) No member of a general or special court-martial may be absent or excused after the court has been assembled for the trial of the accused unless excused as a result of a challenge, excused by the military judge for physical disability or other good cause, or excused by order of the convening authority for good cause.

(2) Whenever a general court-martial, other than a general court-martial composed of a military judge only, is reduced below five members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than five members. The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and counsel for both sides.

(3) Whenever a special court-martial, other than a special court-martial composed of a military judge only, is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three members. The trial shall proceed with the new members present as if no evidence had previously been introduced at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or a stipulation thereof is read to the court in the presence of the military judge, if any, the accused, and counsel for both sides.

(4) If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions of RCW 38.38.172(2) (a) or (b), after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused, and counsel for both sides.

[1989 c 48 § 28; 1963 c 220 § 31.]

PART VI--PRETRIAL PROCEDURE

RCW 38.38.308 [Art. 30] Charges and specifications.

(1) Charges and specifications shall be signed by a person subject to this code under oath before a person authorized by this code to administer oaths and shall state:

(a) That the signer has personal knowledge of, or has investigated, the matters set forth therein; and

(b) That they are true in fact to the best of his or her knowledge and belief.

(2) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him or her as soon as practicable.

[1989 c 48 § 29; 1963 c 220 § 32.]

RCW 38.38.312 [Art. 31] Compulsory self-incrimination prohibited.

(1) No person subject to this code may compel persons to incriminate themselves or to answer any question the answer to which may tend to incriminate them.

(2) No person subject to this code may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing the person of the nature of the accusation and advising that the person does not have to make any statement regarding the offense of which he or she is accused or suspected and that any statement made by the person may be used as evidence against him or her in a trial by court-martial.

(3) No person subject to this code may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade the person.

(4) No statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against the person in a trial by court-martial.

[1989 c 48 § 30; 1963 c 220 § 33.]

RCW 38.38.316 [Art. 32] Investigation.

(1) No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

(2) The accused shall be advised of the charges against him or her and of the right to be represented at that investigation by counsel. The accused has a right to be represented at that investigation as provided in RCW 38.38.376 and in regulations prescribed under that section.

At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him or her if they are available and to present anything the person may desire in his or her own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

(3) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (2) hereof, no further investigation of that charge is necessary under this section unless it is demanded by the accused after being informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his or her own behalf.

(4) The requirements of this section are binding on all persons administering this code but failure to follow them does not divest a military court of jurisdiction.

[1989 c 48 § 31; 1963 c 220 § 34.]

RCW 38.38.320 [Art. 33] Forwarding of charges.

When a person is held for trial by general court-martial the commanding officer shall, within eight days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the governor. If that is not practicable, the officer shall report in writing to the governor the reasons for delay.

[1989 c 48 § 32; 1963 c 220 § 35.]

RCW 38.38.324 [Art. 34] Advice of state judge advocate and reference for trial.

(1) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the state judge advocate for consideration and advice. The convening authority may not refer a charge to a general court-martial for trial unless he or she has found that the charge alleges an offense under this code, is warranted by evidence indicated in the report of the investigation under RCW 38.38.316, if there is such a report, and the court-martial would have jurisdiction over the accused and the offense.

(2) The advice of the staff judge advocate under subsection (1) of this section with respect to a specification under a charge shall include a written and signed statement by the staff judge advocate:

(a) Expressing conclusions with respect to each matter set forth in subsection (1) of this section; and

(b) Recommending action that the convening authority take regarding the specification. If the specification is referred for trial, the recommendation of the state judge advocate shall accompany the specification.

(3) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence may be made.

[1989 c 48 § 33; 1963 c 220 § 36.]

RCW 38.38.328 [Art. 35] Service of charges.

The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. In time of peace no person may, against his or her objection, be brought to trial or be required to participate by himself or counsel in a session called by a military judge under RCW 38.38.380(1), in a general court-martial within a period of five days after the service of the charges upon him or her, or

before a special court-martial within a period of three days after the service of the charges upon him or her.

[1989 c 48 § 34; 1963 c 220 § 37.]

PART VII--TRIAL PROCEDURE

RCW 38.38.368 [Art. 36] Governor may prescribe rules.

The procedure, including modes of proof, in cases before military courts and other military tribunals may be prescribed by the governor by regulations, which shall, so far as the governor considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the state, but which may not be contrary to or inconsistent with this code.

[1989 c 48 § 35; 1963 c 220 § 38.]

RCW 38.38.372 [Art. 37] Unlawfully influencing action of court.

(1) No authority convening a general, special, or summary court-martial nor any other commanding officer, or officer serving on the staff thereof, may censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his or her functions in the conduct of the proceeding. No person subject to this code may attempt to coerce or, by any unauthorized means, influence the action of the court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to judicial acts. The foregoing provisions of this section shall not apply with respect to (a) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial, or (b) to statements and instructions given in open court by the military judge, president of a special court-martial, or counsel.

(2) In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the organized militia is qualified to be advanced, in grade, or in determining the assignment or transfer of a member of the organized militia, or in determining whether a member of the organized militia should be retained on active duty, no person subject to this chapter may, in preparing any such report (a) consider or evaluate the performance of duty of any such member of a court-martial, or (b) give a less favorable rating or evaluation of any member of the organized militia because of the zeal with which such member, as counsel, represented any accused before a court-martial.

[1989 c 48 § 36; 1963 c 220 § 39.]

RCW 38.38.376 [Art. 38] Duties of trial counsel and defense counsel.

(1) The trial counsel of a general or special court-martial shall prosecute in the name of the state, and shall, under the direction of the court, prepare the record of the proceedings.

(2) The accused has the right to be represented in his or her defense before a general or special court-martial by civilian counsel if provided by the accused, or by military counsel of his or her own selection if reasonably available as defined in regulations of the governor, or by the defense counsel detailed under RCW 38.38.260. Should the accused have civilian counsel of his or her own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as associate counsel; otherwise they shall be excused by the military judge or president of a special court-martial.

(3) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters the defense counsel feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he or she considers appropriate and assist the accused in the submission of any matter under RCW 38.38.536.

(4) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when qualified to be a trial counsel as required by RCW 38.38.260, perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(5) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when qualified to be the defense counsel as required by RCW 38.38.260, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

[1989 c 48 § 37; 1963 c 220 § 40.]

RCW 38.38.380 [Art. 39] Sessions.

(1) At any time after the service of charges which have been referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to RCW 38.38.328, call the court into session without the presence of the members for the purpose of:

(a) Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(b) Hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members of the court;

(c) Holding the arraignment and receiving the pleas of the accused; and

(d) Performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to RCW 38.38.368 and which does not require the presence of the members of the court.

These proceedings shall be conducted in the presence of the accused, the defense counsel, and

the trial counsel and shall be made a part of the record.

(2) When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in cases in which a military judge has been detailed to the court, the military judge.

[1989 c 48 § 38; 1963 c 220 § 41.]

RCW 38.38.384 [Art. 40] Continuances.

The military judge or a court-martial without a military judge may, for reasonable cause, grant a continuance to any party for such time and as often as may appear to be just.

[1989 c 48 § 39; 1963 c 220 § 42.]

RCW 38.38.388 [Art. 41] Challenges.

(1) The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The military judge or, if none, the court shall determine the relevance and validity of challenges for cause and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(2) Each accused and the trial counsel is entitled to one peremptory challenge, but the military judge may not be challenged except for cause.

[1989 c 48 § 40; 1963 c 220 § 43.]

RCW 38.38.392 [Art. 42] Oaths.

(1) Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant or associate defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulations of the governor. These regulations may provide that an oath to perform faithfully duties as a military judge, trial counsel, assistant trial counsel, defense counsel, or assistant or associate defense counsel may be taken at any time by a judge advocate or other person certified to be qualified or competent for the duty, and if such an oath is taken it need not again be taken at the time the judge advocate, or other person, is detailed to that duty.

(2) Each witness before a court-martial shall be examined on oath.

[1989 c 48 § 41; 1963 c 220 § 44.]

RCW 38.38.396 [Art. 43] Statute of limitations.

(1) A person charged with desertion or absence without leave in time of war, or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.

(2) Except as otherwise provided in this section, a person charged with desertion in time of peace or with the offense punishable under RCW 38.38.784 is not liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(3) Except as otherwise provided in this section, a person charged with any offense is not liable to be tried by court-martial or punished under RCW 38.38.132 if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under RCW 38.38.132.

(4) Periods in which the accused was absent from territory in which the state has the authority to apprehend the accused, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.

[1989 c 48 § 42; 1963 c 220 § 45.]

RCW 38.38.400 [Art. 44] Former jeopardy.

(1) No person may, without the person's consent, be tried a second time in any military court of the state for the same offense.

(2) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

(3) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this section.

[1989 c 48 § 43; 1963 c 220 § 46.]

RCW 38.38.404 [Art. 45] Pleas of the accused.

(1) If an accused arraigned before a court-martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty.

(2) With respect to any other charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may be entered immediately without

vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

[1991 c 43 § 7; 1989 c 48 § 44; 1963 c 220 § 47.]

RCW 38.38.408 [Art. 46] Opportunity to obtain witnesses and other evidence.

(1) The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the governor may prescribe.

(2) The president of a special court-martial, military judge, or a summary court officer may:

(a) Issue a warrant for the arrest of any accused person who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(b) Issue subpoenas duces tecum and other subpoenas;

(c) Enforce by attachment the attendance of witnesses and the production of books and papers; and

(d) Sentence for refusal to be sworn or to answer, as provided in actions before civil courts of the state.

(3) Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall run to any part of the state and shall be executed by civil officers as prescribed by the laws of the state.

[1989 c 48 § 45; 1963 c 220 § 48.]

RCW 38.38.412 [Art. 47] Refusal to appear or testify--Penalty.

(1) Any person not subject to this code who:

(a) Has been duly subpoenaed to appear as a witness or to produce books and records before a court-martial, military commission, court of inquiry, or any other military court or board, or before any military or civil officer designated to take a deposition to be read in evidence before such a court;

(b) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the superior court of the state; and

(c) Wilfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce; is guilty of an offense against the state.

(2) Any person who commits an offense named in subsection (1) of this section shall be tried before the superior court of this state having jurisdiction and jurisdiction is conferred upon those courts for that purpose. Upon conviction, such a person shall be punished by a fine of not more than five hundred dollars, or imprisonment for not more than six months, or both.

(3) The prosecuting attorney in any such court, upon the certification of the facts by the

military court, commission, court of inquiry, or board, shall prosecute any person violating this section.

[1989 c 48 § 46; 1963 c 220 § 49.]

RCW 38.38.416 Contempts.

A military court may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for thirty days or a fine of one hundred dollars, or both.

[1963 c 220 § 50.]

RCW 38.38.420 [Art. 49] Depositions.

(1) At any time after charges have been signed, as provided in RCW 38.38.308, any party may take oral or written depositions unless a military judge or court-martial without a military judge hearing the case, or if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(2) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(3) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.

(4) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audiotape, videotape, or similar material, may be played in evidence before any court-martial or in any proceeding before a court of inquiry, if it appears:

(a) That the witness resides or is beyond the state in which the court-martial or court of inquiry is ordered to sit, or beyond the distance of one hundred miles from the place of trial or hearing;

(b) That the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(c) That the present whereabouts of the witness is unknown.

[1989 c 48 § 47; 1963 c 220 § 51.]

RCW 38.38.424 [Art. 50] Admissibility of records of courts of inquiry.

(1) In any case not extending to the dismissal of a commissioned officer, the sworn

testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(2) Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(3) Such testimony may also be read in evidence before a court of inquiry or a military board.

[1963 c 220 § 52.]

RCW 38.38.428 [Art. 51] Voting, rulings, instructions.

(1) Voting by members of a general or special court-martial on the findings and on the sentence, and by members of a court-martial without a military judge upon questions of challenge, shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(2) The military judge and, except for questions of challenge, the president of a court-martial without a military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused, or by the president of a court-martial without a military judge upon any question of law other than a motion for a finding of not guilty, is final and constitutes the ruling of the court. However, the military judge or the president of a court-martial without a military judge may change a ruling at any time during the trial. Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a vote as provided in RCW 38.38.432, beginning with the junior in rank.

(3) Before a vote is taken on the findings, the military judge or the president of a court-martial without a military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them:

(a) That the accused must be presumed to be innocent until guilt is established by legal and competent evidence beyond reasonable doubt;

(b) That in the case being considered, if there is reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and the accused must be acquitted;

(c) That, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree to which there is no reasonable doubt; and

(d) That the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the state.

(4) Subsections (1), (2), and (3) of this section do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an

appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

[1989 c 48 § 48; 1963 c 220 § 53.]

RCW 38.38.432 [Art. 52] Number of votes required.

(1) No person may be convicted of an offense, except as provided in RCW 38.38.404(2) or by the concurrence of two-thirds of the members present at the time the vote is taken.

(2) All sentences shall be determined by the concurrence of two-thirds of the members present at the time that the vote is taken.

(3) All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote, but a determination to reconsider a finding of guilty, or to reconsider a sentence with a view towards decreasing it, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

[1989 c 48 § 49; 1963 c 220 § 54.]

RCW 38.38.436 [Art. 53] Court to announce action.

A court martial shall announce its findings and sentence to the parties as soon as determined.

[1963 c 220 § 55.]

RCW 38.38.440 [Art. 54] Record of trial.

(1) Each general court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it by reason of death, disability, or absence. In a court-martial consisting of only a military judge, the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this subsection.

(2) Each special and summary court-martial shall keep a separate record of the proceedings in each case, and the record shall be authenticated in the manner required by such regulations as the governor may prescribe.

(3)(a) A complete record of the proceedings and testimony shall be prepared:

(i) In each general court-martial case in which the sentence adjudged includes a dismissal, a discharge, or, if the sentence adjudged does not include a discharge, any other punishment which exceeds that which may otherwise be adjudged by a special court-martial; and

(ii) In each special court-martial case in which the sentence adjudged includes a dishonorable discharge.

(b) In all other court-martial cases, the record shall contain such matters as may be prescribed by regulations of the governor.

(4) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated.

[1989 c 48 § 50; 1963 c 220 § 56.]

PART VIII--SENTENCES

RCW 38.38.480 [Art. 55] Cruel and unusual punishments prohibited.

Punishment by flogging, or by branding, marking or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court martial or inflicted upon any person subject to this code. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

[1963 c 220 § 57.]

RCW 38.38.484 [Art. 56] Maximum limits--Reduction in pay grade.

(1) The punishment which a court-martial may direct for an offense may not exceed limits prescribed by this code.

(2) Unless otherwise provided in regulations to be prescribed by the governor, a court-martial sentence of an enlisted member in a pay grade above E-1, as approved by the convening authority, that includes a dishonorable discharge reduces that member to pay grade E-1, effective on the date of that approval.

(3) If the sentence of a member who is reduced in pay grade under subsection (2) of this section is set aside or disapproved, or, as finally approved, does not include any punishment named in subsection (2) of this section, the rights and privileges of which the member was deprived because of that reduction shall be restored and the member is entitled to the pay and allowances to which the member would have been entitled for the period the reduction was in effect, had he or she not been so reduced.

[1989 c 48 § 51; 1963 c 220 § 58.]

RCW 38.38.488 [Art. 57] Effective date of sentences.

(1) No forfeiture may extend to any pay or allowances accrued before the date on which the sentence is approved by the person acting under RCW 38.38.536.

(2) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is ordered to be executed by the convening authority, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement. Regulations prescribed by the governor may provide that sentences of confinement may not be executed until approved by designated officers.

(3) All other sentences of courts-martial are effective on the date ordered executed.

(4) On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under his or her jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may, in his or her sole discretion, defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his or her jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

[1989 c 48 § 52; 1963 c 220 § 59.]

RCW 38.38.492 [Art. 58] Execution of confinement.

(1) A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the organized militia or in any jail, penitentiary, or prison designated for that purpose. Persons so confined in a jail, penitentiary, or prison are subject to the same discipline and treatment as persons confined or committed to the jail, penitentiary, or prison by the courts of the state or of any political subdivision thereof.

(2) The omission of the words "hard labor" from any sentence or punishment of a court-martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.

(3) The keepers, officers, and wardens of city or county jails and of other jails, penitentiaries, or prisons designated by the governor, or by such person as the governor may authorize to act under RCW 38.38.080, shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. No such keeper, officer, or warden may require payment of any fee or charge for so receiving or confining a person.

[1989 c 48 § 53; 1963 c 220 § 60.]

PART IX--REVIEW OF COURTS-MARTIAL

RCW 38.38.532 Execution of sentence--Suspension of sentence.

Except as provided in RCW 38.38.196 and 38.38.556, a court-martial sentence, unless suspended, may be ordered executed by the convening authority when approved by him or her. The convening authority shall approve the sentence or such part, amount, or commuted form of the sentence as he or she sees fit, and may suspend the execution of the sentence as approved by him or her.

[1989 c 48 § 54; 1963 c 220 § 61.]

RCW 38.38.536 Initial action on the record.

After a trial by court martial the record shall be forwarded to the convening authority, as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or by the governor.

[1963 c 220 § 62.]

RCW 38.38.540 [Art. 60] Initial action on the record--General court-martial records.

The convening authority shall refer the record of each general court-martial to the staff judge advocate, who shall submit a written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

[1989 c 48 § 55; 1963 c 220 § 63.]

RCW 38.38.544 [Art. 61] Reconsideration and revision.

(1) If a specification before a court martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(2) Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case, however, may the record be returned:

(a) For reconsideration of a finding of not guilty, or a ruling which amounts to a finding of not guilty;

(b) For reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this code; or

(c) For increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory.

[1963 c 220 § 64.]

RCW 38.38.548 [Art. 62] Rehearings.

(1) If the convening authority disapproves the findings and sentence of a court martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

(2) Each rehearing shall take place before a court martial composed of members not members of the court martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

[1963 c 220 § 65.]

RCW 38.38.552 [Art. 63] Approval by the convening authority.

In acting on the findings and sentence of a court martial, the convening authority may approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence is approval of the findings and sentence.

[1963 c 220 § 66.]

RCW 38.38.556 [Art. 64] Review of records--Disposition.

(1) If the convening authority is the governor, the governor's action on the review of any record of trial is final.

(2) In all other cases not covered by subsection (1), if the sentence of a special court-martial as approved by the convening authority includes a dishonorable discharge, whether or not suspended, the entire record shall be sent to the appropriate staff judge advocate of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the staff judge advocate shall then be sent to the state judge advocate for review.

(3) All other special and summary court-martial records shall be sent to the judge advocate of the appropriate force of the organized militia and shall be acted upon, transmitted, and disposed of as may be prescribed by regulations of the governor.

(4) The state judge advocate shall review the record of trial in each case sent for review as provided under subsection (2) of this section. If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the state judge advocate is limited to questions of jurisdiction.

(5) The state judge advocate shall take final action in any case reviewable by the state judge advocate.

(6) In a case reviewable by the state judge advocate under this section, the state judge advocate may act only with respect to the findings and sentence as approved by the convening authority. The state judge advocate may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the state judge advocate finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, the state judge advocate may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the state judge advocate sets aside the findings and sentence, the state judge advocate may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the state judge advocate sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed.

(7) In a case reviewable by the state judge advocate under this section, the state judge advocate shall instruct the convening authority to act in accordance with the state judge advocate's decision on the review. If the state judge advocate has ordered a rehearing but the convening authority finds a rehearing impracticable, the state judge advocate may dismiss the charges.

(8) The state judge advocate may order one or more boards of review each composed of not less than three commissioned officers of the organized militia, each of whom must be a member of the bar of the highest court of the state. Each board of review shall review the record of any trial by special court-martial, including a sentence to a dishonorable discharge, referred to it by the state judge advocate. Boards of review have the same authority on review as the state judge advocate has under this section.

[1989 c 48 § 56; 1963 c 220 § 67.]

RCW 38.38.560 [Art. 65] Error of law--Lesser included offense.

(1) A finding or sentence of a court martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(2) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding as includes a lesser included offense.

[1963 c 220 § 68.]

RCW 38.38.564 [Art. 66] Review counsel.

(1) Upon the final review of a sentence of a general court-martial, the accused has the right to be represented by counsel before the reviewing authority, before the staff judge advocate, and before the state judge advocate.

(2) Upon the request of an accused entitled to be so represented, the state judge advocate shall appoint a lawyer who is a member of the organized militia and who has the qualifications prescribed in RCW 38.38.260, if available, to represent the accused before the reviewing authority, before the staff judge advocate, and before the state judge advocate, in the review of cases specified in subsection (1) of this section.

(3) If provided by the accused, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, before the staff judge advocate, and before the state judge advocate.

[1991 c 43 § 8; 1989 c 48 § 57; 1963 c 220 § 69.]

RCW 38.38.568 [Art. 67] Vacation of suspension.

(1) Before the vacation of the suspension of a special court-martial sentence, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if the probationer so desires.

(2) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the governor in cases involving a general court-martial sentence and to the commanding officer of the force of the organized militia of which the probationer is a member in all other cases covered by subsection (1) of this section. If the governor or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

(3) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

[1989 c 48 § 58; 1963 c 220 § 70.]

RCW 38.38.572 [Art. 68] Petition for a new trial.

At any time within two years after approval by the convening authority of a court-martial sentence which extends to dismissal or dishonorable discharge, the accused may petition the governor for a new trial on ground of newly discovered evidence or fraud on the court-martial.

[1989 c 48 § 59; 1963 c 220 § 71.]

RCW 38.38.576 [Art. 69] Remission and suspension.

(1) A convening authority may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures.

(2) The governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court martial.

[1963 c 220 § 72.]

RCW 38.38.580 [Art. 70] Restoration.

(1) Under such regulations as the governor may prescribe, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or

disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon a new trial or rehearing.

(2) If a previously executed sentence of dishonorable discharge is not imposed on a new trial, the governor shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(3) If a previously executed sentence of dismissal is not imposed on a new trial, the governor shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the governor alone to such commissioned grade and with such rank as in the opinion of the governor that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made if a position vacancy is available under applicable tables of organization. All time between the dismissal and reappointment shall be considered as service for all purposes.

[1989 c 48 § 60; 1963 c 220 § 73.]

RCW 38.38.584 [Art. 71] Finality of proceedings, findings and sentences.

The proceedings, findings and sentences of courts martial as reviewed and approved, as required by this code, and all dismissals and discharges carried into execution under sentences by courts martial following review and approval, as required by this code, are final and conclusive. Orders publishing the proceedings of courts martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the state, subject only to action upon a petition for a new trial as provided in RCW 38.38.572.

[1963 c 220 § 74.]

PART X--PUNITIVE ARTICLES

RCW 38.38.624 [Art. 72] Persons to be tried or punished.

No person may be tried or punished for any offense provided for in RCW 38.38.628 through 38.38.800, unless it was committed while he was in a duty status.

[1963 c 220 § 75.]

RCW 38.38.628 [Art. 73] Principals.

Any person subject to this code who:

(1) Commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission; or

(2) Causes an act to be done which if directly performed by him would be punishable by this code;
is a principal.

[1963 c 220 § 76.]

RCW 38.38.632 [Art. 74] Accessory after the fact.

Any person subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court martial may direct.

[1963 c 220 § 77.]

RCW 38.38.636 [Art. 75] Conviction of lesser included offense.

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

[1963 c 220 § 78.]

RCW 38.38.640 [Art. 76] Attempts.

(1) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing to effect its commission, is an attempt to commit that offense.

(2) Any person subject to this code who attempts to commit any offense punishable by this code shall be punished as a court martial may direct, unless otherwise specifically prescribed.

(3) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

[1963 c 220 § 79.]

RCW 38.38.644 [Art. 77] Conspiracy.

Any person subject to this code who conspires with any other person to commit an offense under this code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court martial may direct.

[1963 c 220 § 80.]

RCW 38.38.648 [Art. 78] Solicitation.

(1) Any person subject to this code who solicits or advises another or others to desert in violation of RCW 38.38.660 or mutiny in violation of RCW 38.38.696 shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court martial may direct.

(2) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of RCW 38.38.716 or sedition in violation of RCW 38.38.696 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall be punished as a court martial may direct.

[1963 c 220 § 81.]

RCW 38.38.652 [Art. 79] Fraudulent enlistment, appointment, or separation.

Any person who:

(1) Procures his or her own enlistment or appointment in the organized militia by knowingly false representation or deliberate concealment as to qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) Procures his or her own separation from the organized militia by knowingly false representation or deliberate concealment as to eligibility for that separation; shall be punished as a court-martial may direct.

[1989 c 48 § 61; 1963 c 220 § 82.]

RCW 38.38.656 [Art. 80] Unlawful enlistment, appointment, or separation.

Any person subject to this code who effects an enlistment or appointment in or a separation from the organized militia of any person who is known to the person to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

[1989 c 48 § 62; 1963 c 220 § 83.]

RCW 38.38.660 [Art. 81] Desertion.

(1) Any member of the organized militia who:

(a) Without authority goes or remains absent from the member's unit, organization, or place of duty with intent to remain away therefrom permanently;

(b) Quits the member's unit, organization or place of duty with intent to avoid hazardous duty or to shirk important service; or

(c) Without being regularly separated from one of the organized militia enlists or accepts an appointment in the same or another one of the organized militia, or in one of the armed forces of the United States, without fully disclosing the fact that he or she has not been regularly separated; is guilty of desertion.

(2) Any commissioned officer of the organized militia who, after tender of a resignation and before notice of its acceptance, quits his or her post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(3) Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct.

[1989 c 48 § 63; 1963 c 220 § 84.]

RCW 38.38.664 [Art. 82] Absence without leave.

Any person subject to this code who, without authority:

(1) Fails to go to his appointed place of duty at the time prescribed;

(2) Goes from that place; or

(3) Absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court martial may direct.

[1963 c 220 § 85.]

RCW 38.38.668 [Art. 83] Missing movement.

Any person subject to this code who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court martial may direct.

[1963 c 220 § 86.]

RCW 38.38.672 [Art. 84] Contempt towards officials.

Any person subject to this code who uses contemptuous words against the president, the governor, or the governor of any other state, territory, commonwealth, or possession in which that person may be serving, shall be punished as a court martial may direct.

[1963 c 220 § 87.]

RCW 38.38.676 [Art. 85] Disrespect towards superior commissioned officer.

Any person subject to this code who behaves with disrespect towards his superior commissioned officer shall be punished as a court martial may direct.

[1963 c 220 § 88.]

RCW 38.38.680 [Art. 86] Assaulting or wilfully disobeying superior commissioned officer.

Any person subject to this code who:

(1) Strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(2) Wilfully disobeys a lawful command of his superior commissioned officer;

shall be punished as a court martial may direct.

[1963 c 220 § 89.]

RCW 38.38.684 Insubordinate conduct toward warrant officer or noncommissioned officer.

Any warrant officer or enlisted member who:

(1) Strikes or assaults a warrant officer or noncommissioned officer while that officer is in the execution of the officer's office;

(2) Wilfully disobeys the lawful order of a warrant officer or noncommissioned officer;
or

(3) Treats with contempt or is disrespectful in language or deportment toward a warrant officer or noncommissioned officer while that officer is in the execution of the officer's office;
shall be punished as a court-martial may direct.

[1989 c 48 § 64; 1963 c 220 § 90.]

RCW 38.38.688 [Art. 88] Failure to obey order or regulation.

Any person subject to this code who:

(1) Violates or fails to obey any lawful general order or regulation;

(2) Having knowledge of any other lawful order issued by a member of the organized militia which it is the person's duty to obey, fails to obey the order; or

(3) Is derelict in the performance of the person's duties;
shall be punished as a court-martial may direct.

[1989 c 48 § 65; 1963 c 220 § 91.]

RCW 38.38.692 [Art. 89] Cruelty and maltreatment.

Any person subject to this code who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court martial may direct.

[1963 c 220 § 92.]

RCW 38.38.696 [Art. 90] Mutiny or sedition.

(1) Any person subject to this code who:

(a) With intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

(b) With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

(c) Fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(2) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court martial may direct.

[1963 c 220 § 93.]

RCW 38.38.700 [Art. 91] Resistance, breach of arrest, and escape.

Any person subject to this code who resists apprehension or breaks arrest or who escapes from physical restraint lawfully imposed shall be punished as a court martial may direct.

[1963 c 220 § 94.]

RCW 38.38.704 [Art. 92] Releasing prisoner without proper authority.

Any person subject to this code who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court martial may direct, whether or not the prisoner was committed in strict compliance with law.

[1963 c 220 § 95.]

RCW 38.38.708 [Art. 93] Unlawful detention of another.

Any person subject to this code who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished as a court martial may direct.

[1963 c 220 § 96.]

RCW 38.38.712 [Art. 94] Noncompliance with procedural rules.

Any person subject to this code who:

(1) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or

(2) Knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused; shall be punished as a court martial may direct.

[1963 c 220 § 97.]

RCW 38.38.716 [Art. 95] Misbehavior before the enemy.

Any person subject to this code who before or in the presence of the enemy:

- (1) Runs away;
 - (2) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is the person's duty to defend;
 - (3) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;
 - (4) Casts away arms or ammunition;
 - (5) Is guilty of cowardly conduct;
 - (6) Quits a place of duty to plunder or pillage;
 - (7) Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the organized militia;
 - (8) Wilfully fails to do his or her utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is the person's duty so to encounter, engage, capture, or destroy; or
 - (9) Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to the state, or to any other state, when engaged in battle;
- shall be punished as a court-martial may direct.

[1989 c 48 § 66; 1963 c 220 § 98.]

RCW 38.38.720 [Art. 96] Subordinate compelling surrender.

Any person subject to this code who compels or attempts to compel the commander of any of the organized militia of the state, or of any other state, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court-martial may direct.

[1989 c 48 § 67; 1963 c 220 § 99.]

RCW 38.38.724 [Art. 97] Improper use of countersign.

Any person subject to this code who in time of war discloses the parole or countersign to any person not entitled to receive it, or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished as a court martial may direct.

[1963 c 220 § 100.]

RCW 38.38.728 [Art. 98] Forcing a safeguard.

Any person subject to this code who forces a safeguard shall be punished as a court martial may direct.

[1963 c 220 § 101.]

RCW 38.38.732 [Art. 99] Captured or abandoned property.

(1) All persons subject to this code shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(2) Any person subject to this code who:

(a) Fails to carry out the duties prescribed in subsection (1) hereof;

(b) Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(c) Engages in looting or pillaging;

shall be punished as a court martial may direct.

[1963 c 220 § 102.]

RCW 38.38.736 [Art. 100] Aiding the enemy.

Any person subject to this code who:

(1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly;

shall be punished as a court martial may direct.

[1963 c 220 § 103.]

RCW 38.38.740 [Art. 101] Misconduct of a prisoner.

Any person subject to this code who, while in the hands of the enemy in time of war:

(1) For the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or

(2) While in a position of authority over such persons maltreats them without justifiable cause;

shall be punished as a court martial may direct.

[1963 c 220 § 104.]

RCW 38.38.744 [Art. 102] False official statements.

Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court martial may direct.

[1963 c 220 § 105.]

RCW 38.38.748 [Art. 103] Military property--Loss, damage, destruction, or wrongful disposition.

Any person subject to this code who, without proper authority:

(1) Sells or otherwise disposes of;

(2) Wilfully or through neglect damages, destroys, or loses; or

(3) Wilfully or through neglect suffers to be damaged, destroyed, sold or wrongfully disposed of;

any military property of the United States or of the state shall be punished as a court martial may direct.

[1963 c 220 § 106.]

RCW 38.38.752 [Art. 104] Property other than military property--Waste, spoilage, or destruction.

Any person subject to this code who, while in a duty status, wilfully or recklessly wastes, spoils, or otherwise wilfully and wrongfully destroys or damages any property other than military property of the United States or of the state shall be punished as a court martial may direct.

[1963 c 220 § 107.]

RCW 38.38.756 [Art. 105] Improper hazarding of vessel.

(1) Any person subject to this code who wilfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the organized militia shall be punished as a court-martial may direct.

(2) Any person subject to this code who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the organized militia shall be punished as a court-martial may direct.

[1989 c 48 § 68; 1963 c 220 § 108.]

RCW 38.38.760 [Art. 106] Drunken or reckless driving.

Any person subject to this code who operates any vehicle while drunk, or in a reckless or wanton manner, shall be punished as a court martial may direct.

[1963 c 220 § 109.]

RCW 38.38.764 [Art. 107] Drunk on duty--Sleeping on post--Leaving post before

relief.

Any person subject to this code who is found drunk on duty or sleeping upon his post, or who leaves his post before he is regularly relieved, shall be punished as a court martial may direct.

[1963 c 220 § 110.]

RCW 38.38.768 [Art. 108] Dueling.

Any person subject to this code who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court martial may direct.

[1963 c 220 § 111.]

RCW 38.38.772 [Art. 109] Malingering.

Any person subject to this code who for the purpose of avoiding work, duty or service in the organized militia:

(1) Feigns illness, physical disablement, mental lapse or derangement; or

(2) Intentionally inflicts self-injury;

shall be punished as a court-martial may direct.

[1989 c 48 § 69; 1963 c 220 § 112.]

RCW 38.38.776 [Art. 110] Riot or breach of peace.

Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court martial may direct.

[1963 c 220 § 113.]

RCW 38.38.780 [Art. 111] Provoking speeches or gestures.

Any person subject to this code who uses provoking or reproachful words or gestures toward any other person subject to this code shall be punished as a court martial may direct.

[1963 c 220 § 114.]

RCW 38.38.784 [Art. 112] Perjury.

Any person subject to this code who in a judicial proceeding or in a course of justice conducted under this code wilfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court martial may direct.

[1963 c 220 § 115.]

RCW 38.38.788 [Art. 113] Frauds against the government.

Any person subject to this code:

- (1) Who, knowing it to be false or fraudulent:
 - (a) Makes any claim against the United States, the state, or any officer thereof; or
 - (b) Presents to any person in the civil or military service thereof, for approval or payment any claim against the United States, the state, or any officer thereof;
 - (2) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof:
 - (a) Makes or uses any writing or other paper knowing it to contain any false or fraudulent statements;
 - (b) Makes any oath to any fact or to any writing or other paper knowing the oath to be false; or
 - (c) Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;
 - (3) Who, having charge, possession, custody, or control of any money, or other property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which the person receives a certificate or receipt; or
 - (4) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state;
- shall, upon conviction, be punished as a court-martial may direct.

[1989 c 48 § 70; 1963 c 220 § 116.]

RCW 38.38.792 [Art. 114] Larceny and wrongful appropriation.

- (1) Any person subject to this code who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind:
 - (a) With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or
 - (b) With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation.
- (2) Any person found guilty of larceny or wrongful appropriation shall be punished as a court martial may direct.

[1963 c 220 § 117.]

RCW 38.38.796 [Art. 115] Conduct unbecoming an officer and a gentleman.

Any commissioned officer who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court martial may direct.

[1963 c 220 § 118.]

RCW 38.38.800 [Art. 116] General article.

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the organized militia, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. However, cognizance may not be taken of, and jurisdiction may not be extended to, the crimes of murder, manslaughter, rape, robbery, maiming, sodomy, arson, extortion, assault, burglary, or housebreaking, jurisdiction of which is reserved to civil courts.

[1989 c 48 § 71; 1963 c 220 § 119.]

PART XI--MISCELLANEOUS PROVISIONS

RCW 38.38.840 [Art. 117] Courts of inquiry.

(1) Courts of inquiry to investigate any matter may be convened by the governor or by any other person designated by the governor for that purpose, whether or not the persons involved have requested such an inquiry: PROVIDED, That upon the request of the officer involved such an inquiry shall be instituted as hereinabove set forth.

(2) A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(3) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code or employed in the state military department, who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(4) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(5) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(6) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(7) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(8) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

[1989 c 48 § 72; 1963 c 220 § 120.]

RCW 38.38.844 [Art. 118] Authority to administer oaths.

(1) The following members of the organized militia may administer oaths for the purposes of military administration, including military justice, and affidavits may be taken for those purposes before persons having the general powers of a notary public:

- (a) The state judge advocate and all assistant state judge advocates;
- (b) All law specialists;
- (c) All summary courts-martial;
- (d) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants;
- (e) The military judge, president, trial counsel, and assistant trial counsel for all general and special courts-martial;
- (f) The president and the counsel for the court of any court of inquiry;
- (g) All officers designated to take a deposition;
- (h) All persons detailed to conduct an investigation; and
- (i) All other persons designated by regulations of the governor.

(2) Officers of the organized militia may not be authorized to administer oaths as provided in this section unless they are on active state service or inactive duty for training in or with those forces under orders of the governor as prescribed in this code.

(3) The signature without seal of any such person, together with the title of the person's office, is prima facie evidence of the person's authority.

[1989 c 48 § 73; 1963 c 220 § 121.]

RCW 38.38.848 [Art. 119] Sections to be explained.

RCW 38.38.008, 38.38.012, 38.38.064 through 38.38.132, 38.38.252, 38.38.260, 38.38.372, 38.38.480, 38.38.624 through 38.38.792, and 38.38.848 through 38.38.860 shall be carefully explained to every enlisted member at the time of the member's enlistment or transfer or induction into, or at the time of the member's order to duty in or with any of the organized militia or within thirty days thereafter. They shall also be explained annually to each unit of the organized militia. A complete text of this code and of the regulations prescribed by the governor thereunder shall be made available to any member of the organized militia, upon request, for personal examination.

[1989 c 48 § 74; 1963 c 220 § 122.]

RCW 38.38.852 [Art. 120] Complaints of wrongs.

Members of the organized militia who believe themselves wronged by their commanding officer, and who, upon due application to that commanding officer, are refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the governor or adjutant general. The governor or adjutant general shall examine the complaint and take proper measures for redressing the wrong complained of.

[1989 c 48 § 75; 1963 c 220 § 123.]

RCW 38.38.856 [Art. 121] Redress of injuries to property.

(1) Whenever complaint is made to any commanding officer that wilful damage has been done to the property of any person or that the person's property has been wrongfully taken by members of the organized militia, the commanding officer may, subject to such regulations as the governor may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by the commanding officer shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive, except as provided in subsection (3) of this section, on any disbursing officer for the payment by the disbursing officer to the injured parties of the damages so assessed and approved.

(2) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be paid to the injured parties from the military funds of the units of the organized militia to which the offenders belonged.

(3) Any person subject to this code who is accused of causing wilful damage to property has the right to be represented by counsel, to summon witnesses in the person's behalf, and to cross-examine those appearing against him or her. The person has the right of appeal to the next higher commander.

[1989 c 48 § 76; 1963 c 220 § 124.]

RCW 38.38.860 [Art. 122] Execution of process and sentence.

In the organized militia not in federal service, the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of the state.

[1989 c 48 § 77; 1963 c 220 § 125.]

RCW 38.38.864 [Art. 123] Process of military courts.

(1) Military courts may issue any process or mandate necessary to carry into effect their powers. Such a court may issue subpoenae and subpoenae duces tecum and enforce by attachment attendance of witnesses and production of books and records, when it is sitting within the state and the witnesses, books and records sought are also so located.

(2) Process and mandates may be issued by summary courts-martial, or the military judge of other military courts and may be directed to and may be executed by the marshals of the military court or any peace officer and shall be in such form as may be prescribed by regulations issued under this code.

(3) All officers to whom process or mandates may be so directed shall execute them and make return of their acts thereunder according to the requirements of those documents. Except as otherwise specifically provided in this code, no such officer may demand or require payment of any fee or charge for receiving, executing, or returning such a process or mandate or for any service in connection therewith.

[1989 c 48 § 78; 1963 c 220 § 126.]

RCW 38.38.868 [Art. 124] Payment of fines and disposition thereof.

Fines imposed by a military court may be paid to it or to an officer executing its process. The amount of such a fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due the person, until the fine is liquidated. Any sum so deducted shall be turned in to the military court which imposed the fine. Notwithstanding any other law, the officer collecting a fine or penalty imposed by a military court upon an officer or enlisted person shall pay it within thirty days to the state treasurer. Such a fine becomes a part of, is credited to, and may be spent from, the military fund of the organization or detachment to which the officer or enlisted person who paid the fine belonged. The treasurer of the state shall then report the amount thereof designating the organization or detachment to which it belongs, to the adjutant general of the state, and shall pay it over to the organization or detachment on request of its commanding officer.

[1989 c 48 § 79; 1963 c 220 § 127.]

RCW 38.38.872 [Art. 125] Immunity for action of military courts.

No accused may bring an action or proceeding against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

[1963 c 220 § 128.]

RCW 38.38.876 [Art. 126] Presumption of jurisdiction.

The jurisdiction of the military courts and boards established by this code shall be

presumed and the burden of proof rests on any person seeking to oust those courts or boards of jurisdiction in any action or proceeding.

[1963 c 220 § 129.]

RCW 38.38.880 [Art. 127] Delegation of authority by the governor.

The governor may delegate any authority vested in him under this code, and may provide for the subdelegation of any such authority, except the power given him by RCW 38.38.192 and 38.38.240.

[1963 c 220 § 130.]

RCW 38.38.884 [Art. 128] Uniformity of interpretation.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and, so far as practical, to make that law uniform with the law of the United States.

[1963 c 220 § 131.]

RCW 38.38.888 [Art. 129] Short title.

This chapter may be cited as the "Washington code of military justice."

[1963 c 220 § 132.]

**Chapter 38.40 RCW
MISCELLANEOUS PROVISIONS**

Sections

38.40.010	Liability of officers and enlisted persons on duty.
38.40.020	Not liable for exercise of judgment.
38.40.025	Liability of state for federal activities.
38.40.030	Compensation for death or disability.
38.40.040	Interference with employment--Penalty.
38.40.050	Discharge from employment--Penalty.
38.40.060	Military leaves for public employees.
38.40.100	Notice for duty.
38.40.110	Employment or membership in other organizations--Discrimination prohibited--Penalty--Civil cause of action.
38.40.120	Authorized military organizations.
38.40.130	Corporations may be formed.
38.40.150	Property to remain public property.

Notes:

Acknowledgments and powers of attorney: Chapter 73.20 RCW.

Acquisitions of lands for permanent military installations: Chapter 37.16 RCW.

Common carriers--Special exceptions on carriage of property, government freight, etc.: RCW 81.28.080.

Eminent domain

condemnation for military purposes: RCW 8.04.170, 8.04.180.

notice where military land is involved: RCW 8.28.030.

Evidence

proof of missing in action, capture by enemy, etc.: RCW 5.40.030.

written finding of presumed death as prima facie evidence: RCW 5.40.020.

Federal areas and jurisdiction: Title 37 RCW.

Gas bombs: RCW 70.74.310.

Joint armory sites: RCW 36.64.050.

Juries--Persons exempt: RCW 2.36.080.

Mental illness hospitalization

authority over patient--Federal agencies, private establishments: RCW 71.02.490.

commitment to veterans administration or other federal agency--General provision: RCW 73.36.165.

Militia

privilege from arrest: State Constitution Art. 10 § 5.

soldiers' home: State Constitution Art. 10 § 3.

Personal exemptions--Pension money exempt: RCW 6.15.020.

Residence, contingencies affecting: State Constitution Art. 6 § 4.

Soldiers' and veterans' homes: Chapter 72.36 RCW.

Statute of limitations tolled--As to person in military service of United States: RCW 4.16.220.

Tide and shore land grants to United States: RCW 79.94.410 through 79.94.440.

Unlawful firearms--Exception: RCW 9.41.190.

Veterans and veterans' affairs: Title 73 RCW.

Veterans' rehabilitation council: Chapter 43.61 RCW.

Voter, when privileged from military duty: State Constitution Art. 6 § 5.

RCW 38.40.010 Liability of officers and enlisted persons on duty.

Members of the militia ordered into active service of the state by any proper authority shall not be liable civilly or criminally for any act or acts done by them while on such duty nor shall any action lie against any officer or enlisted person for any acts done by the officer or enlisted person in line of duty by virtue of any order which may thereafter be held invalid by any civil court. When a suit or proceeding shall be commenced in any court by any person against any officer or enlisted person of the militia for any act done by such officer or enlisted person in his or her official capacity or in the discharge of any duty, or against any person acting under the authority or order of such officer or by virtue of any warrant issued pursuant to law, the defendant may require the person prosecuting or instituting the proceeding to give security for the payment of all costs that may be awarded to the defendant, and the defendant in all cases may make a general denial and, under such general denial, give all other or any special defense matter in evidence. In case the plaintiff shall be nonsuited or the verdict or judgment be in favor of the defendant, treble costs shall be assessed against the plaintiff. The defendant in such action shall be defended by the attorney general at the expense of the state, but private counsel may also be employed by the defendant. The venue of all such actions shall be Thurston county and the state

of Washington shall be in all cases a necessary party defendant.

[1989 c 19 § 45; 1943 c 130 § 13; Rem. Supp. 1943 § 8603-13. Cf. 1909 c 134 § 25, part; 1895 c 108 § 173, part.]

RCW 38.40.020 Not liable for exercise of judgment.

The commanding officer of any of the military forces of the state of Washington engaged under the order of proper authority in the suppression of insurrection, the dispersion of a mob, the protection of life or property, or the enforcement of the laws, shall exercise discretion as to the propriety of the means to be used in controlling or dispersing of any mob or other unlawful assembly and, if he or she exercises his or her honest judgment thereon, he or she shall not be liable in either a civil or criminal action for any act done in line of duty.

[1989 c 19 § 46; 1943 c 130 § 14; Rem. Supp. 1943 § 8603-14. Cf. 1909 c 134 § 25, part; 1895 c 108 § 173, part.]

RCW 38.40.025 Liability of state for federal activities.

Neither the state of Washington, its officers, employees, or agents, nor any member of the militia may be held liable in any civil action for damages arising out of any of the activities of the military forces of the state of Washington while engaged in activities during which the officers, employees, agents, or members are considered employees of the federal government under the federal tort claims act, 26 U.S.C. Sec. 2671 et seq.

[1987 c 26 § 2.]

Notes:

Legislative declaration--1987 c 26: "The legislature recognizes that Congress has established comprehensive administrative programs to compensate members of the military forces for injuries they may incur while performing training for national defense." [1987 c 26 § 1.]

Severability--1987 c 26: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 26 § 3.]

RCW 38.40.030 Compensation for death or disability.

If any member of the organized militia is injured, incapacitated, or otherwise disabled while in active state service or inactive duty as a member of the organized militia, he or she shall receive from the state of Washington just and reasonable relief in the amount to be determined as provided in this section, including necessary medical care. If the member dies from disease contracted or injury received or is killed while in active state service or inactive duty under order of the governor, then the dependents of the deceased shall receive such compensation as may be allowed as provided in this section. If the United States or any agent thereof, in accordance with any federal statute or regulation, furnishes monetary assistance, benefits, or other temporary or permanent relief to militia members or to their dependents for injuries arising out of and occurring in the course of their activities as militia members, but not including Social Security benefits, then the amount of compensation which any militia member or his or her dependents

are otherwise entitled to receive from the state of Washington as provided in this section shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the militia member or his or her dependents have received and will receive from the United States or any agent thereof as a result of his or her injury. All claims arising under this section shall be inquired into by a board of three officers, at least one being a medical officer, to be appointed by the adjutant general. The board has the same power to take evidence, administer oaths, issue subpoenas, compel witnesses to attend and testify and produce books and papers, and punish their failure to do so as is possessed by a general court martial. The amount of compensation or benefits payable shall conform as nearly as possible to the general schedule of payments and awards provided under the workers' compensation law in effect in the state of Washington at the time the disability or death occurred. The findings of the board shall be reviewed by the adjutant general and submitted to the governor for final approval. The reviewing officer or the governor may return the proceedings for revision or for the taking of further testimony. The action of the board when finally approved by the governor is final and conclusive and constitutes the fixed award for the injury or loss and is a debt of the state of Washington.

[1989 c 19 § 47; 1987 c 185 § 5; 1984 c 198 § 5; 1943 c 130 § 40; Rem. Supp. 1943 § 8603-40. Prior: 1923 c 49 § 3; 1917 c 107 § 38; 1909 c 134 § 60; 1895 c 108 § 92.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Workers' compensation: Title 51 RCW.

RCW 38.40.040 Interference with employment--Penalty.

A person, who either alone, or with another, wilfully deprives a member of the organized militia of Washington of his or her employment or prevents such member being employed, or obstructs or annoys said member or his or her employer in their trade, business or employment, because he or she is such member, or dissuades any person from enlisting in said organized militia by threat or injury to him or her in their employment, trade or business, in case he or she shall so enlist, shall be guilty of a gross misdemeanor and on conviction thereof shall be fined in a sum not exceeding five hundred dollars, or imprisonment in the county jail not more than six months, or by both such fine and imprisonment.

[1989 c 19 § 48; 1943 c 130 § 46; Rem. Supp. 1943 § 8603-46. Prior: 1917 c 107 § 41; 1909 c 134 § 67; 1895 c 108 § 104, part.]

RCW 38.40.050 Discharge from employment--Penalty.

No member of the organized militia of Washington shall be discharged by his or her employer by reason of the performance of any military duties upon which he or she may be ordered. When any member of the organized militia of Washington is ordered upon active state service or inactive duty which takes the member from his or her employment the member may apply upon the termination of such duty to be restored to his or her position and employment, and if the tour of duty shall have continued for a period not longer than three months, any

employer or the officer or manager of any firm or corporation having authority to reemploy such member and failing to do so shall be guilty of a gross misdemeanor, and on conviction thereof shall be fined in any sum not exceeding five hundred dollars, or imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

[1989 c 19 § 49; 1943 c 130 § 48; Rem. Supp. 1943 § 8603-48. Prior: 1917 c 107 § 43; 1909 c 134 § 69; 1895 c 108 § 104, part.]

RCW 38.40.060 Military leaves for public employees. (*Effective until October 1, 2001.*)

Every officer and employee of the state or of any county, city, or other political subdivision thereof who is a member of the Washington national guard or of the army, navy, air force, coast guard, or marine corps reserve of the United States, or of any organized reserve or armed forces of the United States shall be entitled to and shall be granted military leave of absence from such employment for a period not exceeding fifteen days during each calendar year. Such leave shall be granted in order that the person may report for active duty, when called, or take part in active training duty in such manner and at such time as he or she may be ordered to active duty or active training duty. Such military leave of absence shall be in addition to any vacation or sick leave to which the officer or employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay. During the period of military leave, the officer or employee shall receive from the state, or the county, city, or other political subdivision, his or her normal pay.

[1991 c 25 § 1; 1989 c 19 § 50; 1957 c 236 § 1; 1939 c 113 § 1.]

NOTES:

Application--1991 c 25: "This act applies to all public employees and officers who reported for active duty or active training duty, under RCW 38.40.060, on or after August 2, 1990." [1991 c 25 § 2.]

RCW 38.40.060 Military leaves for public employees. (*Effective October 1, 2001.*)

Every officer and employee of the state or of any county, city, or other political subdivision thereof who is a member of the Washington national guard or of the army, navy, air force, coast guard, or marine corps reserve of the United States, or of any organized reserve or armed forces of the United States shall be entitled to and shall be granted military leave of absence from such employment for a period not exceeding fifteen days during each year beginning October 1st and ending the following September 30th. Such leave shall be granted in order that the person may report for active duty, when called, or take part in active training duty in such manner and at such time as he or she may be ordered to active duty or active training duty. Such military leave of absence shall be in addition to any vacation or sick leave to which the officer or employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay. During the period of military leave, the officer or employee shall receive from the state, or the county, city, or other political subdivision, his or her normal pay.

[2001 c 71 § 1; 1991 c 25 § 1; 1989 c 19 § 50; 1957 c 236 § 1; 1939 c 113 § 1.]

NOTES:

Effective date--2001 c 71: "This act takes effect October 1, 2001." [2001 c 71 § 2.]

Application--1991 c 25: "This act applies to all public employees and officers who reported for active duty or active training duty, under RCW 38.40.060, on or after August 2, 1990." [1991 c 25 § 2.]

RCW 38.40.100 Notice for duty.

Orders for duty may be oral or written. Officers and enlisted persons may be warned for duty as follows: Either by stating the substance of the order, or by reading the order to the person warned, or by delivering a copy of such order to such person, or by leaving a copy of such order at his or her last known place of abode or business, with some person of suitable age and discretion, or by sending a copy of such order or notice containing the substance thereof, to such person by mail, directed to his or her last known place of abode or business. Orders may be transmitted by telegraph or telephone. Such warning may be given by any officer or authorized enlisted person. The officer or enlisted person giving such warning shall, when required, make a return thereof, containing the names of persons warned and the time, place and manner of warning. Such returns shall be verified on oath and shall be prima facie evidence, on the trial of any person returned as a delinquent, of the facts therein stated.

[1989 c 19 § 51; 1943 c 130 § 53; Rem. Supp. 1943 § 8603-53. Prior: 1909 c 134 § 65; 1895 c 108 § 102.]

RCW 38.40.110 Employment or membership in other organizations--Discrimination prohibited--Penalty--Civil cause of action.

No club, society, association, corporation, employer, or organization shall by any constitution, rule, bylaws, resolution, vote or regulation, or otherwise, discriminate against or refuse to hire, employ, or reemploy any member of the organized militia of Washington because of his or her membership in said organized militia. Any person or persons, club, society, association, employer, corporation, or organization, violating or aiding, abetting, or assisting in the violation of any provision of this section shall be guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding one hundred dollars and in addition thereto shall forfeit the right to do business for a period of thirty days. Any person who has been discriminated against in violation of this section shall have a civil cause of action for damages.

[1991 c 43 § 9; 1989 c 19 § 52; 1943 c 130 § 47; Rem. Supp. 1943 § 8603-47. Prior: 1917 c 107 § 42; 1909 c 134 § 68.]

RCW 38.40.120 Authorized military organizations.

No organized body other than the recognized militia organizations of this state, armed forces of the United States, students of educational institutions where military science is a prescribed part of the course of instruction or bona fide veterans organizations shall associate themselves together as a military company or organize or parade in public with firearms: PROVIDED, That nothing herein shall be construed to prevent authorized parades by the organized militia of another state or armed forces of foreign countries. Any person participating in any such unauthorized organization shall be guilty of a misdemeanor.

[1989 c 19 § 53; 1943 c 130 § 54; Rem. Supp. 1943 § 8603-54. Prior: 1909 c 249 § 294; 1903 c 135 § 1.]

RCW 38.40.130 Corporations may be formed.

The officers, or the officers and enlisted persons of any regiment, battalion, company or similar unit of the organized militia of Washington, or the officers and enlisted persons of any two or more companies or similar units of the organized militia of the state of Washington, located at the same station, are hereby authorized to organize themselves into a corporation for social purposes and for the purpose of holding, acquiring and disposing of such property, real and personal, as such military organizations may possess or acquire. Such corporations shall not be required to pay any filing or license fee to the state.

The dissolution or disbandment of any such unit as a military organization shall not in itself terminate the existence of the corporation, but the existence of the same may continue for the period limited in its articles of incorporation for the benefit of such corporation.

Upon the dissolution or disbandment of any such unit which shall not have incorporated, and which shall at the time of such dissolution or disbandment possess any funds or property, the title to such funds or property shall immediately vest in the state of Washington, and the adjutant general shall take possession thereof and dispose of the same to the best interest of the organized militia of Washington.

[1989 c 19 § 54; 1943 c 130 § 49; Rem. Supp. 1943 § 8603-49. Prior: 1923 c 49 § 4; 1917 c 107 § 44; 1915 c 19 § 1; 1909 c 134 § 71; 1895 c 108 §§ 123, 124.]

RCW 38.40.150 Property to remain public property.

All property issued to organizations and members of the organized militia of Washington shall be and remain public property.

[1943 c 130 § 38; Rem. Supp. 1943 § 8603-38. Prior: 1917 c 107 § 33; 1909 c 134 § 51; 1895 c 108 § 78.]

**Chapter 38.44 RCW
ENROLLMENT OF PERSONS**

Sections

38.44.010	Commander-in-chief may order enrollment.
38.44.020	Notice of enrollment.
38.44.030	Exemptions.
38.44.040	Penalties for dereliction or false certificate.
38.44.050	Compensation of enrolling officer.
38.44.060	Examination of records.

Notes:

Militia--Exemption from military duty: State Constitution Art. 10 § 6.

RCW 38.44.010 Commander-in-chief may order enrollment.

Whenever the commander-in-chief shall deem it necessary, in event of, or imminent danger of war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process, breach of the peace, public disaster, or the imminent occurrence of any of these events, the commander-in-chief may order an enrollment by counties of all persons subject to military duty, designating the county assessor or some other person for each county to act as county enrolling officer. Each county enrolling officer may appoint such assistant or assistants as may be authorized by the commander-in-chief. In each county the enrollment shall include every sane able bodied inhabitant not under sentence for a felony, who is more than eighteen and less than forty-five years of age. The enrollment shall be made in triplicate and shall state the name, residence, age, occupation and previous or existing military or naval service of each person enrolled. When complete the rolls shall be verified under oath by the enrolling officer, who shall immediately thereupon file one copy with the adjutant general of the state and another with the county auditor, retaining the third copy for himself or herself.

[1989 c 19 § 55; 1973 1st ex.s. c 154 § 57; 1909 c 134 § 4; 1895 c 108 § 4; RRS § 8456.]

Notes:

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

RCW 38.44.020 Notice of enrollment.

Persons making an enrollment under this chapter shall, at the time of making same, serve a notice of such enrollment upon each person enrolled, by delivering such notice to the enrollee personally or by leaving it with some person of suitable age and discretion at his or her place of business or residence, or by mailing such notice to him or her at the enrollee's last known place of residence, and shall make a return under oath of such service to accompany the copy of the enrollment filed with the adjutant general. The return shall be prima facie evidence of the facts therein.

[1991 c 43 § 10; 1989 c 19 § 56; 1909 c 134 § 5; 1895 c 108 § 5; RRS § 8457.]

RCW 38.44.030 Exemptions.

Whenever an enrollment shall have been ordered under this chapter, the commanding officers of existing organizations of militia, and the chiefs of all police and fire departments shall make and deliver to the enrolling officer of the county in which such organization and departments are stationed, verified lists in triplicate of the members of their respective commands and departments, and the enrolling officer shall mark "Exempt" opposite the names of all persons so listed, attaching one copy of each such list to each copy of the enrollment. The enrolling officer shall also mark "Exempt" opposite the names of all federal, state and county officers. All other persons claiming exemption must within fifteen days after service upon them of the notice of enrollment make a written verified claim in duplicate of such exemption and file the same in the office of the county auditor, who shall within five days thereafter forward one

copy thereof with remarks and recommendations to the adjutant general. Upon the expiration of the time within which any claim of exemption may be filed and received by the adjutant general, the latter shall notify the county auditor of the decision in each case where exemption has been claimed, and the county auditor shall write upon the roll opposite the name of each person whose claim of exemption has been allowed by the adjutant general, the word "Exempt." All those on the roll not marked "Exempt" shall be subject to military duty.

[1991 c 43 § 11; 1989 c 19 § 57; 1909 c 134 § 6; 1895 c 108 § 6, part; RRS § 8458.]

RCW 38.44.040 Penalties for dereliction or false certificate.

If any officer or person, who becomes charged under this chapter with any duty relating to an enrollment of persons subject to military duty, refuses or neglects to perform the same within the time and substantially in the manner required by law, or if he or she shall knowingly make any false certificate, or if, when acting as county or assistant enrolling officer, he or she shall knowingly or willfully omit from the roll any person required by this chapter to be enrolled he or she shall thereby forfeit not less than one hundred nor more than five hundred dollars, to be sued for in the name of the state of Washington by the prosecuting attorney of the county in which such offense shall occur, the amount of the penalty to be determined by the court, and, when recovered, to be paid into the general fund of the state.

[1991 c 43 § 12; 1989 c 19 § 58; 1909 c 134 § 7; RRS § 8459.]

RCW 38.44.050 Compensation of enrolling officer.

Each county enrolling officer shall be allowed the sum of five cents per name enrolled and served with notice of enrollment by the enrolling officer or assistants, to be audited and paid as other military bills out of any moneys in the general fund appropriated to the military department, and from such allowance the enrolling officer must pay the assistant or assistants.

[1991 c 43 § 13; 1989 c 19 § 59; 1909 c 134 § 8; RRS § 8460.]

RCW 38.44.060 Examination of records.

All civil officers in each county, city and town shall allow persons authorized under this chapter to make enrollments, at all proper times, to examine their records and take copies thereof or information therefrom. It shall be the duty of every person, under the penalties provided in RCW 38.44.040, upon application of any person legally authorized to make an enrollment, truthfully to state all of the facts within his or her knowledge concerning any individual of whom the enroller shall make inquiry. In event of a violation of this section the enroller shall report the facts to the prosecuting attorney, who shall at once proceed to enforce the penalty.

[1991 c 43 § 14; 1989 c 19 § 60; 1909 c 134 § 9; 1895 c 108 § 6, part; RRS § 8461.]

Chapter 38.48 RCW
STATE AND NATIONAL DEFENSE

Sections

38.48.050 Acceptance of national defense facilities act.

Notes:

Reviser's note: The following acts, which appear to have been of limited duration, are omitted from RCW:

- (1) 1941 c 200, 1943 c 191; RRS §§ 8607-7 through 8607-15; Act in aid of national defense;
- (2) 1943 c 93; Authorizing sale or lease of tools and equipment to federal agencies;
- (3) 1943 c 200; Washington state war council; and
- (4) 1945 c 211; Armory drill pay for active state guard.

RCW 38.48.050 Acceptance of national defense facilities act.

The legislature hereby expresses its intention to secure to this state the benefits of the act of congress entitled the "National Defense Facilities Act" (10 U.S.C. Sec. 2231, et seq., as amended), and the state military department shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said act of congress for the acquisition, construction, expansion, rehabilitation or conversion of facilities necessary for the administration and training of units of the state military department and reserve components of the armed forces of the United States. The provisions of the said act of congress are hereby accepted by this state and this state will observe and comply with the requirements thereof.

[1989 c 19 § 61; 1953 c 181 § 1; 1953 c 277 § 4.]

Chapter 38.52 RCW
EMERGENCY MANAGEMENT

Sections

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RCW 38.52.005 State military department to administer emergency management program--Local organizations authorized to change name.

The department shall administer the comprehensive emergency management program of the state of Washington as provided for in this chapter. All local organizations, organized and performing emergency management functions pursuant to RCW 38.52.070, may change their name and be called the department/division of emergency management.

[1995 c 391 § 1; 1986 c 266 § 22; 1984 c 38 § 1; 1972 ex.s. c 6 § 1.]

Notes:

Effective date--1995 c 391: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 391 § 18.]

Transfer of powers and duties of department of emergency management and office of archaeology and historic preservation--Construction of statutory references: "The department of emergency management and the office of archaeology and historic preservation are hereby abolished and their powers, duties, and functions are hereby transferred to the department of community development. All references to the director of emergency management or the department of emergency management and the office of archaeology and historic preservation in the Revised Code of Washington shall be construed to mean the director or department of community development." [1986 c 266 § 1.]

Severability--1986 c 266: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 266 § 138.]

RCW 38.52.010 Definitions.

As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean

preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person, including but not limited to an architect registered under chapter 18.08 RCW or a professional engineer registered under chapter 18.43 RCW, who is registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural, technological, or human caused disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor in those cities and towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.

(9) "Director" means the adjutant general.

(10) "Local director" means the director of a local organization of emergency management or emergency services.

(11) "Department" means the state military department.

(12) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection (6)(b) of this section.

(13) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, fire fighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(14) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide fire fighting, police, ambulance, medical, or other emergency services.

(15) "Incident command system" means: (a) An all-hazards, on-scene functional management system that establishes common standards in organization, terminology, and procedures; provides a means (unified command) for the establishment of a common set of incident objectives and strategies during multiagency/multijurisdiction operations while maintaining individual agency/jurisdiction authority, responsibility, and accountability; and is a component of the national interagency incident management system; or (b) an equivalent and compatible all-hazards, on-scene functional management system.

[1997 c 49 § 1; 1995 c 391 § 2. Prior: 1993 c 251 § 5; 1993 c 206 § 1; 1986 c 266 § 23; 1984 c 38 § 2; 1979 ex.s. c 268 § 1; 1975 1st ex.s. c 113 § 1; 1974 ex.s. c 171 § 4; 1967 c 203 § 1; 1953 c 223 § 2; 1951 c 178 § 3.]

Notes:

Effective date--1995 c 391: See note following RCW 38.52.005.

Finding--Intent--1993 c 251: See note following RCW 38.52.430.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.020 Declaration of policy and purpose.

(1) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness as defined in RCW 38.52.010(6), and in order to insure that preparations of this state will be adequate to deal with such disasters, to insure the administration of state and federal programs providing disaster relief to individuals, and further to insure adequate support for search and rescue operations, and generally to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(a) To provide for emergency management by the state, and to authorize the creation of local organizations for emergency management in the political subdivisions of the state;

(b) To confer upon the governor and upon the executive heads of the political subdivisions of the state the emergency powers provided herein;

(c) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of emergency management functions;

(d) To provide a means of compensating emergency management workers who may suffer any injury, as herein defined, or death; who suffer economic harm including personal property damage or loss; or who incur expenses for transportation, telephone or other methods of

communication, and the use of personal supplies as a result of participation in emergency management activities; and

(e) To provide programs, with intergovernmental cooperation, to educate and train the public to be prepared for emergencies.

(2) It is further declared to be the purpose of this chapter and the policy of the state that all emergency management functions of this state and its political subdivisions be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

[1986 c 266 § 24; 1984 c 38 § 3; 1979 ex.s. c 268 § 2; 1975 1st ex.s. c 113 § 2; 1974 ex.s. c 171 § 5; 1967 c 203 § 2; 1953 c 223 § 1; 1951 c 178 § 2.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.030 Director--Comprehensive emergency management plan--State-wide enhanced 911 emergency communications network--State coordinator of search and rescue operations--State program for emergency assistance--State coordinator for radioactive and hazardous waste emergency response programs.

(1) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

(2) The director, subject to the direction and control of the governor, shall be responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(3) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural, technological, or human caused hazards which could affect the state of Washington, and shall include the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive emergency management plan shall direct the department in times of state emergency to administer and manage the state's emergency operations center. This will include representation from all appropriate state agencies and be available as a single point of contact for the authorizing of state resources or actions, including emergency permits. The comprehensive emergency management plan must specify the use of the incident command system for multiagency/multijurisdiction operations. The comprehensive, all-hazard emergency plan authorized under this subsection may not include

preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

(4) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(5) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

(6) The emergency management council shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

(7) The director, through the state enhanced 911 coordinator, shall coordinate and facilitate implementation and operation of a state-wide enhanced 911 emergency communications network.

(8) The director shall appoint a state coordinator of search and rescue operations to coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(9) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural, technological, or human caused disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: PROVIDED, HOWEVER, That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

(10) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

(a) Assessing the current needs and capabilities of state and local radioactive and hazardous waste emergency response teams on an ongoing basis;

(b) Coordinating training programs for state and local officials for the purpose of updating skills relating to emergency mitigation, preparedness, response, and recovery;

(c) Utilizing appropriate training programs such as those offered by the federal emergency management agency, the department of transportation and the environmental protection agency; and

(d) Undertaking other duties in this area that are deemed appropriate by the director.

[1997 c 49 § 2; 1995 c 269 § 1201. Prior: 1991 c 322 § 20; 1991 c 54 § 2; 1986 c 266 § 25; 1984 c 38 § 4; 1975 1st ex.s. c 113 § 3; 1973 1st ex.s. c 154 § 58; 1967 c 203 § 3; 1951 c 178 § 4.]

NOTES:

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

Findings--Intent--1991 c 322: See note following RCW 86.12.200.

Referral to electorate--1991 c 54: "Sections 1 through 6 and 9 through 16 of this act shall be submitted to the people for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof. The ballot title for this act shall be: "Shall enhanced 911 emergency telephone dialing be provided throughout the state and be funded by a tax on telephone lines?" [1991 c 54 § 17.]

Reviser's note: "This act," chapter 54, Laws of 1991, was adopted and ratified by the people at the November 5, 1991, general election (Referendum Bill No. 42).

Severability--1986 c 266: See note following RCW 38.52.005.

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

Hazardous and radioactive wastes: Chapters 70.98, 70.99, 70.105, 70.136 RCW.

RCW 38.52.037 Comprehensive state mine rescue plan--Submittal to legislature.

The department shall consult with appropriate local, state, federal, and private sector officials in developing a comprehensive state mine rescue plan. The plan shall identify mine rescue resources, set forth a framework for a coordinated response to mine rescue emergencies, identify shortfalls, and recommend solutions.

The draft of the comprehensive state mine rescue plan and a schedule for submittal of the final plan shall be submitted to the legislature on January 13, 1986.

[1986 c 266 § 26; 1985 c 459 § 6.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

Severability--1985 c 459: See note following RCW 79.01.668.

RCW 38.52.040 Emergency management council--Members--Ad hoc committees--Function as state emergency response commission--Rules review.

(1) There is hereby created the emergency management council (hereinafter called the council), to consist of not more than seventeen members who shall be appointed by the governor. The membership of the council shall include, but not be limited to, representatives of city and county governments, sheriffs and police chiefs, the Washington state patrol, the military department, the department of ecology, state and local fire chiefs, seismic safety experts, state

and local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, building officials, and private industry. The representatives of private industry shall include persons knowledgeable in emergency and hazardous materials management. The council members shall elect a chairman from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The emergency management council shall advise the governor and the director on all matters pertaining to state and local emergency management. The council may appoint such ad hoc committees, subcommittees, and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies, or procedures. The council shall ensure that the governor receives an annual assessment of state-wide emergency preparedness including, but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards, and coordination of hazardous materials planning and response activities. The council or a subcommittee thereof shall periodically convene in special session and serve during those sessions as the state emergency response commission required by P.L. 99-499, the emergency planning and community right-to-know act. When sitting in session as the state emergency response commission, the council shall confine its deliberations to those items specified in federal statutes and state administrative rules governing the coordination of hazardous materials policy. The council shall review administrative rules governing state and local emergency management practices and recommend necessary revisions to the director.

[1995 c 269 § 1202; 1988 c 81 § 18; 1984 c 38 § 5; 1979 ex.s. c 57 § 8; 1975-'76 2nd ex.s. c 34 § 82; 1974 ex.s. c 171 § 6; 1951 c 178 § 5.]

NOTES:

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 38.52.050 Governor's general powers and duties.

(1) The governor, through the director, shall have general supervision and control of the emergency management functions in the department, and shall be responsible for the carrying out of the provisions of this chapter, and in the event of disaster beyond local control, may assume direct operational control over all or any part of the emergency management functions within this state.

(2) In performing his or her duties under this chapter, the governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of this state and of the nation.

(3) In performing his or her duties under this chapter and to effect its policy and purpose, the governor is further authorized and empowered:

(a) To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him herein, with

due consideration of the plans of the federal government;

(b) On behalf of this state, to enter into mutual aid arrangements with other states and territories, or provinces of the Dominion of Canada and to coordinate mutual aid interlocal agreements between political subdivisions of this state;

(c) To delegate any administrative authority vested in him under this chapter, and to provide for the subdelegation of any such authority;

(d) To appoint, with the advice of local authorities, metropolitan or regional area coordinators, or both, when practicable;

(e) To cooperate with the president and the heads of the armed forces, the emergency management agency of the United States, and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation.

[1997 c 49 § 3; 1986 c 266 § 27; 1984 c 38 § 6; 1974 ex.s. c 171 § 7; 1951 c 178 § 6.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.070 Local organizations and joint local organizations authorized--Establishment, operation--Emergency powers, procedures.

(1) Each political subdivision of this state is hereby authorized and directed to establish a local organization or to be a member of a joint local organization for emergency management in accordance with the state comprehensive emergency management plan and program: PROVIDED, That a political subdivision proposing such establishment shall submit its plan and program for emergency management to the state director and secure his or her recommendations thereon, and verification of consistency with the state comprehensive emergency management plan, in order that the plan of the local organization for emergency management may be coordinated with the plan and program of the state. Local comprehensive emergency management plans must specify the use of the incident command system for multiagency/multijurisdiction operations. No political subdivision may be required to include in its plan provisions for the emergency evacuation or relocation of residents in anticipation of nuclear attack. If the director's recommendations are adverse to the plan as submitted, and, if the local organization does not agree to the director's recommendations for modification to the proposal, the matter shall be referred to the council for final action. The director may authorize two or more political subdivisions to join in the establishment and operation of a joint local organization for emergency management as circumstances may warrant, in which case each political subdivision shall contribute to the cost of emergency management upon such fair and equitable basis as may be determined upon by the executive heads of the constituent subdivisions. If in any case the executive heads cannot agree upon the proper division of cost the matter shall be referred to the council for arbitration and its decision shall be final. When two or more political subdivisions join in the establishment and operation of a joint local organization for emergency management each shall pay its share of the cost into a special pooled fund to be

administered by the treasurer of the most populous subdivision, which fund shall be known as the emergency management fund. Each local organization or joint local organization for emergency management shall have a director who shall be appointed by the executive head of the political subdivision, and who shall have direct responsibility for the organization, administration, and operation of such local organization for emergency management, subject to the direction and control of such executive officer or officers. In the case of a joint local organization for emergency management, the director shall be appointed by the joint action of the executive heads of the constituent political subdivisions. Each local organization or joint local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of this chapter.

(2) In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW 38.52.020 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.

[1997 c 49 § 4; 1986 c 266 § 28; 1984 c 38 § 7; 1974 ex.s. c 171 § 9; 1951 c 178 § 8.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.080 Outside aid--Rights and liabilities--Claims.

(1) Whenever the employees of any political subdivision are rendering outside aid pursuant to the authority contained in RCW 38.52.070 such employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the political subdivisions in which they are normally employed.

(2) The political subdivision in which any equipment is used pursuant to this section shall be liable for any loss or damage thereto and shall pay any expense incurred in the operation and maintenance thereof. No claim for such loss, damage, or expense shall be allowed unless, within sixty days after the same is sustained or incurred, an itemized notice of such claim under oath is served by mail or otherwise upon the executive head of such political subdivision where the equipment was used. The term "employee" as used in this section shall mean, and the provisions of this section shall apply with equal effect to, volunteer auxiliary employees, and emergency

workers.

(3) The foregoing rights, privileges, and obligations shall also apply in the event such aid is rendered outside the state, provided that payment or reimbursement in such case shall or may be made by the state or political subdivision receiving such aid pursuant to a reciprocal mutual aid agreement or compact with such state or by the federal government.

[1984 c 38 § 8; 1974 ex.s. c 171 § 10; 1951 c 178 § 9.]

RCW 38.52.091 Mutual aid and interlocal agreements--Requirements.

(1) The director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements must be consistent with the state emergency management plan and program, and in time of emergency it is the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. The adjutant general shall maintain and distribute a mutual aid and interlocal agreement handbook.

(2) The adjutant general and the director of each local organization for emergency management may, subject to the approval of the governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. All such arrangements must contain the language and provisions in subsection (3) of this section.

(3) Mutual aid and interlocal agreements must include the following:

Purpose

The purpose must state the reason the mutual aid or interlocal agreement or compact is coordinated, the parties to the agreement or compact, and the assistance to be provided.

Authorization

Article I, section 10 of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of Title 50 U.S.C. Sections 2281(g), 2283 and the Executive Department, by issuance of Executive Orders No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster and civil defense mutual aid agreements or pacts.

Implementation

The conditions that guide the agreement or compacts may include, but are not limited to:

(a) A statement of which authority or authorities are authorized to request and receive assistance and the conditions that must exist for the request or receipt of assistance.

(b) A statement of how the requests for assistance may be made, what documentation of the request is required, the specifics of any details included in the request, and the required approval for the request.

(c) A statement of the direction and control relationship between the personnel and equipment provided by the jurisdiction to the requester and the requirements of the requester to coordinate the activities of the jurisdiction providing the assets.

(d) A statement of the circumstances by which the assisting jurisdiction may withdraw support from the requester and the method by which this is to be communicated.

General Fiscal Provisions

The terms of reimbursement must be stated defining the relationship between the requesting jurisdiction and the aiding jurisdiction, when reimbursement will be made, and details of the claim for reimbursement. The provisions may include statements that discuss but are not limited to:

(a) A statement of what costs are incurred by the requesting jurisdiction.

(b) A statement of what costs and compensation benefits are made to individuals from the aiding jurisdiction by the requesting jurisdiction.

Privileges and Immunities

The conditions and immunities that are enjoyed by the individuals from the aiding jurisdiction to the requesting jurisdiction must be stated. These provisions may include but are not limited to:

(a) A statement of the privileges and immunities from liability and the law an employee of a supporting jurisdiction enjoys while supporting the requesting jurisdiction.

(b) A statement of the privileges and immunities from liability and the law a volunteer from a supporting jurisdiction enjoys while supporting the requesting jurisdiction.

(c) A statement on the use of the national guard between the requesting and supporting jurisdictions.

(d) A hold harmless agreement between the signatory jurisdictions.

(e) The precedence this agreement takes with existing agreements.

(f) A time line by which information required by the agreement is exchanged and updated annually.

(g) The time in which the agreement becomes effective.

(h) The time and conditions when a signatory may withdraw and render the agreement ineffective.

[1997 c 195 § 1.]

RCW 38.52.100 Appropriations--Acceptance of funds, services, etc.

(1) Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political

subdivision for the payment of expenses of its local organization for emergency management.

(2) Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management, the state, acting through the governor, or such political subdivision, acting with the consent of the governor and through its executive head, may accept such offer and upon such acceptance the governor of the state or executive head of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(3) Whenever any person, firm, or corporation shall offer to the state or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for the purposes of emergency management, the state, acting through the governor, or such political subdivision, acting through its executive head, may accept such offer and upon such acceptance the governor of the state or executive head of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer.

[1984 c 38 § 10; 1974 ex.s. c 171 § 12; 1951 c 178 § 12.]

RCW 38.52.105 Disaster response account.

The disaster response account is created in the state treasury. Moneys may be placed in the account from legislative appropriations and transfers, federal appropriations, or any other lawful source. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for support of state agency and local government disaster response and recovery efforts.

[1997 c 251 § 1.]

Notes:

Effective date--1997 c 251: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 5, 1997]." [1997 c 251 § 2.]

RCW 38.52.106 Nisqually earthquake account.

The Nisqually earthquake account is created in the state treasury. Moneys may be placed in the account from tax revenues, budget transfers or appropriations, federal appropriations, gifts, or any other lawful source. Moneys in the account may be spent only after appropriation. Moneys in the account shall be used only to support state and local government disaster response and recovery efforts associated with the Nisqually earthquake.

[2001 c 5 § 2.]

NOTES:

Nisqually earthquake emergency declaration--2001 c 5: "The legislature declares an emergency caused by a natural disaster, known as the Nisqually earthquake, which occurred on February 28, 2001, as proclaimed by the governor and the president of the United States." [2001 c 5 § 1.]

Effective date--2001 c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 12, 2001]." [2001 c 5 § 6.]

RCW 38.52.110 Use of existing services and facilities--Impressment of citizenry.

(1) In carrying out the provisions of this chapter, the governor and the executive heads of the political subdivisions of the state are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state, political subdivisions, and all other municipal corporations thereof including but not limited to districts and quasi municipal corporations organized under the laws of the state of Washington to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the governor and to the emergency management organizations of the state upon request notwithstanding any other provision of law.

(2) The governor, the chief executive of counties, cities and towns and the emergency management directors of local political subdivisions appointed in accordance with this chapter, in the event of a disaster, after proclamation by the governor of the existence of such disaster, shall have the power to command the service and equipment of as many citizens as considered necessary in the light of the disaster proclaimed: PROVIDED, That citizens so commandeered shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by this chapter and federal and state emergency management regulations for registered emergency workers.

[1984 c 38 § 11; 1974 ex.s. c 171 § 13; 1971 ex.s. c 8 § 1; 1955 c 210 § 1; 1951 c 178 § 13.]

RCW 38.52.120 Political activity prohibited.

No organization for emergency management established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

[1984 c 38 § 12; 1974 ex.s. c 171 § 14; 1951 c 178 § 14.]

RCW 38.52.140 Status of civil service employee preserved.

Any civil service employee of the state of Washington or of any political subdivision thereof while on leave of absence and on duty with any emergency management agency authorized under the provisions of this chapter shall be preserved in his civil service status as to seniority and retirement rights so long as he regularly continues to make the usual contributions incident to the retention of such beneficial rights as if he were not on leave of absence.

[1984 c 38 § 13; 1974 ex.s. c 171 § 16; 1951 c 178 § 16.]

RCW 38.52.150 Orders, rules, regulations--Enforcement--Availability--Penalty.

(1) It shall be the duty of every organization for emergency management established pursuant to this chapter and of the officers thereof to execute and enforce such orders, rules, and regulations as may be made by the governor under authority of this chapter. Each such organization shall have available for inspection at its office all orders, rules, and regulations made by the governor, or under his authority.

(2) Every violation of any rule, regulation or order issued under the authority of this chapter shall constitute a misdemeanor and shall be punishable as such: PROVIDED, That whenever any person shall commit a second offense hereunder the same shall constitute a gross misdemeanor and shall be punishable as such.

[1984 c 38 § 14; 1974 ex.s. c 171 § 17; 1951 c 178 § 18.]

RCW 38.52.160 Matching funds from political subdivision may be required.

The emergency management agency is hereby authorized to require of any political subdivision to which funds are allocated under this chapter for any project, use or activity that such subdivision shall provide matching funds in equal amounts with respect to such project, use or activity.

[1984 c 38 § 15; 1974 ex.s. c 171 § 18; 1951 c 178 § 19.]

RCW 38.52.170 Plan for federal area.

Whenever the director finds that it will be in the interest of the emergency management of this state or of the United States, the director may, with the approval of the governor, agree with the federal government, or any agency thereof carrying on activities within this state, upon a plan of emergency management applicable to a federally owned area, which plan may or may not conform to all of the other provisions of this chapter with the view to integrating federally owned areas into the comprehensive plan and program of the emergency management of this state. Such plan may confer upon persons carrying out such plan any or all of the rights, powers, privileges and immunities granted employees or representatives of the state and/or its political subdivisions by this chapter. The plan of emergency management authorized under this section may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

[1986 c 266 § 30; 1984 c 38 § 16; 1974 ex.s. c 171 § 19; 1951 c 178 § 20.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.180 Liability for property damage, bodily injury, death--Immunity--Assumption by state--Indemnification.

(1) There shall be no liability on the part of anyone including any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any building or premises which have been designated by a local organization for emergency management as a shelter from destructive operations or attacks by enemies of the United States for any injuries sustained by any person while in or upon said building or premises, as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for an act of wilful negligence by such owner or occupant or his servants, agents, or employees.

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done, or attempted, under the color of this chapter in a bona fide attempt to comply therewith shall be the obligation of the state of Washington. Suits may be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: PROVIDED, That the foregoing shall not be construed to result in indemnification in any case of wilful misconduct, gross negligence or bad faith on the part of any agent of emergency management: PROVIDED, That should the United States or any agency thereof, in accordance with any federal statute, rule or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

(3) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized emergency worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during an emergency described in this chapter.

(4) The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the workers' compensation law, or under any pension or retirement law, nor the right of any such person to receive any benefits or compensation under any act of congress.

[1987 c 185 § 7; 1984 c 38 § 17; 1974 ex.s. c 171 § 20; 1971 ex.s. c 8 § 2; 1953 c 145 § 1; 1951 c 178 § 11.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

RCW 38.52.190 Compensation for injury or death--Chapter exclusive.

Except as provided in this chapter, an emergency worker and his dependents shall have no right to receive compensation from the state, from the agency, from the local organization for emergency management with which he is registered, or from the county or city which has empowered the local organization for emergency management to register him and direct his activities, for an injury or death arising out of and occurring in the course of his activities as an emergency worker.

[1984 c 38 § 18; 1974 ex.s. c 171 § 21; 1953 c 223 § 3.]

RCW 38.52.195 Exemption from liability while providing construction, equipment or work.

Notwithstanding any other provision of law, no person, firm, corporation, or other entity acting under the direction or control of the proper authority to provide construction, equipment, or work as provided for in RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390 while complying with or attempting to comply with RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390 or any rule or regulation promulgated pursuant to the provisions of RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390 shall be liable for the death of or any injury to persons or damage to property as a result of any such activity: PROVIDED, That said exemption shall only apply where all of the following conditions occur:

- (1) Where, at the time of the incident the worker is performing services as an emergency worker, and is acting within the course of his duties as an emergency worker;
- (2) Where, at the time of the injury, loss, or damage, the organization for emergency management which the worker is assisting is an approved organization for emergency management;
- (3) Where the injury, loss, or damage is proximately caused by his service either with or without negligence as an emergency worker;
- (4) Where the injury, loss, or damage is not caused by the intoxication of the worker; and
- (5) Where the injury, loss, or damage is not due to wilful misconduct or gross negligence on the part of a worker.

[1984 c 38 § 19; 1974 ex.s. c 171 § 22; 1971 ex.s. c 8 § 7.]

RCW 38.52.1951 Application of exemption from liability for architects and engineers.

For purposes of the liability of an architect or engineer serving as a volunteer emergency worker, the exemption from liability provided under RCW 38.52.195 extends to all damages, so long as the conditions specified in RCW 38.52.195 (1) through (5) occur.

[1993 c 206 § 2.]

RCW 38.52.198 Emergency care, rescue, assistance, or recovery services in mine

rescue or recovery work--Immunity from liability.

No person engaged in mine rescue or recovery work who, in good faith, renders emergency care, rescue, assistance, or recovery services at the scene of any emergency at or in a mine in this state or who employs, sponsors, or represents any person rendering emergency care, rescue, assistance, or recovery services shall be liable for any civil damages as a result of any act or omission by any person in rendering emergency care, rescue, assistance, or recovery service.

[1985 c 459 § 9.]

Notes:

Severability--1985 c 459: See note following RCW 79.01.668.

RCW 38.52.200 Liability for compensation is in lieu of other liability--Exception.

Liability for the compensation provided by this chapter, as limited by the provisions thereof, is in lieu of any other liability whatsoever to an emergency worker or his dependents or any other person on the part of the state, the agency, the local organization for emergency management with which the emergency worker is registered, and the county or city which has empowered the local organization for emergency management to register him and direct his activities, for injury or death arising out of and in the course of his activities while on duty as an emergency worker: PROVIDED, That nothing in this chapter shall limit or bar the liability of the state or its political subdivisions engaged in proprietary functions as distinguished from governmental functions that may exist by reason of injury or death sustained by an emergency worker.

[1984 c 38 § 20; 1974 ex.s. c 171 § 23; 1953 c 223 § 9.]

RCW 38.52.205 Claims arising from emergency management related activities--Filing--Contents.

All claims against the state for property damages or indemnification therefor arising from emergency management related activities will be presented to and filed with the director of financial management. Contents of all such claims shall conform to the tort claim filing requirements found in RCW 4.92.100 as now or hereafter amended.

[1984 c 38 § 21; 1979 c 151 § 43; 1977 ex.s. c 144 § 6; 1974 ex.s. c 171 § 24; 1971 ex.s. c 8 § 4.]

RCW 38.52.207 Claims arising from emergency management related activities--Filing--Consideration, adjustment, settlement, etc., by director--Effect.

The director, with the approval of the attorney general, may consider, ascertain, adjust, determine, compromise and settle property loss or damage claims arising out of conduct or circumstances for which the state of Washington would be liable in law for money damages of two thousand dollars or less. The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant; and upon the state of Washington,

unless procured by fraud, and shall constitute a complete release of any claim against the state of Washington. A request for administrative settlement shall not preclude a claimant from filing court action pending administrative determination, or limit the amount recoverable in such a suit, or constitute an admission against interest of either the claimant or the state.

[1986 c 266 § 31; 1984 c 38 § 22; 1974 ex.s. c 171 § 25; 1971 ex.s. c 8 § 5.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.210 Compensation boards--Established.

(1) In each local organization for emergency management established by the legislative authority of the county in accordance with the provisions of RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of: (a) The county executive if the county has an elected county executive or, if it does not, one member of the county legislative authority selected by the authority. The executive or the member will serve as the chair of the compensation board; (b) the county director of emergency services; (c) the prosecuting attorney; (d) the emergency services coordinator for medical and health services; and (e) the county auditor who will serve as secretary of the compensation board.

(2) In each local organization for emergency management established by cities and towns in accordance with RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of the mayor; the city director of emergency management; one councilmember or commissioner selected by the council or the commission; the city attorney or corporation counsel; and the local coordinator of medical and health services. The councilmember or commissioner so selected shall serve as the chair of the compensation board and the city director of emergency management shall serve as secretary of the board.

[1986 c 266 § 32; 1984 c 38 § 23; 1981 c 213 § 6; 1974 ex.s. c 171 § 26; 1953 c 223 § 4.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.220 Compensation boards--Meetings--Claims not necessitating board meeting.

Said compensation board shall meet on the call of its chairman on a regular monthly meeting day when there is business to come before it. The chairman shall be required to call a meeting on any monthly meeting day when any claim for compensation under this chapter has been submitted to the board: PROVIDED, That as to claims involving amounts of two thousand dollars or less, the local organization director shall submit recommendations directly to the state without convening a compensation board.

[1984 c 38 § 24; 1971 ex.s. c 8 § 3; 1953 c 223 § 5.]

RCW 38.52.230 Compensation boards--Attendance of witnesses, oaths, rules--Members uncompensated.

The compensation board, in addition to other powers herein granted, shall have the power to compel the attendance of witnesses to testify before it on all matters connected with the operation of this chapter and its chairman or any member of said board may administer oath to such witnesses; to make all necessary rules and regulations for its guidance in conformity with the provisions of this chapter: PROVIDED, HOWEVER, That no compensation or emoluments shall be paid to any member of said board for any duties performed as a member of said compensation board.

[1953 c 223 § 6.]

RCW 38.52.240 Compensation boards--Duties as to compensation applications.

The compensation board shall hear and decide all applications for compensation under this chapter. The board shall submit its recommendations to the director on such forms as he or she may prescribe. In case the decision of the director is different from the recommendation of the compensation board, the matter shall be submitted to the state emergency management council for action.

[1986 c 266 § 33; 1984 c 38 § 25; 1974 ex.s. c 171 § 27; 1953 c 223 § 7.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.250 Compensation boards--Quorum--Transmittal of minutes, claims--Appeal to department.

A majority of the compensation board shall constitute a quorum, and no business shall be transacted when a majority is not present, and no claim shall be allowed when a majority of the board has not voted favorably thereon.

The board shall send a copy of the minutes of all meetings to the department with copies of all material pertaining to each claim submitted and noting the action of the board on each claim. Appeals may be made by the emergency worker from any action by the board within one year by writing to the department.

[1986 c 266 § 34; 1984 c 38 § 26; 1974 ex.s. c 171 § 28; 1953 c 223 § 8.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.260 When compensation furnished.

Compensation shall be furnished to an emergency worker either within or without the state for any injury arising out of and occurring in the course of his activities as an emergency worker, and for the death of any such worker if the injury proximately causes death, in those cases where the following conditions occur:

(1) Where, at the time of the injury the emergency worker is performing services as an emergency worker, and is acting within the course of his duties as an emergency worker.

(2) Where, at the time of the injury the local organization for emergency management with which the emergency worker is registered is an approved local organization for emergency management.

(3) Where the injury is proximately caused by his service as an emergency worker, either with or without negligence.

(4) Where the injury is not caused by the intoxication of the injured emergency worker.

(5) Where the injury is not intentionally self-inflicted.

[1984 c 38 § 27; 1974 ex.s. c 171 § 29; 1953 c 223 § 10.]

RCW 38.52.270 Minors entitled to benefits.

Emergency workers who are minors shall have the same rights as adults for the purpose of receiving benefits under the provisions of this chapter, but this provision shall not prevent the requirements that a guardian be appointed to receive and administer such benefits until the majority of such minor. Work as an emergency worker shall not be deemed as employment or in violation of any of the provisions of chapter 49.12 RCW.

[1984 c 38 § 28; 1974 ex.s. c 171 § 30; 1953 c 223 § 11.]

RCW 38.52.280 Compensation and benefits limited by appropriation.

No compensation or benefits shall be paid or furnished to emergency workers or their dependents pursuant to the provisions of this chapter except from money appropriated for the purpose of this chapter.

[1984 c 38 § 29; 1974 ex.s. c 171 § 31; 1953 c 223 § 12.]

RCW 38.52.290 Applicability of workers' compensation law.

Insofar as not inconsistent with the provisions of this chapter, the maximum amount payable to a claimant shall be not greater than the amount allowable for similar disability under the workers' compensation act, chapter 51.32 RCW as amended by chapter 289, Laws of 1971 ex.sess., and any amendments thereto. "Employee" as used in said title shall include an emergency worker when liability for the furnishing of compensation and benefits exists pursuant to the provisions of this chapter and as limited by the provisions of this chapter. Where liability for compensation and benefits exists, such compensation and benefits shall be provided in accordance with the applicable provisions of said sections of chapter 51.32 RCW and at the

maximum rate provided therein, subject, however, to the limitations set forth in this chapter.

[1987 c 185 § 8; 1984 c 38 § 30; 1974 ex.s. c 171 § 32; 1971 ex.s. c 289 § 71; 1953 c 223 § 13.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Severability--Effective dates--1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 38.52.300 Right of action against third party.

If the injury to an emergency worker is due to the negligence or wrong of another not on emergency duty, the injured worker, or if death results from the injury, the surviving spouse, children, parents or dependents, as the case may be, shall elect whether to take under this chapter or seek a remedy against such other, such election to be in advance of any suit under this chapter; and if the surviving spouse takes under this chapter, the cause of action against such other shall be assigned to the department; if the other choice is made, the compensation under this chapter shall be only the deficiency, if any, between the amount of recovery against such third person actually collected, and the compensation provided or estimated for such case under authority of this chapter: PROVIDED, That the department shall prosecute all claims assigned to it and do any and all things necessary to recover on behalf of the state any and all amounts which an employer or insurance carrier might recover under the provisions of the law.

[1986 c 266 § 35; 1984 c 38 § 31; 1973 1st ex.s. c 154 § 59; 1953 c 223 § 14.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

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

RCW 38.52.310 Coverage, classification, registration, of workers.

The department shall establish by rule and regulation various classes of emergency workers, the scope of the duties of each class, and the conditions under which said workers shall be deemed to be on duty and covered by the provisions of this chapter. The department shall also adopt rules and regulations prescribing the manner in which emergency workers of each class are to be registered.

[1986 c 266 § 36; 1984 c 38 § 32; 1974 ex.s. c 171 § 33; 1953 c 223 § 15.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.320 Schedule of payments.

The department shall provide each compensation board with the approved maximum schedule of payments for injury or death prescribed in chapter 51.32 RCW: PROVIDED, That nothing in this chapter shall be construed as establishing any liability on the part of the department of labor and industries.

[1986 c 266 § 37; 1984 c 38 § 33; 1974 ex.s. c 171 § 34; 1953 c 223 § 16.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.330 Expenditures authorized--Claims, payment and disposition--Appeals.

The department is authorized to make all expenditures necessary and proper to carry out the provisions of this chapter including payments to claimants for compensation as emergency workers and their dependents; to adjust and dispose of all claims submitted by a local compensation board. When medical treatment is necessary, the department is authorized to make medical and compensation payments on an interim basis. Nothing herein shall be construed to mean that the department or the state emergency management council or its officers or agents shall have the final decision with respect to the compensability of any case or the amount of compensation or benefits due, but any emergency worker or his or her dependents shall have the same right of appeal from any order, decision, or award to the same extent as provided in chapter 51.32 RCW.

[1986 c 266 § 38; 1984 c 38 § 34; 1979 ex.s. c 268 § 3; 1974 ex.s. c 171 § 35; 1971 ex.s. c 289 § 72; 1953 c 223 § 17.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

Severability--Effective dates--1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 38.52.340 Benefits under other compensation plans.

Nothing in this chapter shall deprive any emergency worker or his or her dependents of any right to compensation for injury or death sustained in the course of his or her regular employment even though his or her regular work is under direction of emergency management authorities: PROVIDED, That such worker, if he or she is eligible for some other compensation plan, and receives the benefits of such plan shall not also receive any compensation under this chapter. The department shall adopt such rules and regulations as may be necessary to protect the rights of such workers and may enter into agreements with authorities in charge of other compensation plans to insure protection of such workers: PROVIDED, That if the compensation from some other plan is less than would have been available under this chapter, he or she shall be entitled to receive the deficiency between the amount received under such other plan and the amount available under this chapter.

[1986 c 266 § 39; 1984 c 38 § 35; 1974 ex.s. c 171 § 36; 1953 c 223 § 18.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.350 Benefits furnished under federal law--Reduction of state benefits.

Should the United States or any agent thereof, in accordance with any federal statute or rule or regulation, furnish monetary assistance, benefits, or other temporary or permanent relief to emergency workers or to their dependents for injuries arising out of and occurring in the course of their activities as emergency workers, then the amount of compensation which any emergency worker or his dependents are otherwise entitled to receive from the state of Washington as provided herein, shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the emergency worker or his dependents have received and will receive from the United States or any agent thereof as a result of his injury.

[1984 c 38 § 36; 1974 ex.s. c 171 § 37; 1953 c 223 § 19.]

RCW 38.52.360 Medical, surgical or hospital treatment.

If, in addition to monetary assistance, benefits or other temporary or permanent relief, the United States or any agent thereof furnishes medical, surgical or hospital treatment or any combination thereof to an injured emergency worker, then the emergency worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter. However, the department may furnish medical, surgical or hospital treatment as part of the compensation provided under the provisions of this chapter.

[1986 c 266 § 40; 1984 c 38 § 37; 1974 ex.s. c 171 § 38; 1953 c 223 § 20.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.370 Medical, surgical or hospital treatment--Reimbursement.

If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States or any agent thereof, will reimburse an emergency worker or his or her dependents for medical, surgical or hospital treatment, or any combination thereof, furnished to the injured emergency worker, the emergency worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter, but the department, may furnish a medical, surgical or hospital treatment as part of the compensation provided under the provisions of this chapter and apply to the United States or its agent for the reimbursement which will be made to the emergency worker or his or her dependents. As a condition to the furnishing of such medical, surgical or hospital treatment, the department shall require the emergency worker and his dependents to assign to the state of Washington, for the purpose of reimbursing for any medical, surgical or hospital treatment furnished or to be furnished by the state, any claim or right such emergency worker or his or her dependents may have to reimbursement from the United States or any agent thereof.

[1986 c 266 § 41; 1984 c 38 § 38; 1974 ex.s. c 171 § 39; 1953 c 223 § 21.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.380 State compensation denied if payment prevents federal benefits.

If the furnishing of compensation under the provisions of this chapter to an emergency worker or his dependents prevents such emergency worker or his dependents from receiving assistance, benefits or other temporary or permanent relief under the provisions of a federal statute or rule or regulation, then the emergency worker and his dependents shall have no right to, and shall not receive, any compensation from the state of Washington under the provisions of this chapter for any injury for which the United States or any agent thereof will furnish assistance, benefits or other temporary or permanent relief in the absence of the furnishing of compensation by the state of Washington.

[1984 c 38 § 39; 1974 ex.s. c 171 § 40; 1953 c 223 § 22.]

RCW 38.52.390 Contracts or work on cost basis for emergency management activities.

The governor, or upon his or her direction, the director, or any political subdivision of the state, is authorized to contract with any person, firm, corporation, or entity to provide construction or work on a cost basis to be used in emergency management functions or activities as defined in RCW 38.52.010(1) or as hereafter amended, said functions or activities to expressly include natural disasters, as well as all other emergencies of a type contemplated by RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390. All funds received for purposes of RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390, whether appropriated funds, local funds, or from whatever source, may be used to pay for the construction, equipment, or work contracted for under this section.

[1986 c 266 § 42; 1984 c 38 § 40; 1971 ex.s. c 8 § 6.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.400 Search and rescue activities--Powers and duties of local officials.

(1) The chief law enforcement officer of each political subdivision shall be responsible for local search and rescue activities. Operation of search and rescue activities shall be in accordance with state and local operations plans adopted by the elected governing body of each local political subdivision. These state and local plans must specify the use of the incident command system for multiagency/multijurisdiction search and rescue operations. The local emergency management director shall notify the department of all search and rescue missions. The local director of emergency management shall work in a coordinating capacity directly supporting all search and rescue activities in that political subdivision and in registering emergency search and rescue workers for employee status. The chief law enforcement officer of each political subdivision may restrict access to a specific search and rescue area to personnel authorized by him. Access shall be restricted only for the period of time necessary to accomplish the search and rescue mission. No unauthorized person shall interfere with a search and rescue

mission.

(2) When search and rescue activities result in the discovery of a deceased person or search and rescue workers assist in the recovery of human remains, the chief law enforcement officer of the political subdivision shall insure compliance with chapter 68.50 RCW.

[1997 c 49 § 5; 1986 c 266 § 43; 1984 c 38 § 41; 1979 ex.s. c 268 § 4.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.410 Search and rescue activities--Distribution of funds for compensation and reimbursement of volunteers.

Funds received by the department specifically for the purposes of compensating search and rescue volunteers shall be distributed by the director to help fund medical and compensation coverage provided by this chapter and provide reimbursement by the state for: (1) Costs involved in extraordinary search and rescue operations such as search and rescue operations lasting over twenty-four hours where food and lodging for workers is necessary; (2) excessive transportation and rescue costs incurred by out-of-county residents which would not be otherwise collectible; and (3) compensation as provided in RCW 38.52.020(1)(d) as now or hereafter amended.

[1986 c 266 § 44; 1984 c 38 § 42; 1979 ex.s. c 268 § 5.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 38.52.420 Model contingency plan for pollution control facilities and hazardous waste management.

(1) The department, in consultation with appropriate federal agencies, the departments of natural resources, fish and wildlife, and ecology, representatives of local government, and any other person the director may deem appropriate, shall assist in the development of a model contingency plan, consistent with other plans required for hazardous materials by federal and state law, to serve as a draft plan for local governments which may be incorporated into the state and local emergency management plans.

(2) The model contingency plan shall:

(a) Include specific recommendations for pollution control facilities which are deemed to be most appropriate for the control, collection, storage, treatment, disposal, and recycling of oil and other spilled material and furthering the prevention and mitigation of such pollution;

(b) Include recommendations for the training of local personnel consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(c) Suggest cooperative training exercises between the public and private sector consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(d) Identify federal and state laws requiring contingency or management plans applicable or related to prevention of pollution, emergency response capabilities, and hazardous waste management, together with a list of funding sources that local governments may use in development of their specific plans;

(e) Promote formal agreements between the department and local entities for effective spill response; and

(f) Develop policies and procedures for the augmentation of emergency services and agency spill response personnel through the use of volunteers: PROVIDED, That no contingency plan may require the use of volunteers by a responding responsible party without that party's consent.

[1997 c 49 § 6; 1995 c 391 § 4; 1994 c 264 § 11; 1988 c 36 § 11; 1987 c 479 § 3.]

Notes:

Effective date--1995 c 391: See note following RCW 38.52.005.

RCW 38.52.430 Emergency response caused by person's intoxication--Recovery of costs from convicted person.

A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; (2) operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; (3) use of a vessel while under the influence of alcohol or drugs, *RCW 88.12.100; (4) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (5) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

The expense of an emergency response is a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

In no event shall a person's liability under this section for the expense of an emergency response exceed one thousand dollars for a particular incident.

If more than one public agency makes a claim for payment from an individual for an emergency response to a single incident under the provisions of this section, and the sum of the claims exceeds the amount recovered, the division of the amount recovered shall be determined by an interlocal agreement consistent with the requirements of chapter 39.34 RCW.

[1993 c 251 § 2.]

Notes:

***Reviser's note:** RCW 88.12.100 was recodified as RCW 88.12.025 pursuant to 1993 c 244 § 45. RCW 88.12.025 was subsequently recodified as RCW 79A.60.040 pursuant to 1999 c 249 § 1601.

Finding--Intent--1993 c 251: "The legislature finds that a public agency incurs expenses in an emergency response. It is the intent of the legislature to allow a public agency to recover the expenses of an emergency

response to an incident involving persons who operate a motor vehicle, boat or vessel, or a civil aircraft while under the influence of an alcoholic beverage or a drug, or the combined influence of an alcoholic beverage and a drug. It is the intent of the legislature that the recovery of expenses of an emergency response under this act shall supplement and shall not supplant other provisions of law relating to the recovery of those expenses." [1993 c 251 § 1.]

RCW 38.52.500 State-wide 911 enhanced service--Finding.

The legislature finds that a state-wide emergency communications network of enhanced 911 telephone service, which allows an immediate display of a caller's identification and location, would serve to further the safety, health, and welfare of the state's citizens, and would save lives. The legislature, after reviewing the study outlined in section 1, chapter 260, Laws of 1990, further finds that state-wide implementation of enhanced 911 telephone service is feasible and should be accomplished as soon as practicable.

[1991 c 54 § 1.]

Notes:

Referral to electorate--1991 c 54: See note following RCW 38.52.030.

RCW 38.52.505 State-wide 911 enhanced service--Automatic location identification--Rules.

The adjutant general shall establish rules on minimum information requirements of automatic location identification for the purposes of enhanced 911 emergency service. Such rules shall permit the chief of a local fire department or a chief fire protection officer or such other person as may be designated by the governing body of a city or county to take into consideration local circumstances when approving the accuracy of location information generated when calls are made to 911 from facilities within his or her service area.

[1999 c 24 § 2.]

Notes:

Findings--1999 c 24: "The legislature finds that the citizens of the state increasingly rely on the dependability of enhanced 911, a system that allows the person answering an emergency call to determine the location of the emergency immediately without the caller needing to speak. The legislature further finds that the degree of accuracy of the displayed information must be adequate to permit rapid location of the caller while taking into consideration variables specific to local conditions. The legislature further finds that it is appropriate that rules permitting local fire agencies to evaluate and approve the accuracy of location information relating to their service areas be adopted." [1999 c 24 § 1.]

RCW 38.52.510 State-wide 911 enhanced service--Funding by counties.

By December 31, 1998, each county, singly or in combination with adjacent counties, shall implement district-wide, county-wide, or multicounty-wide enhanced 911 emergency communications systems so that enhanced 911 is available throughout the state. The county shall provide funding for the enhanced 911 communication system in the county or district in an amount equal to the amount the maximum tax under RCW 82.14B.030(1) would generate in the county or district or the amount necessary to provide full funding of the system in the county or

district, whichever is less. The state enhanced 911 coordination office established by RCW 38.52.520 shall assist and facilitate enhanced 911 implementation throughout the state.

[1991 c 54 § 3.]

Notes:

Referral to electorate--1991 c 54: See note following RCW 38.52.030.

RCW 38.52.520 State enhanced 911 coordination office.

A state enhanced 911 coordination office, headed by the state enhanced 911 coordinator, is established in the emergency management division of the department. Duties of the office shall include:

- (1) Coordinating and facilitating the implementation and operation of enhanced 911 emergency communications systems throughout the state;
- (2) Seeking advice and assistance from, and providing staff support for, the enhanced 911 advisory committee; and
- (3) Recommending to the utilities and transportation commission by August 31st of each year the level of the state enhanced 911 excise tax for the following year.

[1991 c 54 § 4.]

Notes:

Referral to electorate--1991 c 54: See note following RCW 38.52.030.

RCW 38.52.525 State enhanced 911 coordination office--Public education materials.

The state enhanced 911 coordination office may develop and implement public education materials regarding the capability of specific equipment used as part of a private telecommunications system or in the provision of private shared telecommunications services to forward automatic location identification and automatic number identification.

[1995 c 243 § 9.]

Notes:

Findings--Severability--1995 c 243: See notes following RCW 80.36.555.

RCW 38.52.530 Enhanced 911 advisory committee. (*Expires December 31, 2006.*)

The enhanced 911 advisory committee is created to advise and assist the state enhanced 911 coordinator in coordinating and facilitating the implementation and operation of enhanced 911 throughout the state. The director shall appoint members of the committee who represent diverse geographical areas of the state and include state residents who are members of the national emergency number association, the associated public communications officers Washington chapter, the Washington state fire chiefs association, the Washington association of sheriffs and police chiefs, the Washington state council of fire fighters, the Washington state council of police officers, the Washington ambulance association, the state fire protection policy board, the Washington fire commissioners association, the Washington state patrol, the association of Washington cities, the Washington state association of counties, the utilities and

transportation commission or commission staff, and representatives of large and small local exchange telephone companies. This section expires December 31, 2006.

[2000 c 34 § 1; 1997 c 49 § 7; 1991 c 54 § 5.]

Notes:

Referral to electorate--1991 c 54: See note following RCW 38.52.030.

RCW 38.52.535 State enhanced 911 coordination office and advisory committee--Uniform national standards.

The state enhanced 911 coordination office and the enhanced 911 advisory committee may participate in efforts to set uniform national standards for automatic number identification and automatic location identification data transmission for private telecommunications systems and private shared telecommunications services.

[1998 c 245 § 32; 1995 c 243 § 10.]

Notes:

Findings--Severability--1995 c 243: See notes following RCW 80.36.555.

RCW 38.52.540 Enhanced 911 account.

The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise tax imposed by RCW 82.14B.030 shall be deposited into the account. Moneys in the account shall be used only to support the statewide coordination and management of the enhanced 911 system and to help supplement, within available funds, the operational costs of the system. Funds shall not be distributed to any county that has not imposed the maximum county enhanced 911 taxes allowed under RCW 82.14B.030 (1) and (2). The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, is authorized to enter into statewide agreements to improve the efficiency of enhanced 911 services for all counties and shall specify by rule the additional purposes for which moneys, if available, may be expended from this account.

[2001 c 128 § 2; 1998 c 304 § 14; 1994 c 96 § 7; 1991 c 54 § 6.]

NOTES:

Findings--2001 c 128: "The legislature finds that the statewide emergency communications network of enhanced 911 telephone service, which allows an immediate display of a caller's identification and location, has served to further the safety, health, and welfare of the state's citizens, and has saved lives.

The legislature further finds that statewide operation and management of the enhanced 911 system will create efficiencies of operation and permit greater local control of county 911 operations, and further that some counties will continue to need assistance from the state to maintain minimum enhanced 911 service levels." [2001 c 128 § 1.]

Effective date--2001 c 128: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 128 § 4.]

Findings--Effective dates--1998 c 304: See notes following RCW 82.14B.020.

Finding--Intent--Effective dates--1994 c 96: See notes following RCW 82.14B.020.

Referral to electorate--1991 c 54: See note following RCW 38.52.030.

RCW 38.52.545 Priorities for enhanced 911 funding.

In specifying rules defining the purposes for which available moneys may be expended, the state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, shall consider base needs of individual counties for specific assistance. Priorities for available enhanced 911 funding are as follows: (1) To assure that 911 dialing is operational statewide; (2) to assist counties as necessary to assure that they can achieve a basic service level for 911 operations; and (3) to assist counties as practicable to acquire items of a capital nature appropriate to increasing 911 effectiveness.

[2001 c 128 § 3.]

NOTES:

Findings--Effective date--2001 c 128: See notes following RCW 38.52.540.

RCW 38.52.550 Emergency communications systems and information--Immunity from civil liability.

A telecommunications company providing emergency communications systems or services or a business or individual providing data base information to emergency communication system personnel shall not be liable for civil damages caused by an act or omission of the company, business, or individual in the:

(1) Good faith release of information not in the public record, including unpublished or unlisted subscriber information to emergency service providers responding to calls placed to a 911 or enhanced 911 emergency service; or

(2) Design, development, installation, maintenance, or provision of consolidated 911 or enhanced 911 emergency communication systems or services other than an act or omission constituting gross negligence or wanton or willful misconduct.

[1991 c 329 § 7.]

RCW 38.52.560 Automatic number identification--Wireless two-way telecommunications service.

Any person as defined in RCW 82.04.030 owning, operating, or managing any facilities used to provide wireless two-way telecommunications services for hire, sale, or resale which allow access to 911 emergency services shall provide a system of automatic number identification which allows the 911 operator to automatically identify the number of the caller.

[1994 c 96 § 5.]

Notes:

Finding--Intent--Effective dates--1994 c 96: See notes following RCW 82.14B.020.

RCW 38.52.900 Short title.

This chapter may be cited as the Washington Emergency Management Act.

[1984 c 38 § 43; 1974 ex.s. c 171 § 41; 1951 c 178 § 1.]

RCW 38.52.920 Repeal and saving.

Chapter 177, Laws of 1941, chapters 6 and 24, Laws of 1943, and chapter 88, Laws of 1949 are repealed: PROVIDED, That this section shall not affect the validity of any order, rule, regulation, contract, or agreement made or promulgated under authority of the repealed acts, which orders, rules, regulations, contracts, or agreements shall remain in force until they may be repealed, amended, or superseded by orders, rules, regulations, contracts, or agreements made or promulgated under this chapter: PROVIDED FURTHER, That this section shall not affect the tenure of any officer, employee, or person serving under authority of any repealed act and such officer, employee, or person shall continue in his position until such time as a successor is appointed or employed under the provisions of this chapter.

[1951 c 178 § 17.]

RCW 38.52.930 Transfer of powers, duties, and functions to state military department.

All powers, duties, and functions of the department of community, trade, and economic development pertaining to emergency management are transferred to the state military department. All references to the director or the department of community development or the department of community, trade, and economic development in the Revised Code of Washington shall be construed to mean the adjutant general or the state military department when referring to the functions transferred in this section.

[1995 c 391 § 10.]

Notes:

Effective date--1995 c 391: See note following RCW 38.52.005.

**Chapter 38.54 RCW
STATE FIRE SERVICES MOBILIZATION**

Sections	
38.54.010	Definitions.
38.54.020	Legislative declaration and intent.
38.54.030	State fire protection policy board--State fire services mobilization plan--State fire resources coordinator.
38.54.040	Regional fire defense boards--Regional fire service plans--Regions established.
38.54.050	Development of reimbursement procedures.
38.54.900	Findings--1992 c 117.

RCW 38.54.010 Definitions.

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

(1) "Department" means the military department.

(2) "The adjutant general" means the adjutant general of the military department.

(3) "State fire marshal" means the director of fire protection in the Washington state patrol.

(4) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(5) "Jurisdiction" means state, county, city, fire district, or port district fire fighting units, or other units covered by this chapter.

(6) "Mobilization" means that fire fighting resources beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or state-wide fire fighting resources to either direct emergency incident assignments or to assignment in communities where fire fighting resources are needed.

When mobilization is declared and authorized as provided in this chapter, all fire fighting resources including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing fire fighting resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(7) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

[1997 c 49 § 8. Prior: 1995 c 391 § 5; 1995 c 369 § 10; 1992 c 117 § 9.]

Notes:

Effective date--1995 c 391: See note following RCW 38.52.005.

Effective date--1995 c 369: See note following RCW 43.43.930.

RCW 38.54.020 Legislative declaration and intent.

Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to insure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to fire fighting agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

(1) Provide the policy and organizational structure for large scale mobilization of fire fighting resources in the state through creation of the Washington state fire services mobilization plan;

(2) Confer upon the adjutant general the powers provided herein;

(3) Provide a means for reimbursement to fire jurisdictions that incur expenses when mobilized by the adjutant general under the Washington state fire services mobilization plan; and

(4) Provide for reimbursement of the host fire department or fire protection district when it has: (a) Exhausted all of its resources; and (b) invoked its local mutual aid network and exhausted those resources. Upon implementation of state fire mobilization, the host district resources shall become state fire mobilization resources consistent with the fire mobilization plan.

It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing fire fighting resources for mobilization.

[1997 c 49 § 9; 1995 c 391 § 6; 1992 c 117 § 10.]

Notes:

Effective date--1995 c 391: See note following RCW 38.52.005.

RCW 38.54.030 State fire protection policy board--State fire services mobilization plan--State fire resources coordinator.

The state fire protection policy board shall review and make recommendations to the adjutant general on the refinement and maintenance of the Washington state fire services mobilization plan, which shall include the procedures to be used during fire and other emergencies for coordinating local, regional, and state fire jurisdiction resources. In carrying out this duty, the fire protection policy board shall consult with and solicit recommendations from representatives of state and local fire and emergency management organizations, regional fire defense boards, and the department of natural resources. The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive emergency management plan. The adjutant general shall review the fire services mobilization plan as submitted by the fire protection policy board, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

It is the responsibility of the adjutant general to mobilize jurisdictions under the Washington state fire services mobilization plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized.

[1997 c 49 § 10; 1995 c 269 § 1101; 1992 c 117 § 11.]

NOTES:

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

RCW 38.54.040 Regional fire defense boards--Regional fire service plans--Regions established.

Regions within the state are initially established as follows but may be adjusted as necessary by the state fire marshal:

- (1) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;
- (2) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, and Lincoln counties;
- (3) Olympic region - Clallam and Jefferson counties;
- (4) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;
- (5) Southeast region - Chelan, Douglas, Kittitas, Grant, Adams, Whitman, Yakima, Klickitat, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties;
- (6) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties; and
- (7) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

Within each of these regions there is created a regional fire defense board. The regional fire defense boards shall consist of two members from each county in the region. One member from each county shall be appointed by the county fire chiefs' association or, in the event there is no such county association, by the county's legislative authority. Each county's office of emergency management or, in the event there is no such office, the county's legislative authority shall select the second representative to the regional board. The department of natural resources fire control chief shall appoint a representative from each department of natural resources region to serve as a member of the appropriate regional fire defense board. Members of each regional board will select a chairperson and secretary as officers. Members serving on the regional boards do so in a voluntary capacity and are not eligible for reimbursement for meeting-related expenses from the state.

Regional defense boards shall develop regional fire service plans that include provisions for organized fire agencies to respond across municipal, county, or regional boundaries. Each regional plan shall be consistent with the incident command system, the Washington state fire services mobilization plan, and regional response plans already adopted and in use in the state. The regional boards shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agreements are required to implement a regional fire service plan. Each regional plan shall be approved by the fire protection policy board before implementation.

[1997 c 49 § 11; 1992 c 117 § 12.]

RCW 38.54.050 Development of reimbursement procedures.

The department in consultation with the office of financial management shall develop procedures to facilitate reimbursement to jurisdictions from appropriate federal and state funds

when jurisdictions are mobilized by the adjutant general under the Washington state fire services mobilization plan. The department shall ensure that these procedures provide reimbursement to the host district in as timely a manner as possible.

[1997 c 49 § 12; 1995 c 391 § 7; 1992 c 117 § 13.]

Notes:

Effective date--1995 c 391: See note following RCW 38.52.005.

RCW 38.54.900 Findings--1992 c 117.

See note following RCW 35.21.775.

**Title 39 RCW
PUBLIC CONTRACTS AND INDEBTEDNESS**

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- 39.04 Public works.**
- 39.06 Public works--Registration, licensing, of contractors.**
- 39.08 Contractor's bond.**
- 39.10 Alternative public works contracting procedures.**
- 39.12 Prevailing wages on public works.**
- 39.19 Office of minority and women's business enterprises.**
- 39.23 Purchase of products and services of sheltered workshops, DSHS programs.**
- 39.24 Public purchase preferences.**
- 39.28 Emergency public works.**
- 39.29 Personal service contracts.**
- 39.30 Contracts--Indebtedness limitations--Competitive bidding violations.**
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Conditional sales contracts by school districts for acquisition of property or property rights: RCW 28A.335.200.

Contracts by cemetery districts for public facilities, services, and purchasing: RCW 68.52.192 and 68.52.193.

Conveyance of real property by public bodies--Recording: RCW 65.08.095.

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Public officer requiring bond or insurance from particular insurer, agent or broker, procuring bond or insurance, violations: RCW 48.30.270.

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**Chapter 39.04 RCW
PUBLIC WORKS**

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39.04.155	Small works roster contract procedures--Limited public works process.
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39.04.170	Application of chapter to performance-based contracts for energy equipment.
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39.04.180	Trench excavations--Safety systems required.
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NOTES:

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Counties, class A and first class, competitive bids: RCW 36.32.240 through 36.32.270.

County road equipment and materials: RCW 36.82.100 through 36.82.120.

County roads and bridges--Plans, approval, bids, etc.: Chapter 36.77 RCW.

Liens for labor, materials, taxes on public works: Chapter 60.28 RCW.

Port district contracts: Chapter 53.08 RCW.

Public buildings, provision to be made for aged and handicapped: Chapter 70.92 RCW.

Second class city or town, public contracts: RCW 35.23.352.

State highway construction and maintenance: Chapter 47.28 RCW.

Suppression of competitive bidding on public works, penalty: RCW 9.18.120 through 9.18.150.

Traffic control at work sites: RCW 47.36.200 through 47.36.230.

Workers' compensation law applicable to contracts for public works: RCW 51.12.050, 51.12.070.

RCW 39.04.010 Definitions.

The term state shall include the state of Washington and all departments, supervisors, commissioners and agencies thereof.

The term municipality shall include every city, county, town, district or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

The term public work shall include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with the provisions of RCW 39.12.020. The term does not include work, construction, alteration, repair, or improvement performed under contracts entered into under RCW 36.102.060(4) or under development agreements entered into under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

The term contract shall mean a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid. However, a contract which is awarded from a small works roster need not be advertised.

[2000 c 138 § 102; 1997 c 220 § 402 (Referendum Bill No. 48, approved June 17, 1997); 1993 c 174 § 1; 1989 c 363 § 5; 1986 c 282 § 1; 1982 c 98 § 1; 1977 ex.s. c 177 § 1; 1923 c 183 § 1; RRS § 10322-1.]

Notes:

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

Referendum--Other legislation limited--Legislators' personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements--1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law--Severability--1997 c 220: See RCW 36.102.900 and 36.102.901.

Severability--1986 c 282: See RCW 82.18.900.

RCW 39.04.015 Adjustment to bid price--Conditions.

Notwithstanding the provisions of RCW 39.04.010, a state contracting authority is authorized to negotiate an adjustment to a bid price, based upon agreed changes to the contract plans and specifications, with a low responsive bidder under the following conditions:

(1) All bids for a state public works project involving buildings and any associated building utilities and appendants exceed the available funds, as certified by the appropriate fiscal officer;

(2) The apparent low responsive bid does not exceed the available funds by: (a) Five percent on projects valued under one million dollars; (b) the greater of fifty thousand dollars or two and one-half percent for projects valued between one million dollars and five million dollars; or (c) the greater of one hundred twenty-five thousand dollars or one percent for projects valued over five million dollars; and

(3) The negotiated adjustment will bring the bid price within the amount of available funds.

[1989 c 59 § 1.]

RCW 39.04.020 Plans and specifications--Estimates--Publication--Emergencies.

Whenever the state or any municipality shall determine that any public work is necessary to be done, it shall cause plans, specifications, or both thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board, or agency having by law the authority to require such work to be done. The plans, specifications, and estimates of cost shall be approved by the director, supervisor, commissioner, trustee, board, or agency and the original draft or a certified copy filed in such office before further action is taken.

If the state or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract or by a small works roster process, and it shall appear by such estimate that the probable cost of executing such work will exceed the sum of twenty-five thousand dollars, then the state or such municipality shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which such work is to be done. When any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

[1994 c 243 § 1; 1993 c 379 § 111; 1986 c 282 § 2; 1982 c 98 § 4; 1975 1st ex.s. c 230 § 2; 1967 c 70 § 1; 1923 c 183 § 2; RRS § 10322-2. Formerly RCW 39.04.020 and 39.04.030.]

Notes:

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.
Severability--1986 c 282: See RCW 82.18.900.

RCW 39.04.040 Work to be executed according to plans--Supplemental plans.

Whenever plans and specifications shall have been filed the work to be done shall be executed in accordance with such plans and specifications unless supplemental plans and specifications of the alterations to be made therein shall be made and filed in the office where the original plans and specifications are filed.

In the event that the probable cost of executing such work in accordance with the supplemental plans and specifications shall be increased or decreased from the estimated cost as shown by the original estimate to an amount in excess of ten percent of such estimate, then a supplemental estimate shall be made of the increased or decreased cost of executing the work in accordance with the supplemental plans and specifications and filed in the office where the original estimate is filed.

[1923 c 183 § 3; RRS § 10322-3.]

RCW 39.04.050 Contents of original estimates.

Original estimates shall show in detail the estimated cost of the work; the estimated quantities of each class of work; the estimated unit cost for each class; the estimated total cost for each class; the time limit, allowed for the completion of the work and the estimated dates of commencement and completion.

[1986 c 282 § 3; 1923 c 183 § 4; RRS § 10322-4.]

Notes:

Severability--1986 c 282: See RCW 82.18.900.

RCW 39.04.060 Supplemental estimates.

Supplemental estimates shall show the estimated increase or decrease in the total quantities of each class, in the unit cost of each class, in the total cost for each class and in the total cost of the work as shown by the original estimate, together with any change in the time limit and in the estimated dates of commencing and completing the work.

[1923 c 183 § 5; RRS § 10322-5.]

RCW 39.04.070 Account and record of cost.

Whenever the state or any municipality shall execute any public work by any means or method other than by contract or small works roster, it shall cause to be kept and preserved a full, true and accurate account and record of the costs of executing such work in accordance with the budgeting, accounting, and reporting system provisions prescribed by law for the state agency or municipality.

[1986 c 282 § 4; 1923 c 183 § 6; RRS § 10322-6.]

Notes:

Severability--1986 c 282: See RCW 82.18.900.

State auditor to prescribe standard form for costs of public works: RCW 43.09.205.

RCW 39.04.080 Certified copy to be filed--Engineers' certificate.

A true copy of such account or record, duly certified by the officer or officers having by law authority to direct such work to be done, to be a full, true and accurate account of the costs of executing such work shall be filed in the office where the original plans and specifications are filed within sixty days after the completion of the work.

The engineer or other officer having charge of the execution of such work shall execute a certificate which shall be attached to and filed with such certified copy, certifying that such work was executed in accordance with the plans and specifications on file and the times of commencement and completion of such work. If the work is not in accordance with such plans and specifications he shall set forth the manner and extent of the variance therefrom.

[1923 c 183 § 7; RRS § 10322-7.]

RCW 39.04.100 Records open to public inspection--Certified copies.

All plans, specifications, estimates, and copies of accounts or records and all certificates attached thereto shall, when filed, become public records and shall at all reasonable times be subject to public inspection.

Certified copies of any estimate, account or record shall be furnished by the officer having the custody thereof to any person on demand and the payment of the legal fees for making and certifying the same.

[1923 c 183 § 9; RRS § 10322-9.]

RCW 39.04.110 Penalty for false entries.

Any director, supervisor, officer or employee of the state and any commissioner, trustee, supervisor, officer or employee of any municipality who shall knowingly make any false entry in any account or record required by this chapter or who shall knowingly certify to any false statement in any certificate required by this chapter, shall be guilty of a misdemeanor.

[1923 c 183 § 10; RRS § 10322-10.]

Notes:

Falsifying accounts: RCW 42.20.070.

Misconduct of public officers: Chapter 42.20 RCW.

RCW 39.04.120 Change orders due to environmental protection

requirements--Costs--Dispute resolution.

If the successful bidder must undertake additional work for public construction projects issued by the state of Washington, its authorities or agencies, or a political subdivision of the state due to the enactment of new environmental protection requirements or the amendment of existing environmental protection statutes, ordinances, or rules occurring after the submission of the successful bid, the awarding agency shall issue a change order setting forth the additional work that must be undertaken, which shall not invalidate the contract. The cost of such a change order to the awarding agency shall be determined in accordance with the provisions of the contract for change orders or, if no such provision is set forth in the contract, then the cost to the awarding agency shall be the contractor's costs for wages, labor costs other than wages, wage taxes, materials, equipment rentals, insurance, and subcontracts attributable to the additional activity plus a reasonable sum for overhead and profit. However, the additional costs to undertake work not specified in the contract documents shall not be approved unless written authorization is given the successful bidder prior to his undertaking such additional activity. In the event of a dispute between the awarding agency and the contractor, dispute resolution procedures may be commenced under the applicable terms of the construction contract, or, if the contract contains no such provision for dispute resolution, the then obtaining rules of the American arbitration association.

[1998 c 196 § 1; 1973 1st ex.s. c 62 § 1.]

Notes:

Severability--1973 1st ex.s. c 62: "If any provision or part of this 1973 act shall be judged to be invalid or unconstitutional, such adjudication shall not affect the validity of any provision or part of this 1973 act not adjudged invalid or unconstitutional." [1973 1st ex.s. c 62 § 4.]

Delay due to litigation, change orders, costs, arbitration, termination: RCW 60.28.080.

RCW 39.04.130 Application of RCW 39.04.120.

RCW 39.04.120 shall take effect in ninety days but shall not apply to any contract awarded pursuant to an invitation for bids issued on or before the date it takes effect, or to any persons or bonds in respect of any such contract.

[1973 1st ex.s. c 62 § 2.]

Notes:

Severability--1973 1st ex.s. c 62: See note following RCW 39.04.120.

RCW 39.04.133 State capital improvement or construction projects--Use of recycled content products in design or specifications.

(1) The state's preferences for the purchase and use of recycled content products shall be included as a factor in the design and development of state capital improvement projects.

(2) Specifications for materials in state construction projects shall include the use of recycled content products and recyclable products whenever practicable.

(3) This section does not apply to contracts entered into by a municipality.

[1996 c 198 § 5.]

RCW 39.04.135 Demolition projects--Recycling or reuse of materials.

Material from demolition projects shall be recycled or reused whenever practicable.

[1996 c 198 § 6.]

RCW 39.04.140 Contracts affected by increase in price of petroleum products--Termination--Continuation with contracting agency sharing increased costs--Conditions.

(1) The legislature finds (a) that the increase in the price of petroleum products resulting from the world wide shortage of crude oil has created a condition which has rendered performance by contractors of many public works contracts economically impossible and (b) that provision should be made to provide for the orderly termination of such contracts; the deletion of work affected by petroleum prices without the necessity of litigation; or, alternatively at the election of any contracting agency, the continuation of the contract with the agency assuming a share of the increased petroleum costs.

(2) Whenever the state or any municipality shall have awarded any public works contract during the performance of which (a) any legally enforceable private agreement or contractual arrangement between either the contractor or a first tier subcontractor and his suppliers of crude oil, residual fuel oil, refined petroleum products, or asphalt required in order to complete performance of the public works contract are superseded, with resulting increased costs of performance of the public works contract, by force majeure regulations, rules, allocations, or rulings issued by any federal, state, or other agency acting pursuant to any federal or state economic stabilization act, petroleum allocation act, or other legislation authorizing the same; or (b) the cost of petroleum products for which has increased by more than twenty percent over the current market price thereof as the date of contract award, then the contractor may elect to terminate the contract in its entirety or to delete such portions of the work from the contract, and the state or municipality shall pay the contractor for all work performed prior to the date of termination of the contract or deletion of such work. The state or municipality shall also pay the contractor for all acceptable materials ordered by the contractor and delivered on the work site prior to the termination of the contract or deletion of such work by the contractor. Such materials shall be purchased from the contractor by the state or the municipality at the actual cost of such material to the contractor and shall thereupon become the property of the state or municipality. No payment shall be made to the contractor for overhead costs or anticipated profits as to work not performed as a result of deletion of such work or termination of the contract. Amounts retained and accumulated under RCW 60.28.010 shall be held for a period of thirty days following the election of the contractor to terminate the contract in its entirety: PROVIDED, That if the contractor elects to terminate or delete such portions of the work and the state or such municipality finds that it is in the public interest to complete performance on such public works

contract then the state or such municipality shall require the contractor to complete performance of the public works contract and the state or such municipality shall modify the provisions of that public works contract to increase the contract price so that the state or municipality shall bear eighty percent of such increased costs over the contractor's estimated cost at the time of contract bid opening and the contractor shall bear the balance thereof. Upon request by the state or municipality the contractor shall make his records available for audit by the state or municipality to verify such increased costs.

(3) This section shall apply only to public works contracts awarded prior to November 1, 1973, and only to work under such contracts which has not been performed on the date the contractor elects to terminate the contract or delete such work from the contract.

[1974 ex.s. c 194 § 1.]

Notes:

Severability--1974 ex.s. c 194: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 194 § 2.]

RCW 39.04.155 Small works roster contract procedures--Limited public works process.

(1) This section provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property that may be used by state agencies and by any local government that is expressly authorized to use these provisions. These provisions may be used in lieu of other procedures to award contracts for such work with an estimated cost of two hundred thousand dollars or less. The small works roster process includes the limited public works process authorized under subsection (3) of this section and any local government authorized to award contracts using the small works roster process under this section may award contracts using the limited public works process under subsection (3) of this section.

(2)(a) A state agency or authorized local government may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Where applicable, small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor. The small works roster or rosters shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. A state agency or local government establishing a small works roster or rosters may require eligible contractors desiring to be placed on a roster or rosters to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the state agency or local government as a condition of being placed on a roster or rosters. At least once a year, the state agency or local government shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. In addition, responsible contractors shall be added to an appropriate roster or rosters at any time they submit a written request and

necessary records. Master contracts may be required to be signed that become effective when a specific award is made using a small works roster.

(b) A state agency establishing a small works roster or rosters shall adopt rules implementing this subsection. A local government establishing a small works roster or rosters shall adopt an ordinance or resolution implementing this subsection. Procedures included in rules adopted by the department of general administration in implementing this subsection must be included in any rules providing for a small works roster or rosters that is adopted by another state agency, if the authority for that state agency to engage in these activities has been delegated to it by the department of general administration under chapter 43.19 RCW. An interlocal contract or agreement between two or more state agencies or local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the provisions of this subsection.

(c) Procedures shall be established for securing telephone, written, or electronic quotations from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 43.19.1911. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. However, if the estimated cost of the work is from one hundred thousand dollars to two hundred thousand dollars, a state agency or local government, other than a port district, that chooses to solicit bids from less than all the appropriate contractors on the appropriate small works roster must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The government has the sole option of determining whether this notice to the remaining contractors is made by: (i) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done; (ii) mailing a notice to these contractors; or (iii) sending a notice to these contractors by facsimile or other electronic means. For purposes of this subsection (2)(c), "equitably distribute" means that a state agency or local government soliciting bids may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

(d) A contract awarded from a small works roster under this section need not be advertised.

(e) Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

(3) In lieu of awarding contracts under subsection (2) of this section, a state agency or authorized local government may award a contract for work, construction, alteration, repair, or improvement project [projects] estimated to cost less than thirty-five thousand dollars using the

limited public works process provided under this subsection. Public works projects awarded under this subsection are exempt from the other requirements of the small works roster process provided under subsection (2) of this section and are exempt from the requirement that contracts be awarded after advertisement as provided under RCW 39.04.010.

For limited public works projects, a state agency or authorized local government shall solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 43.19.1911. After an award is made, the quotations shall be open to public inspection and available by electronic request. A state agency or authorized local government shall attempt to distribute opportunities for limited public works projects equitably among contractors willing to perform in the geographic area of the work. A state agency or authorized local government shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded. For limited public works projects, a state agency or authorized local government may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project, however the state agency or authorized local government shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

(4) The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process or limited public works process.

(5) As used in this section, "state agency" means the department of general administration, the state parks and recreation commission, the department of natural resources, the department of fish and wildlife, the department of transportation, any institution of higher education as defined under RCW 28B.10.016, and any other state agency delegated authority by the department of general administration to engage in construction, building, renovation, remodeling, alteration, improvement, or repair activities.

[2001 c 284 § 1; 2000 c 138 § 101; 1998 c 278 § 12; 1993 c 198 § 1; 1991 c 363 § 109.]

NOTES:

Purpose--2000 c 138: "The purpose of this act is to establish a common small works roster procedure that state agencies and local governments may use to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property." [2000 c 138 § 1.]

Part headings not law--2000 c 138: "Part headings used in this act are not any part of the law." [2000 c 138 § 302.]

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.
Competitive bids--Contract procedure: RCW 36.32.250.

RCW 39.04.156 Small works roster manual--Notification to local governments.

The department of community, trade, and economic development, in cooperation with the municipal research and services center, shall prepare a small works roster manual and periodically notify the different types of local government authorized to use a small works roster process about this authority.

[2000 c 138 § 104.]

Notes:

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

RCW 39.04.160 Contracts subject to requirements established under office of minority and women's business enterprises.

All contracts entered into under this chapter by the state on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW.

[1983 c 120 § 11.]

Notes:

Effective date--Applicability--Severability--Conflict with federal requirements--1983 c 120: See RCW 39.19.910, 39.19.920.

RCW 39.04.170 Application of chapter to performance-based contracts for energy equipment.

This chapter shall not apply to performance-based contracts, as defined in *RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

[1985 c 169 § 5.]

NOTES:

***Reviser's note:** RCW 39.35A.020 was amended by 2001 c 214 § 18, changing subsection (3) to subsection (4).

RCW 39.04.175 Application of chapter to certain agreements relating to water pollution control, solid waste handling facilities.

This chapter does not apply to the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under RCW 70.150.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 35.21.156 or under RCW 36.58.090.

[1989 c 399 § 11; 1986 c 244 § 13.]

Notes:

Severability--1986 c 244: See RCW 70.150.905.

RCW 39.04.180 Trench excavations--Safety systems required.

On public works projects in which trench excavation will exceed a depth of four feet, any contract therefor shall require adequate safety systems for the trench excavation that meet the requirements of the Washington industrial safety and health act, chapter 49.17 RCW. This requirement shall be included in the cost estimates and bidding forms as a separate item. The costs of trench safety systems shall not be considered as incidental to any other contract item and any attempt to include the trench safety systems as an incidental cost is prohibited.

[1988 c 180 § 1.]

RCW 39.04.190 Purchase contract process--Other than formal sealed bidding.

(1) This section provides a uniform process to award contracts for the purchase of any materials, equipment, supplies, or services by those municipalities that are authorized to use this process in lieu of the requirements for formal sealed bidding. The state statutes governing a specific type of municipality shall establish the maximum dollar thresholds of the contracts that can be awarded under this process, and may include other matters concerning the awarding of contracts for purchases, for the municipality.

(2) At least twice per year, the municipality shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of vendor lists and solicit the names of vendors for the lists. Municipalities shall by resolution establish a procedure for securing telephone or written quotations, or both, from at least three different vendors whenever possible to assure that a competitive price is established and for awarding the contracts for the purchase of any materials, equipment, supplies, or services to the lowest responsible bidder as defined in RCW 43.19.1911. Immediately after the award is made, the bid quotations obtained shall be recorded, open to public inspection, and shall be available by telephone inquiry. A contract awarded pursuant to this section need not be advertised.

[1993 c 198 § 2; 1991 c 363 § 110.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 39.04.200 Small works roster or purchase contracts--Listing of contracts awarded required.

Any local government using the uniform process established in RCW 39.04.190 to award contracts for purchases must post a list of the contracts awarded under that process at least once every two months. Any state agency or local government using the small works roster process established in RCW 39.04.155 to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property must make available a list of the contracts awarded under that process at least once every year. The list shall contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract, and the date it was awarded. The list shall also state the location where the bid quotations for these contracts are available for

public inspection.

[2000 c 138 § 103; 1993 c 198 § 3; 1991 c 363 § 111.]

Notes:

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 39.04.210 Correctional facilities construction and repair--Findings.

The legislature recognizes that fair and open competition is a basic tenet of public works procurement, that such competition reduces the appearance of and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically, and that effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which contractual services are procured. The legislature finds that there will continue to exist a need for additional correctional facilities due to the inadequate capacity of existing correctional facilities to accommodate the predicted growth of offender populations and that it is necessary to provide public works contract options for the effective construction and repair of additional department of corrections facilities.

[1994 c 80 § 1; 1991 c 130 § 1.]

Notes:

Severability--1994 c 80: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 80 § 4.]

Effective date--1994 c 80: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 23, 1994]." [1994 c 80 § 5.]

Severability--1991 c 130: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 130 § 4.]

RCW 39.04.220 Correctional facilities construction and repair--Use of general contractor/construction manager method for awarding contracts--Demonstration projects.

(1) In addition to currently authorized methods of public works contracting, and in lieu of the requirements of RCW 39.04.010 and 39.04.020 through 39.04.060, capital projects funded for over ten million dollars authorized by the legislature for the department of corrections to construct or repair facilities may be accomplished under contract using the general contractor/construction manager method described in this section. In addition, the general contractor/construction manager method may be used for up to two demonstration projects under ten million dollars for the department of corrections. Each demonstration project shall aggregate capital projects authorized by the legislature at a single site to total no less than three million dollars with the approval of the office of financial management. The department of general administration shall present its plan for the aggregation of projects under each demonstration

project to the oversight advisory committee established under subsection (2) of this section prior to soliciting proposals for general contractor/construction manager services for the demonstration project.

(2) For the purposes of this section, "general contractor/construction manager" means a firm with which the department of general administration has selected and negotiated a maximum allowable construction cost to be guaranteed by the firm, after competitive selection through a formal advertisement, and competitive bids to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase. The department of general administration shall establish an independent oversight advisory committee with representatives of interest groups with an interest in this subject area, the department of corrections, and the private sector, to review selection and contracting procedures and contracting documents. The oversight advisory committee shall discuss and review the progress of the demonstration projects. The general contractor/construction manager method is limited to projects authorized on or before July 1, 1997.

(3) Contracts for the services of a general contractor/construction manager awarded under the authority of this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. Minority and women enterprise total project goals shall be specified in the bid instructions to the general contractor/construction manager finalists. The director of general administration is authorized to include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted shall exceed five percent of the maximum allowable construction cost. The director of general administration or his or her designee shall establish a committee to evaluate the proposals considering such factors as: Ability of professional personnel; past performance in negotiated and complex projects; ability to meet time and budget requirements; location; recent, current, and projected work loads of the firm; and the concept of their proposal. After the committee has selected the most qualified finalists, these finalists shall submit sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The maximum allowable construction cost may be negotiated between the department of general administration and the selected firm after the scope of the project is adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the department of general administration is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the department of general administration determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the department of general administration shall negotiate with the next low bidder and continue until an agreement is

reached or the process is terminated. If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the state, the percent fee shall be renegotiated. All subcontract work shall be competitively bid with public bid openings. Specific contract requirements for women and minority enterprise participation shall be specified in each subcontract bid package that exceeds ten percent of the department's estimated project cost. All subcontractors who bid work over two hundred thousand dollars shall post a bid bond and the awarded subcontractor shall provide a performance and payment bond for their contract amount if required by the general contractor/construction manager. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. Bidding on subcontract work by the general contractor/construction manager or its subsidiaries is prohibited. The general contractor/construction manager may negotiate with the low-responsive bidder only in accordance with RCW 39.04.015 or, if unsuccessful in such negotiations, rebid.

(4) If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the state. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the state, the additional cost shall be the responsibility of the general contractor/construction manager.

(5) The powers and authority conferred by this section shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained in this section may be construed as limiting any other powers or authority of the department of general administration. However, all actions taken pursuant to the powers and authority granted to the director or the department of general administration under this section may only be taken with the concurrence of the department of corrections.

[1996 c 18 § 5; 1994 c 80 § 2; 1991 c 130 § 2.]

Notes:

Severability--Effective date--1994 c 80: See notes following RCW 39.04.210.

Severability--1991 c 130: See note following RCW 39.04.210.

RCW 39.04.230 Correctional facilities construction and repair--Alternative contracting method to remain in force until contracts completed.

Methods of public works contracting authorized by RCW 39.04.210 and 39.04.220 shall remain in full force and effect until completion of projects authorized on or before July 1, 1997.

[1994 c 80 § 3; 1991 c 130 § 3.]

Notes:

Severability--Effective date--1994 c 80: See notes following RCW 39.04.210.

Severability--1991 c 130: See note following RCW 39.04.210.

RCW 39.04.240 Public works contracts--Awarding of attorneys' fees.

(1) The provisions of RCW 4.84.250 through 4.84.280 shall apply to an action arising out of a public works contract in which the state or a municipality, or other public body that contracts for public works, is a party, except that: (a) The maximum dollar limitation in RCW 4.84.250 shall not apply; and (b) in applying RCW 4.84.280, the time period for serving offers of settlement on the adverse party shall be the period not less than thirty days and not more than one hundred twenty days after completion of the service and filing of the summons and complaint.

(2) The rights provided for under this section may not be waived by the parties to a public works contract that is entered into on or after June 11, 1992, and a provision in such a contract that provides for waiver of these rights is void as against public policy. However, this subsection shall not be construed as prohibiting the parties from mutually agreeing to a clause in a public works contract that requires submission of a dispute arising under the contract to arbitration.

[1999 c 107 § 1; 1992 c 171 § 1.]

RCW 39.04.250 Payments received on account of work performed by subcontractor--Disputed amounts--Remedies.

(1) When payment is received by a contractor or subcontractor for work performed on a public work, the contractor or subcontractor shall pay to any subcontractor not later than ten days after the receipt of the payment, amounts allowed the contractor on account of the work performed by the subcontractor, to the extent of each subcontractor's interest therein.

(2) In the event of a good faith dispute over all or any portion of the amount due on a payment from the state or a municipality to the prime contractor, or from the prime contractor or subcontractor to a subcontractor, then the state or the municipality, or the prime contractor or subcontractor, may withhold no more than one hundred fifty percent of the disputed amount. Those not a party to a dispute are entitled to full and prompt payment of their portion of a draw, progress payment, final payment, or released retainage.

(3) In addition to all other remedies, any person from whom funds have been withheld in violation of this section shall be entitled to receive from the person wrongfully withholding the funds, for every month and portion thereof that payment including retainage is not made, interest at the highest rate allowed under RCW 19.52.025. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to costs of suit and reasonable attorneys' fees.

[1992 c 223 § 5.]

Notes:

Effective date--1992 c 223: See note following RCW 39.76.011.

Waiver of rights, construction--Application--1992 c 223: See RCW 39.04.900 and 39.04.901.

RCW 39.04.260 Private construction performed pursuant to contract for rental, lease,

or purchase by state--Must comply with prevailing wage law.

Any work, construction, alteration, repair, or improvement, other than ordinary maintenance, that the state or a municipality causes to be performed by a private party through a contract to rent, lease, or purchase at least fifty percent of the project by one or more state agencies or municipalities shall comply with chapter 39.12 RCW.

[1993 c 110 § 1.]

Notes:

Application--1993 c 110: "Section 1 of this act shall not apply to any project for which a call for competitive bids was made before July 25, 1993." [1993 c 110 § 2.]

RCW 39.04.270 Electronic data processing and telecommunications systems--Municipalities--Acquisition method--Competitive negotiation--Findings, intent.

(1) The legislature finds that the unique aspects of electronic data processing and telecommunications systems and the importance of these systems for effective administration warrant separate acquisition authority for electronic data processing and telecommunication systems. It is the intent of the legislature that municipalities utilize an acquisition method for electronic data processing and telecommunication systems that is both competitive and compatible with the needs of the municipalities.

(2) A municipality may acquire electronic data processing or telecommunication equipment, software, or services through competitive negotiation rather than through competitive bidding.

(3) "Competitive negotiation," for the purposes of this section, shall include, as a minimum, the following requirements:

(a) A request for proposal shall be prepared and submitted to an adequate number of qualified sources, as determined by the municipality in its discretion, to permit reasonable competition consistent with the requirements of the procurement. Notice of the request for the proposal must be published in a newspaper of general circulation in the municipality at least thirteen days before the last date upon which proposals will be received. The request for proposal shall identify significant evaluation factors, including price, and their relative importance.

(b) The municipality shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for awarding the contract.

(c) The award shall be made to the qualified bidder whose proposal is most advantageous to the municipality with price and other factors considered. The municipality may reject any and all proposals for good cause and request new proposals.

[1996 c 257 § 1.]

RCW 39.04.280 Competitive bidding requirements--Exemptions.

This section provides uniform exemptions to competitive bidding requirements utilized by municipalities when awarding contracts for public works and contracts for purchases. The statutes governing a specific type of municipality may also include other exemptions from

competitive bidding requirements. The purpose of this section is to supplement and not to limit the current powers of any municipality to provide exemptions from competitive bidding requirements.

(1) Competitive bidding requirements may be waived by the governing body of the municipality for:

- (a) Purchases that are clearly and legitimately limited to a single source of supply;
- (b) Purchases involving special facilities or market conditions;
- (c) Purchases in the event of an emergency;
- (d) Purchases of insurance or bonds; and
- (e) Public works in the event of an emergency.

(2)(a) The waiver of competitive bidding requirements under subsection (1) of this section may be by resolution or by the terms of written policies adopted by the municipality, at the option of the governing body of the municipality. If the governing body elects to waive competitive bidding requirements by the terms of written policies adopted by the municipality, immediately after the award of any contract, the contract and the factual basis for the exception must be recorded and open to public inspection.

If a resolution is adopted by a governing body to waive competitive bidding requirements under (b) of this subsection, the resolution must recite the factual basis for the exception. This subsection (2)(a) does not apply in the event of an emergency.

(b) If an emergency exists, the person or persons designated by the governing body of the municipality to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the municipality to address the emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the governing body or its designee and duly entered of record no later than two weeks following the award of the contract.

(3) For purposes of this section "emergency" means unforeseen circumstances beyond the control of the municipality that either: (a) Present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

[1998 c 278 § 1.]

RCW 39.04.290 Contracts for building engineering systems.

(1) A state agency or local government may award contracts of any value for the design, fabrication, and installation of building engineering systems by: (a) Using a competitive bidding process or request for proposals process where bidders are required to provide final specifications and a bid price for the design, fabrication, and installation of building engineering systems, with the final specifications being approved by an appropriate design, engineering, and/or public regulatory body; or (b) using a competitive bidding process where bidders are required to provide final specifications for the final design, fabrication, and installation of building engineering systems as part of a larger project with the final specifications for the

building engineering systems portion of the project being approved by an appropriate design, engineering, and/or public regulatory body. The provisions of chapter 39.80 RCW do not apply to the design of building engineering systems that are included as part of a contract described under this section.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Building engineering systems" means those systems where contracts for the systems customarily have been awarded with a requirement that the contractor provide final approved specifications, including fire alarm systems, building sprinkler systems, pneumatic tube systems, extensions of heating, ventilation, or air conditioning control systems, chlorination and chemical feed systems, emergency generator systems, building signage systems, pile foundations, and curtain wall systems.

(b) "Local government" means any county, city, town, school district, or other special district, municipal corporation, or quasi-municipal corporation.

(c) "State agency" means the department of general administration, the state parks and recreation commission, the department of fish and wildlife, the department of natural resources, any institution of higher education as defined under RCW 28B.10.016, and any other state agency delegated authority by the department of general administration to engage in building, renovation, remodeling, alteration, improvement, or repair activities.

[2001 c 34 § 1.]

RCW 39.04.900 Rights may not be waived--Construction--1992 c 223.

(1) The rights provided in chapter 223, Laws of 1992 may not be waived by the parties and a contract provision that provides for waiver of the rights provided in chapter 223, Laws of 1992 is void as against public policy.

(2) Chapter 223, Laws of 1992 is to be liberally construed to provide security for all parties intended to be protected by its provisions.

[1992 c 223 § 6.]

Notes:

Effective date--1992 c 223: See note following RCW 39.76.011.

Application--1992 c 223: See RCW 39.04.901.

RCW 39.04.901 Application--1992 c 223.

(1) RCW 39.76.011, 60.28.011, 60.28.021, 60.28.051, 39.04.250, and 39.04.900 are applicable to all public works contracts entered into on or after September 1, 1992, relating to the construction of any work of improvement.

(2) RCW 39.76.010, 60.28.010, 60.28.020, and 60.28.050 are applicable to all public works contracts entered into prior to September 1, 1992, relating to the construction of any work of improvement.

[1992 c 223 § 7.]

Notes:

Effective date--1992 c 223: See note following RCW 39.76.011.

Chapter 39.06 RCW
PUBLIC WORKS--REGISTRATION, LICENSING, OF CONTRACTORS

Sections

39.06.010 Contracts with unregistered or unlicensed contractors and with other violators prohibited.

RCW 39.06.010 Contracts with unregistered or unlicensed contractors and with other violators prohibited.

No agency of the state or any of its political subdivisions may execute a contract:

(1) With any contractor who is not registered or licensed as may be required by the laws of this state other than contractors on highway projects who have been prequalified as required by RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance; or

(2) For two years from the date that a violation is finally determined, with any person or entity who has been determined by the respective administering agency to have violated RCW 50.12.070(1)(b), 51.16.070(1)(b), or *82.32.070(1)(b). During this two-year period, the person or entity may not be permitted to bid, or have a bid considered, on any public works contract.

[1997 c 54 § 1; 1984 c 7 § 43; 1967 c 70 § 3.]

Notes:

***Reviser's note:** RCW 82.32.070 was amended by 1999 c 358 § 14, changing subsection (1)(b) to subsection (2).

Severability--1984 c 7: See note following RCW 47.01.141.

Construction building permits--Cities, towns or counties prohibited from issuing without verification of registration: RCW 18.27.110.

Chapter 39.08 RCW
CONTRACTOR'S BOND

Sections

39.08.010 Bond required--Conditions--Retention of contract amount in lieu of bond--Contracts of one hundred thousand dollars or less.
39.08.015 Liability for failure to take bond.
39.08.030 Conditions of bond--Notice of claim--Action on bond--Attorney's fees.
39.08.065 Notice to contractor condition to suit on bond when supplies are furnished to subcontractor.
39.08.080 Liens for labor, materials, taxes, on public works.
39.08.100 Marine vessel construction--Security in lieu of bond.

Notes:

Public officer requiring bond or insurance from particular insurer, agent or broker, procuring bond or insurance, violations: RCW 48.30.270.

RCW 39.08.010 Bond required--Conditions--Retention of contract amount in lieu of bond--Contracts of one hundred thousand dollars or less.

Whenever any board, council, commission, trustees, or body acting for the state or any county or municipality or any public body shall contract with any person or corporation to do any work for the state, county, or municipality, or other public body, city, town, or district, such board, council, commission, trustees, or body shall require the person or persons with whom such contract is made to make, execute, and deliver to such board, council, commission, trustees, or body a good and sufficient bond, with a surety company as surety, conditioned that such person or persons shall faithfully perform all the provisions of such contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, which bond in cases of cities and towns shall be filed with the clerk or comptroller thereof, and any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original contractor: PROVIDED, HOWEVER, That the provisions of RCW 39.08.010 through 39.08.030 shall not apply to any money loaned or advanced to any such contractor, subcontractor or other person in the performance of any such work: PROVIDED FURTHER, That on contracts of twenty-five thousand dollars or less, at the option of the contractor the respective public entity may, in lieu of the bond, retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later: PROVIDED FURTHER, That for contracts of one hundred thousand dollars or less, the public entity may accept a full payment and performance bond from an individual surety or sureties: AND PROVIDED FURTHER, That the surety must agree to be bound by the laws of the state of Washington and subjected to the jurisdiction of the state of Washington.

[1989 c 145 § 1; 1982 c 98 § 5; 1975 1st ex.s. c 278 § 23; 1967 c 70 § 2; 1915 c 28 § 1; 1909 c 207 § 1; RRS § 1159. Prior: 1897 c 44 § 1; 1888 p 15 § 1.]

Notes:

Construction--Severability--1975 1st ex.s. c 278: See notes following RCW 11.08.160.
Liens for labor, material, taxes on public works--Reserve fund required: RCW 60.28.010.
State highway construction and maintenance, bond and surety requirements: Chapter 47.28 RCW.

RCW 39.08.015 Liability for failure to take bond.

If any board of county commissioners of any county, or mayor and common council of any incorporated city or town, or tribunal transacting the business of any municipal corporation

shall fail to take such bond as herein required, such county, incorporated city or town, or other municipal corporation, shall be liable to the persons mentioned in RCW 39.08.010, to the full extent and for the full amount of all such debts so contracted by such contractor.

[1909 c 207 § 2; RRS § 1160. Prior: 1888 p 15 § 2. Formerly RCW 39.08.070.]

RCW 39.08.030 Conditions of bond--Notice of claim--Action on bond--Attorney's fees.

The bond mentioned in RCW 39.08.010 shall be in an amount equal to the full contract price agreed to be paid for such work or improvement, and shall be to the state of Washington, except as otherwise provided in RCW 39.08.100, and except in cases of cities and towns, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond shall run: PROVIDED, The same shall not be for a less amount than twenty-five percent of the contract price of any such improvement, and may designate that the same shall be payable to such city, and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 shall have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements: PROVIDED, That such persons shall not have any right of action on such bond for any sum whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or materialman, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, shall present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or materialman, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of dollars (here insert the amount) against the bond taken from (here insert the name of the principal and surety or sureties upon such bond) for the work of (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed)

Such notice shall be signed by the person or corporation making the claim or giving the

notice, and said notice, after being presented and filed, shall be a public record open to inspection by any person, and in any suit or action brought against such surety or sureties by any such person or corporation to recover for any of the items hereinbefore specified, the claimant shall be entitled to recover in addition to all other costs, attorney's fees in such sum as the court shall adjudge reasonable: PROVIDED, HOWEVER, That no attorney's fees shall be allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice hereinbefore mentioned: PROVIDED FURTHER, That any city may avail itself of the provisions of RCW 39.08.010 through 39.08.030, notwithstanding any charter provisions in conflict herewith: AND PROVIDED FURTHER, That any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict herewith.

[1989 c 58 § 1; 1977 ex.s. c 166 § 4; 1915 c 28 § 2; 1909 c 207 § 3; RRS § 1161. Prior: 1899 c 105 § 1; 1888 p 16 § 3. Formerly RCW 39.08.030 through 39.08.060.]

Notes:

Severability--1977 ex.s. c 166: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to the other persons or circumstances is not affected." [1977 ex.s. c 166 § 9.]

RCW 39.08.065 Notice to contractor condition to suit on bond when supplies are furnished to subcontractor.

Every person, firm or corporation furnishing materials, supplies or provisions to be used in the construction, performance, carrying on, prosecution or doing of any work for the state, or any county, city, town, district, municipality or other public body, shall, not later than ten days after the date of the first delivery of such materials, supplies or provisions to any subcontractor or agent of any person, firm or corporation having a subcontract for the construction, performance, carrying on, prosecution or doing of such work, deliver or mail to the contractor a notice in writing stating in substance and effect that such person, firm or corporation has commenced to deliver materials, supplies or provisions for use thereon, with the name of the subcontractor or agent ordering or to whom the same is furnished and that such contractor and his bond will be held for the payment of the same, and no suit or action shall be maintained in any court against the contractor or his bond to recover for such material, supplies or provisions or any part thereof unless the provisions of this section have been complied with.

[1915 c 167 § 1; RRS § 1159-1. Formerly RCW 39.08.020.]

RCW 39.08.080 Liens for labor, materials, taxes, on public works.

See chapter 60.28 RCW.

RCW 39.08.100 Marine vessel construction--Security in lieu of bond.

On contracts for construction, maintenance, or repair of a marine vessel, the department of transportation may permit, subject to specified format and conditions, the substitution of one or more of the following alternate forms of security in lieu of all or part of the bond: Certified check, replacement bond, cashier's check, treasury bills, an irrevocable bank letter of credit, assignment of a savings account, or other liquid assets specifically approved by the secretary of transportation. The secretary of transportation shall predetermine and include in the special provisions of the bid package the amount of this alternative form of security or bond, or a combination of the two, on a case-by-case basis, in an amount adequate to protect one hundred percent of the state's exposure to loss. Assets used as an alternative form of security shall not be used to secure the bond. By October 1, 1989, the department shall develop and adopt rules under chapter 34.05 RCW that establish the procedures for determining the state's exposure to loss on contracts for construction, maintenance, or repair of a marine vessel.

[1989 c 58 § 2.]

Chapter 39.10 RCW

ALTERNATIVE PUBLIC WORKS CONTRACTING PROCEDURES

Sections

39.10.010	Finding--Purpose.
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39.10.040	Baseball stadium project--Alternative procedure may be used.
39.10.051	Design-build procedure--Which public bodies may use.
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39.10.065	Demonstration projects--Contract deadline--Transfer of authority to other public body.
39.10.067	School district capital demonstration projects--Conditions.
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39.10.080	Negotiated adjustments to lowest bid or proposal--When allowed.
39.10.090	Construction of chapter--Waiver of other limits and requirements.
39.10.100	Public inspection of certain records--Protection of trade secrets.
39.10.115	School district project review board--Established--Procedures.
39.10.120	Application of chapter.
39.10.900	Captions not law--1994 c 132.
39.10.901	Severability--1994 c 132.
39.10.902	Repealer.

RCW 39.10.010 Finding--Purpose. *(Effective until July 1, 2007.)*

The legislature finds that the traditional process of awarding public works contracts in lump sum to the lowest responsible bidder is a fair and objective method of selecting a contractor. However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria. The purpose of this chapter is to authorize the use of certain supplemental alternative public works contracting procedures by state agencies and large municipalities under limited circumstances, to prescribe appropriate requirements to

ensure that such contracting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures.

[1994 c 132 § 1.]

RCW 39.10.020 Definitions. (Effective until July 1, 2007.)

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

(1) "Alternative public works contracting procedure" means the design-build and the general contractor/construction manager contracting procedures authorized in RCW 39.10.051 and 39.10.061, respectively.

(2) "Public body" means the state department of general administration; the University of Washington; Washington State University; every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than four hundred fifty thousand; every port district with total revenues greater than fifteen million dollars per year; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; and those school districts proposing projects that are considered and approved by the school district project review board under RCW 39.10.115.

(3) "Public works project" means any work for a public body within the definition of the term public work in RCW 39.04.010.

[2001 c 328 § 1; 2000 c 209 § 1; 1997 c 376 § 1; 1994 c 132 § 2.]

NOTES:

Effective date--2001 c 328: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 328 § 8.]

Effective date--1997 c 376: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 376 § 10.]

RCW 39.10.030 Public notification and review process. (Effective until July 1, 2007.)

(1) An alternative public works contracting procedure authorized under this chapter may be used for a specific public works project only after a public body determines that use of the alternative procedure will serve the public interest by providing a substantial fiscal benefit, or that use of the traditional method of awarding contracts in lump sum to the low responsive bidder is not practical for meeting desired quality standards or delivery schedules.

(2) Whenever a public body determines to use one of the alternative public works contracting procedures authorized under this chapter for a public works project, it shall first ensure adequate public notification and opportunity for public review and comment by implementing the public hearing procedure under (a) of this subsection or the written public comment procedure under (b) of this subsection.

(a) Public hearing procedure:

(i) The public body shall conduct a public hearing to receive public comment on its preliminary determination to use the alternative public works contracting procedure. At least twenty days before the public hearing, the public body shall cause notice of such hearing to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done. The notice shall clearly describe the proposed project and the preliminary determination to use the alternative public works contracting procedure. The notice shall also indicate when, where, and how persons may present their comments on the preliminary determination, and where persons may obtain additional written information describing the project.

(ii) The public body shall summarize in a written statement its reasons for using the alternative public works contracting procedure. This statement, along with other relevant information describing the project, shall be made available upon request to interested parties at least twenty days before the public hearing.

(iii) The public body shall receive and record both written and oral comments concerning the preliminary determination at the public hearing.

(b) Written public comment procedure:

(i) The public body shall establish a thirty-day public comment period to receive public comment on its preliminary determination to use the alternative public works contracting procedure. At least seven days before the beginning of the public comment period, the public body shall cause notice of the public comment period to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done. The notice shall clearly describe the proposed project and the preliminary determination to use the alternative public works contracting procedure. The notice shall also indicate when, where, and how persons may submit their written comments on the preliminary determination, where persons may obtain additional written information describing the project, and the date, time, and location of the public hearing that shall be conducted under (b)(iv) of this subsection if significant adverse written comments are received by the public body.

(ii) The public body shall summarize in a written statement its reasons for using the alternative public works contracting procedure. This statement, along with other relevant information describing the project, shall be made available upon request to interested parties at least seven days before the beginning of the public comment period.

(iii) The public body shall receive written comments concerning the preliminary determination during the public comment period.

(iv) If the public body finds that it has received significant adverse comments relating to the use of the alternative public works contracting procedure, the public body shall conduct a public hearing to receive additional oral and written public comments on its preliminary determination to use the alternative public works contracting procedure. The public hearing shall be held on the date and at the time and location specified in the public notice published under (b)(i) of this subsection. At least seven days before the public hearing, the public body shall provide notice of the hearing to each person who has submitted written comments, and cause a notice of the hearing to be published at least once in a legal newspaper of general

circulation published in or as near as possible to that part of the county in which the public work will be done.

(v) The public body shall receive and record written and oral comments concerning the preliminary determination at the public hearing.

(3) Final determinations to use an alternative public works contracting procedure may be made only by the legislative or governing authority of the public body, or, in the case of state agencies, by the agency director or chief administrative officer. Final determinations shall be accompanied by a concise statement of the principal reasons for overruling any considerations urged against the determination. Final determinations are subject to appeal to superior court within thirty days of the determination, provided that notice of such appeal shall be provided to the public body within seven days of the determination. The court may award reasonable attorneys' fees to the prevailing party.

(4) Following completion of a public works project using one of the alternative public works contracting procedures under this chapter, a report shall be submitted to the legislative or governing authority of the public body reviewing the utilization and performance of the alternative public works contracting procedure. Such report shall be made available to the public.

[1997 c 376 § 2; 1994 c 132 § 3.]

NOTES:

Effective date--1997 c 376: See note following RCW 39.10.020.

RCW 39.10.040 Baseball stadium project--Alternative procedure may be used. (Effective until July 1, 2007.)

An alternative public works contracting procedure authorized in this chapter may be used by a special agency, authority, or other district established by a county for construction of a baseball stadium provided that:

(1) The county is authorized to use the alternative public works contracting procedure under this chapter;

(2) The special agency, authority, or district complies with all the requirements of this chapter related to the alternative public works contracting procedure utilized; and

(3) The county itself complies with RCW 39.10.030 with respect to the baseball stadium project to be undertaken by the special agency, authority, or district.

[1994 c 132 § 4.]

RCW 39.10.051 Design-build procedure--Which public bodies may use. (Effective until July 1, 2007.)

(1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, the following public bodies may utilize the design-build procedure of public works contracting for public works projects authorized under this section: The state department of general administration; the University of Washington; Washington State University; every city with a population greater than seventy thousand and any public authority chartered by such city

under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than four hundred fifty thousand; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; and every port district with total revenues greater than fifteen million dollars per year. The authority granted to port districts in this section is in addition to and does not affect existing contracting authority under RCW 53.08.120 and 53.08.130. For the purposes of this section, "design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.

(2) Public bodies authorized under this section may utilize the design-build procedure for public works projects valued over twelve million dollars where:

(a) The construction activities or technologies to be used are highly specialized and a design-build approach is critical in developing the construction methodology or implementing the proposed technology; or

(b) The project design is repetitive in nature and is an incidental part of the installation or construction; or

(c) Regular interaction with and feedback from facilities users and operators during design is not critical to an effective facility design.

(3) Public bodies authorized under this section may also use the design-build procedure for the following projects that meet the criteria in subsection (2)(b) and (c) of this section:

(a) The construction or erection of preengineered metal buildings or prefabricated modular buildings, regardless of cost; or

(b) The construction of new student housing projects valued over five million dollars.

(4) Contracts for design-build services shall be awarded through a competitive process utilizing public solicitation of proposals for design-build services. The public body shall publish at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done, a notice of its request for proposals for design-build services and the availability and location of the request for proposal documents. The request for proposal documents shall include:

(a) A detailed description of the project including programmatic, performance, and technical requirements and specifications, functional and operational elements, minimum and maximum net and gross areas of any building, and, at the discretion of the public body, preliminary engineering and architectural drawings;

(b) The reasons for using the design-build procedure;

(c) A description of the qualifications to be required of the proposer including, but not limited to, submission of the proposer's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. Evaluation factors shall include, but not be limited to: Proposal price; ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected work loads of the firm; location; and the concept of the proposal;

- (e) The form of the contract to be awarded;
- (f) The amount to be paid to finalists submitting best and final proposals who are not awarded a design-build contract; and
- (g) Other information relevant to the project.

(5) The public body shall establish a committee to evaluate the proposals based on the factors, weighting, and process identified in the request for proposals. Based on its evaluation, the public body shall select not fewer than three nor more than five finalists to submit best and final proposals. The public body may, in its sole discretion, reject all proposals. Design-build contracts shall be awarded using the procedures in (a) or (b) of this subsection.

(a) Best and final proposals shall be evaluated and scored based on the factors, weighting, and process identified in the initial request for proposals. The public body may score the proposals using a system that measures the quality and technical merits of the proposal on a unit price basis. Final proposals may not be considered if the proposal cost is greater than the maximum allowable construction cost identified in the initial request for proposals. The public body shall initiate negotiations with the firm submitting the highest scored best and final proposal. If the public body is unable to execute a contract with the firm submitting the highest scored best and final proposal, negotiations with that firm may be suspended or terminated and the public body may proceed to negotiate with the next highest scored firm. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

(b) If the public body determines that all finalists are capable of producing plans and specifications that adequately meet project requirements, the public body may award the contract to the firm that submits the responsive best and final proposal with the lowest price.

(6) The firm awarded the contract shall provide a performance and payment bond for the contracted amount. The public body shall provide appropriate honorarium payments to finalists submitting best and final proposals who are not awarded a design-build contract. Honorarium payments shall be sufficient to generate meaningful competition among potential proposers on design-build projects.

[2001 c 328 § 2.]

NOTES:

Effective date--2001 c 328: See note following RCW 39.10.020.

RCW 39.10.061 General contractor/construction manager procedure--Limitations.
(Effective until July 1, 2007.)

(1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, a public body may utilize the general contractor/construction manager procedure of public works contracting for public works projects authorized under subsection (2) of this section. For the purposes of this section, "general contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to be guaranteed by the firm, after competitive selection through formal advertisement and competitive bids, to provide services during the design phase that may include life-cycle cost

design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase.

(2) Except those school districts proposing projects that are considered and approved by the school district project review board, public bodies authorized under this section may utilize the general contractor/construction manager procedure for public works projects valued over twelve million dollars where:

(a) Implementation of the project involves complex scheduling requirements; or

(b) The project involves construction at an existing facility which must continue to operate during construction; or

(c) The involvement of the general contractor/construction manager during the design stage is critical to the success of the project.

(3) Public bodies should select general contractor/construction managers early in the life of public works projects, and in most situations no later than the completion of schematic design.

(4) Contracts for the services of a general contractor/construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. The public solicitation of proposals shall include: A description of the project, including programmatic, performance, and technical requirements and specifications when available; the reasons for using the general contractor/construction manager procedure; a description of the qualifications to be required of the proposer, including submission of the proposer's accident prevention program; a description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors; the form of the contract to be awarded; the estimated maximum allowable construction cost; and the bid instructions to be used by the general contractor/construction manager finalists. Evaluation factors shall include, but not be limited to: Ability of professional personnel, past performance in negotiated and complex projects, and ability to meet time and budget requirements; the scope of work the general contractor/construction manager proposes to self-perform and its ability to perform it; location; recent, current, and projected work loads of the firm; and the concept of their proposal. A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, these finalists shall submit final proposals, including sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public solicitation of proposals.

(5) The maximum allowable construction cost may be negotiated between the public body and the selected firm after the scope of the project is adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the

public body is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the public body determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the public body shall negotiate with the next highest scored firm and continue until an agreement is reached or the process is terminated. If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the public body, the percent fee shall be renegotiated.

(6) All subcontract work shall be competitively bid with public bid openings. When critical to the successful completion of a subcontractor bid package and after publication of notice of intent to determine bidder eligibility in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done at least twenty days before requesting qualifications from interested subcontract bidders, the owner and general contractor/construction manager may determine subcontractor bidding eligibility using the following evaluation criteria:

- (a) Adequate financial resources or the ability to secure such resources;
- (b) History of successful completion of a contract of similar type and scope;
- (c) Project management and project supervision personnel with experience on similar projects and the availability of such personnel for the project;
- (d) Current and projected workload and the impact the project will have on the subcontractor's current and projected workload;
- (e) Ability to accurately estimate the subcontract bid package scope of work;
- (f) Ability to meet subcontract bid package shop drawing and other coordination procedures;
- (g) Eligibility to receive an award under applicable laws and regulations; and
- (h) Ability to meet subcontract bid package scheduling requirements.

The owner and general contractor/construction manager shall weigh the evaluation criteria and determine a minimum acceptable score to be considered an eligible subcontract bidder.

After publication of notice of intent to determine bidder eligibility, subcontractors requesting eligibility shall be provided the evaluation criteria and weighting to be used by the owner and general contractor/construction manager to determine eligible subcontract bidders. After the owner and general contractor/construction manager determine eligible subcontract bidders, subcontractors requesting eligibility shall be provided the results and scoring of the subcontract bidder eligibility determination.

Subcontract bid packages shall be awarded to the responsible bidder submitting the low responsive bid. The requirements of RCW 39.30.060 apply to each subcontract bid package. All subcontractors who bid work over three hundred thousand dollars shall post a bid bond and all subcontractors who are awarded a contract over three hundred thousand dollars shall provide a performance and payment bond for their contract amount. All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. Except as provided

for under subsection (7) of this section, bidding on subcontract work by the general contractor/construction manager or its subsidiaries is prohibited. The general contractor/construction manager may negotiate with the low-responsive bidder in accordance with RCW 39.10.080 or, if unsuccessful in such negotiations, rebid.

(7) The general contractor/construction manager, or its subsidiaries, may bid on subcontract work if:

(a) The work within the subcontract bid package is customarily performed by the general contractor/construction manager;

(b) The bid opening is managed by the public body; and

(c) Notification of the general contractor/construction manager's intention to bid is included in the public solicitation of bids for the bid package.

In no event may the value of subcontract work performed by the general contractor/construction manager exceed thirty percent of the negotiated maximum allowable construction cost.

(8) A public body may include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted may exceed five percent of the maximum allowable construction cost. If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the public body. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the public body, the additional cost shall be the responsibility of the general contractor/construction manager.

[2001 c 328 § 3.]

NOTES:

Effective date--2001 c 328: See note following RCW 39.10.020.

RCW 39.10.065 Demonstration projects--Contract deadline--Transfer of authority to other public body. (Effective until July 1, 2007.)

(1) In addition to the projects authorized in *RCW 39.10.050 and 39.10.060, public bodies may use the general contractor/construction manager or design-build procedure for demonstration projects valued between three million dollars and ten million dollars as follows:

(a) Three demonstration projects by the department of general administration; and

(b) One demonstration project by each of the public bodies authorized in RCW 39.10.020(2) other than the department of general administration.

(2) Public bodies shall give weight to proposers' experience working on projects valued between three million dollars and ten million dollars in the evaluation process for the selection of a general contractor/construction manager or design-build firm for demonstration projects authorized in subsection (1) of this section.

(3) Cities which supply water to over three hundred fifty thousand people may use the design-build procedure for one water system demonstration project valued over ten million dollars. Use of the design-build procedure shall be deemed to effect compliance with the

requirement for competitive bids under RCW 43.155.060.

(4) All contracts authorized under this section must be entered into before July 1, 1999.

(5) In the event that a public body determines not to perform a demonstration project using its authority under this section, it may transfer its authority to another public body.

[1997 c 376 § 5.]

NOTES:

***Reviser's note:** RCW 39.10.050 and 39.10.060 were repealed by 2001 c 328 § 7.

Effective date--1997 c 376: See note following RCW 39.10.020.

RCW 39.10.067 School district capital demonstration projects--Conditions. (Effective until July 1, 2007.)

In addition to the projects authorized in *RCW 39.10.060, public bodies may also use the general contractor/construction manager contracting procedure for the construction of school district capital demonstration projects, subject to the following conditions:

(1) The project must receive approval from the school district project review board established under RCW 39.10.115.

(2) The school district project review board may not authorize more than two demonstration projects valued over ten million dollars and two demonstration projects valued between five and ten million dollars.

(3) The school district project review board may not approve more than one demonstration project under this section for each school district.

[2000 c 209 § 3.]

NOTES:

***Reviser's note:** RCW 39.10.060 was repealed by 2001 c 328 § 7.

RCW 39.10.070 Project management and contracting requirements. (Effective until July 1, 2007.)

(1) A public body utilizing the alternative public works contracting procedures authorized under *RCW 39.10.050 and 39.10.060 shall provide for:

(a) The preparation of appropriate, complete, and coordinated design documents consistent with the procedure utilized;

(b) To the extent appropriate, an independent review of the contract documents through value engineering or constructability studies prior to bid or proposal solicitation;

(c) Reasonable budget contingencies totaling not less than five percent of the anticipated contract value;

(d) To the extent appropriate, on-site architectural or engineering representatives during major construction or installation phases;

(e) Employment of staff or consultants with expertise and prior experience in the management of comparable projects; and

(f) Contract documents that include alternative dispute resolution procedures to be attempted prior to the initiation of litigation.

(2) A public body utilizing the alternative public works contracting procedures under *RCW 39.10.050 and 39.10.060 may provide incentive payments to contractors for early completion, cost savings, or other goals if such payments are identified in the request for proposals.

[1994 c 132 § 7.]

NOTES:

***Reviser's note:** RCW 39.10.050 and 39.10.060 were repealed by 2001 c 328 § 7.

RCW 39.10.080 Negotiated adjustments to lowest bid or proposal--When allowed.
(Effective until July 1, 2007.)

Notwithstanding the provisions of RCW 39.04.015, a public body is authorized to negotiate an adjustment to the lowest bid or proposal price for a public works project awarded under *RCW 39.10.050 and 39.10.060 based upon agreed changes to the contract plans and specifications under the following conditions:

(1) All responsive bids or proposal prices exceed the available funds, as certified by an appropriate fiscal officer;

(2) The apparent low-responsive bid or proposal does not exceed the available funds by the greater of one hundred twenty-five thousand dollars or two percent for projects valued over ten million dollars; and

(3) The negotiated adjustment will bring the bid or proposal price within the amount of available funds.

[1994 c 132 § 8.]

NOTES:

***Reviser's note:** RCW 39.10.050 and 39.10.060 were repealed by 2001 c 328 § 7.

RCW 39.10.090 Construction of chapter--Waiver of other limits and requirements.
(Effective until July 1, 2007.)

This chapter shall not be construed to affect or modify the existing statutory, regulatory, or charter powers of public bodies except to the extent that a procedure authorized by this chapter is adopted by a public body for a particular public works project. In that event, the normal contracting or procurement limits or requirements of a public body as imposed by statute, ordinance, resolution, or regulation shall be deemed waived or amended only to the extent necessary to accommodate such procedures for a particular public works project.

[1994 c 132 § 9.]

RCW 39.10.100 Public inspection of certain records--Protection of trade secrets.
(Effective until July 1, 2007.)

(1) Except as provided in subsection (2) of this section, all proceedings, records, contracts, and other public records relating to alternative public works transactions under this chapter shall be open to the inspection of any interested person, firm, or corporation in accordance with chapter 42.17 RCW.

(2) Trade secrets, as defined in RCW 19.108.010, or other proprietary information submitted by a bidder, offeror, or contractor in connection with an alternative public works transaction under this chapter shall not be subject to chapter 42.17 RCW if the bidder, offeror, or contractor specifically states in writing the reasons why protection is necessary, and identifies the data or materials to be protected.

[1994 c 132 § 10.]

RCW 39.10.115 School district project review board--Established--Procedures.
(Effective until July 1, 2007.)

(1) The school district project review board is established to review school district proposals submitted by school districts to use alternative public works contracting procedures. The board shall select and approve qualified projects based upon an evaluation of the information submitted by the school district under subsection (2) of this section. After July 1, 2001, any appointments for full terms or to fill a vacancy shall be made by the governor and shall include the following representatives, each having experience with public works or commercial construction: One representative from the office of the superintendent of public instruction; one representative from the office of financial management; two representatives from the construction industry, one of whom works for a construction company with gross annual revenues of twenty million dollars or less; one representative from the specialty contracting industry; one representative from organized labor; one representative from the design industry; one representative from a public body previously authorized under this chapter to use an alternative public works contracting procedure who has experience using such alternative contracting procedures; one representative from school districts with ten thousand or more annual average full-time equivalent pupils; and one representative from school districts with fewer than ten thousand average full-time equivalent pupils. Each member shall be appointed for a term of three years, with the first three-year term commencing after June 8, 2000. Any member of the school district project review board who is directly affiliated with any applicant before the board must recuse him or herself from consideration of the application.

(2) A school district seeking to use alternative contracting procedures authorized under this chapter shall file an application with the school district project review board. The application form shall require the district to submit a detailed statement of the proposed project, including the school district's name; student population based upon October full-time equivalents; the current projected total budget for the project, including the estimated construction costs, costs for professional services, equipment and furnishing costs, off-site costs, contract administration costs, and other related project costs; the anticipated project design and construction schedule; a summary of the school district's construction activity for the preceding six years; and an explanation of why the school district believes the use of an alternative contracting procedure is in the public interest and why the school district is qualified to use an alternative contracting procedure, including a summary of the relevant experience of the school district's management team. The applicant shall also provide in a timely manner any other information concerning implementation of projects under this chapter requested by the school district project review board to assist in its consideration.

(3) Any school district whose application is approved by the school district project review board shall comply with the public notification and review requirements in RCW 39.10.030.

(4) Any school district whose application is approved by the school district project review board shall not use as an evaluation factor whether a contractor submitting a bid for the approved project has had prior general contractor/construction manager procedure experience.

[2001 c 328 § 4; 2000 c 209 § 4.]

NOTES:

Effective date--2001 c 328: See note following RCW 39.10.020.

RCW 39.10.120 Application of chapter.

(1) Except as provided in subsections (2) and (3) of this section, the alternative public works contracting procedures authorized under this chapter are limited to public works contracts signed before July 1, 2007. Methods of public works contracting authorized by RCW *39.10.050 and 39.10.060 or 39.10.051 and 39.10.061 shall remain in full force and effect until completion of contracts signed before July 1, 2007.

(2) For the purposes of a baseball stadium as defined in RCW 82.14.0485, the design-build contracting procedures under *RCW 39.10.050 shall remain in full force and effect until completion of contracts signed before December 31, 1997.

(3) For the purposes of a stadium and exhibition center, as defined in RCW 36.102.010, the design-build contracting procedures under RCW *39.10.050 or 39.10.051 shall remain in full force and effect until completion of contracts signed before December 31, 2002.

(4) A public authority chartered by a city that is a public body may utilize an alternative public works contracting procedure under this chapter only after receiving specific authorization on a project-by-project basis from the governing body of the city. For purposes of public authorities authorized to use alternative public works contracting procedures under this chapter, the city chartering any such public authority shall itself comply with RCW 39.10.030 on behalf of the public authority.

[2001 c 328 § 5. Prior: 1997 c 376 § 7; 1997 c 220 § 404 (Referendum Bill No. 48, approved June 17, 1997); 1995 3rd sp.s. c 1 § 305; 1994 c 132 § 12.]

NOTES:

***Reviser's note:** RCW 39.10.050 and 39.10.060 were repealed by 2001 c 328 § 7.

Effective date--2001 c 328: See note following RCW 39.10.020.

Effective date--1997 c 376: See note following RCW 39.10.020.

Referendum--Other legislation limited--Legislators' personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements--1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law--Severability--1997 c 220: See RCW 36.102.900 and 36.102.901.

Part headings not law--Effective date--1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

Demonstration projects under RCW 39.10.065 limited to contracts entered into before July 1, 1999: See RCW 39.10.065(4).

RCW 39.10.900 Captions not law--1994 c 132. (Effective until July 1, 2007.)

Captions as used in this act do not constitute any part of law.

[1994 c 132 § 13.]

RCW 39.10.901 Severability--1994 c 132. (Effective until July 1, 2007.)

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

[1994 c 132 § 14.]

RCW 39.10.902 Repealer.

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2007:

- (1) RCW 39.10.010 and 1994 c 132 § 1;
- (2) RCW 39.10.020 and 2001 c 328 § 1, 2000 c 209 § 1, 1997 c 376 § 1, & 1994 c 132 § 2;
- (3) RCW 39.10.030 and 1997 c 376 § 2 & 1994 c 132 § 3;
- (4) RCW 39.10.040 and 1994 c 132 § 4;
- (5) RCW 39.10.051 and 2001 c 328 § 2;
- (6) RCW 39.10.061 and 2001 c 328 § 3;
- (7) RCW 39.10.065 and 1997 c 376 § 5;
- (8) RCW 39.10.067 and 2000 c 209 § 3;
- (9) RCW 39.10.070 and 1994 c 132 § 7;
- (10) RCW 39.10.080 and 1994 c 132 § 8;
- (11) RCW 39.10.090 and 1994 c 132 § 9;
- (12) RCW 39.10.100 and 1994 c 132 § 10;
- (13) RCW 39.10.115 and 2001 c 328 § 4 & 2000 c 209 § 4;
- (14) RCW 39.10.900 and 1994 c 132 § 13; and
- (15) RCW 39.10.901 and 1994 c 132 § 14.

[2001 c 328 § 6; 1997 c 376 § 8; 1995 3rd sp.s. c 1 § 306; 1994 c 132 § 15.]

NOTES:

Effective date--2001 c 328: See note following RCW 39.10.020.

Effective date--1997 c 376: See note following RCW 39.10.020.

Part headings not law--Effective date--1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

**Chapter 39.12 RCW
PREVAILING WAGES ON PUBLIC WORKS**

Sections

- | | |
|-----------|---|
| 39.12.010 | Definitions. |
| 39.12.015 | Industrial statistician to make determinations of prevailing rate. |
| 39.12.020 | Prevailing rate to be paid on public works and under public building service maintenance contracts--Posting of statement of intent. |

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39.12.021	Prevailing rate to be paid on public works--Apprentice workers.
39.12.022	Vocationally handicapped--Exemption from RCW 39.12.020--Procedure.
39.12.030	Contract specifications must state minimum hourly rate--Stipulation for payment.
39.12.040	Statement of intent to pay prevailing wages, affidavit of wages paid--Duty of public agencies to require--Approval--Prerequisite to payment--Alternative procedure.
39.12.042	Compliance with RCW 39.12.040--Liability of public agencies to workers, laborers, or mechanics.
39.12.050	False statement or failure to file--Penalty--Unpaid wages lien against bond and retainage--Prohibitions on bidding on future contracts--Hearing.
39.12.060	Director of labor and industries to arbitrate disputes.
39.12.065	Investigation of complaints--Hearing--Remedies--Penalties.
39.12.070	Fees authorized for approvals, certifications, and arbitrations.
39.12.080	Public works administration account--Created.
39.12.900	Severability--1945 c 63.

Notes:

Enforcement of wage claims: RCW 49.48.040.

Hours of labor on public works: Chapter 49.28 RCW.

Workers' compensation applicable to public works contracts: RCW 51.12.050, 51.12.070.

RCW 39.12.010 Definitions.

(1) The "prevailing rate of wage", for the intents and purposes of this chapter, shall be the rate of hourly wage, usual benefits, and overtime paid in the locality, as hereinafter defined, to the majority of workers, laborers, or mechanics, in the same trade or occupation. In the event that there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workers, or mechanics in the same trade or occupation shall be the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workers, or mechanics on any public work is based on some period of time other than an hour, the hourly wage for the purposes of this chapter shall be mathematically determined by the number of hours worked in such period of time.

(2) The "locality" for the purposes of this chapter shall be the largest city in the county wherein the physical work is being performed.

(3) The "usual benefits" for the purposes of this chapter shall include the amount of:

(a) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(b) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workers, laborers, and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workers, laborers, and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe

benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of such benefits.

(4) An "interested party" for the purposes of this chapter shall include a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, and the director of labor and industries or the director's designee.

[1989 c 12 § 6; 1985 c 15 § 1; 1965 ex.s. c 133 § 1; 1945 c 63 § 3; Rem. Supp. 1945 § 10322-22.]

Notes:

Severability--1985 c 15: See note following RCW 39.12.065.

RCW 39.12.015 Industrial statistician to make determinations of prevailing rate.

All determinations of the prevailing rate of wage shall be made by the industrial statistician of the department of labor and industries.

[1965 ex.s. c 133 § 2.]

RCW 39.12.020 Prevailing rate to be paid on public works and under public building service maintenance contracts--Posting of statement of intent.

The hourly wages to be paid to laborers, workers, or mechanics, upon all public works and under all public building service maintenance contracts of the state or any county, municipality or political subdivision created by its laws, shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the state where such labor is performed. For a contract in excess of ten thousand dollars, a contractor required to pay the prevailing rate of wage shall post in a location readily visible to workers at the job site: PROVIDED, That on road construction, sewer line, pipeline, transmission line, street, or alley improvement projects for which no field office is needed or established, a contractor may post the prevailing rate of wage statement at the contractor's local office, gravel crushing, concrete, or asphalt batch plant as long as the contractor provides a copy of the wage statement to any employee on request:

(1) A copy of a statement of intent to pay prevailing wages approved by the industrial statistician of the department of labor and industries under RCW 39.12.040; and

(2) The address and telephone number of the industrial statistician of the department of labor and industries where a complaint or inquiry concerning prevailing wages may be made.

This chapter shall not apply to workers or other persons regularly employed on monthly or per diem salary by the state, or any county, municipality, or political subdivision created by its laws.

[1989 c 12 § 7; 1982 c 130 § 1; 1981 c 46 § 1; 1967 ex.s. c 14 § 1; 1945 c 63 § 1; Rem. Supp. 1945 § 10322-20.]

RCW 39.12.021 Prevailing rate to be paid on public works--Apprentice workers.

Apprentice workers employed upon public works projects for whom an apprenticeship agreement has been registered and approved with the state apprenticeship council pursuant to chapter 49.04 RCW, must be paid at least the prevailing hourly rate for an apprentice of that trade. Any worker for whom an apprenticeship agreement has not been registered and approved by the state apprenticeship council shall be considered to be a fully qualified journey level worker, and, therefore, shall be paid at the prevailing hourly rate for journey level workers.

[1989 c 12 § 8; 1963 c 93 § 1.]

**RCW 39.12.022 Vocationally handicapped--Exemption from RCW
39.12.020--Procedure.**

The director of the department of labor and industries, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations provide for the employment of individuals whose earning capacity is impaired by physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the prevailing rate applicable under RCW 39.12.020 and for such period as shall be fixed in such certificates.

[1972 ex.s. c 91 § 1.]

**RCW 39.12.030 Contract specifications must state minimum hourly rate--Stipulation
for payment.**

The specifications for every contract for the construction, reconstruction, maintenance or repair of any public work to which the state or any county, municipality, or political subdivision created by its laws is a party, shall contain a provision stating the hourly minimum rate of wage, not less than the prevailing rate of wage, which may be paid to laborers, workers, or mechanics in each trade or occupation required for such public work employed in the performance of the contract either by the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract, and the contract shall contain a stipulation that such laborers, workers, or mechanics shall be paid not less than such specified hourly minimum rate of wage.

[1989 c 12 § 9; 1945 c 63 § 2; Rem. Supp. 1945 § 10322-21.]

**RCW 39.12.040 Statement of intent to pay prevailing wages, affidavit of wages
paid--Duty of public agencies to require--Approval--Prerequisite to payment--Alternative
procedure.**

(1) Except as provided in subsection (2) of this section, before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it shall be the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and

each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages shall include:

- (a) The contractor's registration certificate number; and
- (b) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to said officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it shall be the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.010 are released to the contractor. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to said officer.

(2) As an alternate to the procedures provided for in subsection (1) of this section, for public works projects of two thousand five hundred dollars or less:

(a) An awarding agency may authorize the contractor or subcontractor to submit the statement of intent to pay prevailing wages directly to the officer or person charged with the custody or disbursement of public funds in the awarding agency without approval by the industrial statistician of the department of labor and industries. The awarding agency shall retain such statement of intent to pay prevailing wages for a period of not less than three years.

(b) Upon final acceptance of the public works project, the awarding agency shall require the contractor or subcontractor to submit an affidavit of wages paid. Upon receipt of the affidavit of wages paid, the awarding agency may pay the contractor or subcontractor in full, including funds that would otherwise be retained according to the provisions of RCW 60.28.010. Within thirty days of receipt of the affidavit of wages paid, the awarding agency shall submit the affidavit of wages paid to the industrial statistician of the department of labor and industries for approval.

(c) A statement of intent to pay prevailing wages and an affidavit of wages paid shall be on forms approved by the department of labor and industries.

(d) In the event of a wage claim and a finding for the claimant by the department of labor and industries where the awarding agency has used the alternative process provided for in subsection (2) of this section, the awarding agency shall pay the wages due directly to the claimant. If the contractor or subcontractor did not pay the wages stated in the affidavit of wages paid, the awarding agency may take action at law to seek reimbursement from the contractor or subcontractor of wages paid to the claimant, and may prohibit the contractor or subcontractor from bidding on any public works contract of the awarding agency for up to one year.

(e) Nothing in this section shall be interpreted to allow an awarding agency to subdivide

any public works project of more than two thousand five hundred dollars for the purpose of circumventing the procedures required by RCW 39.12.040(1).

[1991 c 15 § 1; 1982 c 130 § 2; 1981 c 46 § 2; 1975-'76 2nd ex.s. c 49 § 1; 1965 ex.s. c 133 § 3; 1945 c 63 § 4; Rem. Supp. 1945 § 10322-23.]

RCW 39.12.042 Compliance with RCW 39.12.040--Liability of public agencies to workers, laborers, or mechanics.

If any agency of the state, or any county, municipality, or political subdivision created by its laws shall knowingly fail to comply with the provisions of RCW 39.12.040 as now or hereafter amended, such agency of the state, or county, municipality, or political subdivision created by its laws, shall be liable to all workers, laborers, or mechanics to the full extent and for the full amount of wages due, pursuant to the prevailing wage requirements of RCW 39.12.020.

[1993 c 404 § 3; 1989 c 12 § 11; 1975-'76 2nd ex.s. c 49 § 2.]

Notes:

Effective date--1993 c 404: See note following RCW 39.12.070.

RCW 39.12.050 False statement or failure to file--Penalty--Unpaid wages lien against bond and retainage--Prohibitions on bidding on future contracts--Hearing.

(1) Any contractor or subcontractor who files a false statement or fails to file any statement or record required to be filed under this chapter and the rules adopted under this chapter, shall, after a determination to that effect has been issued by the director after hearing under chapter 34.05 RCW, forfeit as a civil penalty the sum of five hundred dollars for each false filing or failure to file, and shall not be permitted to bid, or have a bid considered, on any public works contract until the penalty has been paid in full to the director. The civil penalty under this subsection shall not apply to a violation determined by the director to be an inadvertent filing or reporting error. Civil penalties shall be deposited in the public works administration account.

To the extent that a contractor or subcontractor has not paid wages at the rate due pursuant to RCW 39.12.020, and a finding to that effect has been made as provided by this subsection, such unpaid wages shall constitute a lien against the bonds and retainage as provided in RCW 18.27.040, 19.28.041, 39.08.010, and 60.28.010.

(2) If a contractor or subcontractor is found to have violated the provisions of subsection (1) of this section for a second time within a five year period, the contractor or subcontractor shall be subject to the sanctions prescribed in subsection (1) of this section and shall not be allowed to bid on any public works contract for one year. The one year period shall run from the date of notice by the director of the determination of noncompliance. When an appeal is taken from the director's determination, the one year period shall commence from the date of the final determination of the appeal.

The director shall issue his or her findings that a contractor or subcontractor has violated the provisions of this subsection after a hearing held subject to the provisions of chapter 34.05 RCW.

[2001 c 219 § 1; 1985 c 15 § 3; 1977 ex.s. c 71 § 1; 1973 c 120 § 1; 1945 c 63 § 5; Rem. Supp. 1945 § 10322-24.]

NOTES:

Severability--1985 c 15: See note following RCW 39.12.065.

RCW 39.12.060 Director of labor and industries to arbitrate disputes.

Such contract shall contain a further provision that in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the department of labor and industries of the state and his or her decision therein shall be final and conclusive and binding on all parties involved in the dispute.

[1989 c 12 § 10; 1965 ex.s. c 133 § 4; 1945 c 63 § 6; Rem. Supp. 1945 § 10322-25.]

Notes:

Arbitration: Chapters 7.04 and 49.08 RCW.

RCW 39.12.065 Investigation of complaints--Hearing--Remedies--Penalties.

(1) Upon complaint by an interested party, the director of labor and industries shall cause an investigation to be made to determine whether there has been compliance with this chapter and the rules adopted hereunder, and if the investigation indicates that a violation may have occurred, a hearing shall be held in accordance with chapter 34.05 RCW. The director shall issue a written determination including his or her findings after the hearing. A judicial appeal from the director's determination may be taken in accordance with chapter 34.05 RCW, with the prevailing party entitled to recover reasonable costs and attorneys fees.

A complaint concerning nonpayment of the prevailing rate of wage shall be filed with the department of labor and industries no later than thirty days from the acceptance date of the public works project. The failure to timely file such a complaint shall not prohibit a claimant from pursuing a private right of action against a contractor or subcontractor for unpaid prevailing wages. The remedy provided by this section is not exclusive and is concurrent with any other remedy provided by law.

(2) To the extent that a contractor or subcontractor has not paid the prevailing rate of wage under a determination issued as provided in subsection (1) of this section, the director shall notify the agency awarding the public works contract of the amount of the violation found, and the awarding agency shall withhold, or in the case of a bond, the director shall proceed against the bond in accordance with the applicable statute to recover, such amount from the following sources in the following order of priority until the total of such amount is withheld:

- (a) The retainage or bond in lieu of retainage as provided in RCW 60.28.010;
- (b) If the claimant was employed by the contractor or subcontractor on the public works project, the bond filed by the contractor or subcontractor with the department of labor and industries as provided in RCW 18.27.040 and 19.28.041;
- (c) A surety bond, or at the contractor's or subcontractor's option an escrow account,

running to the director in the amount of the violation found; and

(d) That portion of the progress payments which is properly allocable to the contractor or subcontractor who is found to be in violation of this chapter. Under no circumstances shall any portion of the progress payments be withheld that are properly allocable to a contractor, subcontractor, or supplier, that is not found to be in violation of this chapter.

The amount withheld shall be released to the director to distribute in accordance with the director's determination.

(3) A contractor or subcontractor that is found, in accordance with subsection (1) of this section, to have violated the requirement to pay the prevailing rate of wage shall be subject to a civil penalty of not less than one thousand dollars or an amount equal to twenty percent of the total prevailing wage violation found on the contract, whichever is greater, and shall not be permitted to bid, or have a bid considered, on any public works contract until such civil penalty has been paid in full to the director. If a contractor or subcontractor is found to have participated in a violation of the requirement to pay the prevailing rate of wage for a second time within a five-year period, the contractor or subcontractor shall be subject to the sanctions prescribed in this subsection and as an additional sanction shall not be allowed to bid on any public works contract for two years. Civil penalties shall be deposited in the public works administration account. If a previous or subsequent violation of a requirement to pay a prevailing rate of wage under federal or other state law is found against the contractor or subcontractor within five years from a violation under this section, the contractor or subcontractor shall not be allowed to bid on any public works contract for two years. A contractor or subcontractor shall not be barred from bidding on any public works contract if the contractor or subcontractor relied upon written information from the department to pay a prevailing rate of wage that is later determined to be in violation of this chapter. The civil penalty and sanctions under this subsection shall not apply to a violation determined by the director to be an inadvertent filing or reporting error. To the extent that a contractor or subcontractor has not paid the prevailing wage rate under a determination issued as provided in subsection (1) of this section, the unpaid wages shall constitute a lien against the bonds and retainage as provided herein and in RCW 18.27.040, 19.28.041, 39.08.010, and 60.28.010.

[2001 c 219 § 2; 1994 c 88 § 1; 1985 c 15 § 2.]

NOTES:

Severability--1985 c 15: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 15 § 4.]

RCW 39.12.070 Fees authorized for approvals, certifications, and arbitrations.

The department of labor and industries may charge fees to awarding agencies on public works for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid. The department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The amount of the fees shall be established by rules adopted by the department under the procedures in the administrative procedure act, chapter 34.05 RCW. The fees shall apply to all approvals, certifications, and

arbitration requests made after the effective date of the rules. All fees shall be deposited in the public works administration account. On the fifteenth day of the first month of each quarterly period, an amount equalling thirty percent of the revenues received into the public works administration account shall be transferred into the general fund. The department may refuse to arbitrate for contractors, subcontractors, persons, or organizations which have not paid the proper fees. The department may, if necessary, request the attorney general to take legal action to collect delinquent fees.

The department shall set the fees permitted by this section at a level that generates revenue that is as near as practicable to the amount of the appropriation to administer this chapter, including, but not limited to, the performance of adequate wage surveys, and to investigate and enforce all alleged violations of this chapter, including, but not limited to, incorrect statements of intent to pay prevailing wage, incorrect certificates of affidavits of wages paid, and wage claims, as provided for in this chapter and chapters 49.48 and 49.52 RCW. However, the fees charged for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid shall be no greater than twenty-five dollars.

[1993 c 404 § 1; 1982 1st ex.s. c 38 § 1.]

Notes:

Effective date--1993 c 404: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 404 § 4.]

RCW 39.12.080 Public works administration account--Created.

The public works administration account is created in the state treasury. The department of labor and industries shall deposit in the account all moneys received from fees or civil penalties collected under RCW 39.12.050, 39.12.065, and 39.12.070. Appropriations from the account, not including moneys transferred to the general fund pursuant to RCW 39.12.070, may be made only for the purposes of administration of this chapter, including, but not limited to, the performance of adequate wage surveys, and for the investigation and enforcement of all alleged violations of this chapter as provided for in this chapter and chapters 49.48 and 49.52 RCW.

[2001 c 219 § 3; 1993 c 404 § 2.]

NOTES:

Effective date--1993 c 404: See note following RCW 39.12.070.

RCW 39.12.900 Severability--1945 c 63.

If any section or provision of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

[1945 c 63 § 7.]

Chapter 39.19 RCW
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

Sections

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39.19.921	Severability--1987 c 328.

Notes:

Minority and women business development office: RCW 43.31.0925.

RCW 39.19.010 Intent.

The legislature finds that minority and women-owned businesses are significantly under-represented and have been denied equitable competitive opportunities in contracting. It is the intent of this chapter to mitigate societal discrimination and other factors in participating in public works and in providing goods and services and to delineate a policy that an increased level of participation by minority and women-owned and controlled businesses is desirable at all levels of state government. The purpose and intent of this chapter are to provide the maximum practicable opportunity for increased participation by minority and women-owned and controlled businesses in participating in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector.

[1987 c 328 § 1; 1983 c 120 § 1.]

RCW 39.19.020 Definitions.

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

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Broker" means a person that provides a bona fide service, such as professional, technical, consultant, brokerage, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of a contract.

(3) "Director" means the director of the office of minority and women's business enterprises.

(4) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(5) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume, for participation by minority and women-owned and controlled businesses and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. It is the intent of this chapter that such overall agency goals shall be achievable and shall be met on a contract-by-contract or class-of-contract basis.

(6) "Goods and/or services" includes professional services and all other goods and services.

(7) "Office" means the office of minority and women's business enterprises.

(8) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

(9) "Procurement" means the purchase, lease, or rental of any goods or services.

(10) "Public works" means all work, construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

(11) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions.

[1996 c 69 § 4; 1987 c 328 § 2; 1983 c 120 § 2.]

Notes:

Intent--1996 c 69: See note following RCW 39.19.030.

RCW 39.19.030 Office of minority and women's business enterprises--Director--Powers and duties.

There is hereby created the office of minority and women's business enterprises. The governor shall appoint a director for the office, subject to confirmation by the senate. The

director may employ a deputy director and a confidential secretary, both of which shall be exempt under chapter 41.06 RCW, and such staff as are necessary to carry out the purposes of this chapter.

The office shall consult with the minority and women's business enterprises advisory committee to:

(1) Develop, plan, and implement programs to provide an opportunity for participation by qualified minority and women-owned and controlled businesses in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector;

(2) Develop a comprehensive plan insuring that qualified minority and women-owned and controlled businesses are provided an opportunity to participate in public contracts for public works and goods and services;

(3) Identify barriers to equal participation by qualified minority and women-owned and controlled businesses in all state agency and educational institution contracts;

(4) Establish annual overall goals for participation by qualified minority and women-owned and controlled businesses for each state agency and educational institution to be administered on a contract-by-contract basis or on a class-of-contracts basis;

(5) Develop and maintain a central minority and women's business enterprise certification list for all state agencies and educational institutions. No business is entitled to certification under this chapter unless it meets the definition of small business concern as established by the office. All applications for certification under this chapter shall be sworn under oath;

(6) Develop, implement, and operate a system of monitoring compliance with this chapter;

(7) Adopt rules under chapter 34.05 RCW, the Administrative Procedure Act, governing: (a) Establishment of agency goals; (b) development and maintenance of a central minority and women's business enterprise certification program, including a definition of "small business concern" which shall be consistent with the small business requirements defined under section 3 of the Small Business Act, 15 U.S.C. Sec. 632, and its implementing regulations as guidance; (c) procedures for monitoring and enforcing compliance with goals, regulations, contract provisions, and this chapter; (d) utilization of standard clauses by state agencies and educational institutions, as specified in RCW 39.19.050; and (e) determination of an agency's or educational institution's goal attainment consistent with the limitations of RCW 39.19.075;

(8) Submit an annual report to the governor and the legislature outlining the progress in implementing this chapter;

(9) Investigate complaints of violations of this chapter with the assistance of the involved agency or educational institution; and

(10) Cooperate and act jointly or by division of labor with the United States or other states, and with political subdivisions of the state of Washington and their respective minority, socially and economically disadvantaged and women business enterprise programs to carry out the purposes of this chapter. However, the power which may be exercised by the office under this subsection permits investigation and imposition of sanctions only if the investigation relates

to a possible violation of chapter 39.19 RCW, and not to violation of local ordinances, rules, regulations, however denominated, adopted by political subdivisions of the state.

[1996 c 69 § 5; 1989 c 175 § 85; 1987 c 328 § 3; 1983 c 120 § 3.]

Notes:

Intent--1996 c 69: "It is the intent of the legislature to ensure that the counting of the dollar value of an agency's or educational institution's expenditures to certified minority and women's business enterprises meaningfully reflects the actual financial participation of the certified businesses." [1996 c 69 § 3.]

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 39.19.041 Ad hoc advisory committees.

The director may establish ad hoc advisory committees, as necessary, to assist in the development of policies to carry out the purposes of this chapter.

[1995 c 269 § 1302.]

NOTES:

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

RCW 39.19.050 Standard clauses required in requests for proposals, advertisements, and bids.

The rules adopted under RCW 39.19.030 shall include requirements for standard clauses in requests for proposals, advertisements, bids, or calls for bids, necessary to carry out the purposes of this chapter, which shall include notice of the statutory penalties under RCW 39.19.080 and 39.19.090 for noncompliance.

[1983 c 120 § 5.]

RCW 39.19.060 Compliance with public works and procurement goals--Plan to maximize opportunity for minority and women-owned businesses.

Each state agency and educational institution shall comply with the annual goals established for that agency or institution under this chapter for public works and procuring goods or services. This chapter applies to all public works and procurement by state agencies and educational institutions, including all contracts and other procurement under chapters 28B.10, 39.04, 39.29, 43.19, and 47.28 RCW. Each state agency shall adopt a plan, developed in consultation with the director and the advisory committee, to insure that minority and women-owned businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in the execution of public contracts for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participation of certified minority and women-owned businesses. The office shall annually notify the governor, the state auditor, and the joint legislative audit and review committee of all agencies and educational institutions not in compliance with this chapter.

[1996 c 288 § 28; 1993 c 512 § 9; 1983 c 120 § 6.]

Notes:

Short title--Part headings and section captions--Severability--Effective date--1993 c 512: See RCW 43.172.900 through 43.172.903.

Compliance with chapter 39.19 RCW: RCW 28B.10.023, 39.04.160, 39.29.050, 43.19.536, 47.28.030, 47.28.050, 47.28.090.

RCW 39.19.070 Compliance with goals--Bidding procedures.

It is the intent of this chapter that the goals established under this chapter for participation by minority and women-owned and controlled businesses be achievable. If necessary to accomplish this intent, contracts may be awarded to the next lowest responsible bidder in turn, or all bids may be rejected and new bids obtained, if the lowest responsible bidder does not meet the goals established for a particular contract under this chapter. The dollar value of the total contract used for the calculation of the specific contract goal may be increased or decreased to reflect executed change orders. An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or educational institution.

[1994 c 15 § 1; 1987 c 328 § 4; 1983 c 120 § 7.]

RCW 39.19.075 Compliance with goals--Valuation of goods or services.

For purposes of measuring an agency's or educational institution's goal attainment, any regulations adopted under RCW 39.19.030(7)(e) must provide that if a certified minority and women's business enterprise is a broker of goods or materials required under a contract, the contracting agency or educational institution may count only the dollar value of the fee or commission charged and not the value of goods or materials provided. The contracting agency or educational institution may, at its discretion, fix the dollar value of the fee or commission charged at either the actual dollar value of the fee or commission charged or at a standard percentage of the total value of the brokered goods, which percentage must reflect the fees or commissions generally paid to brokers for providing such services.

[1996 c 69 § 6.]

Notes:

Intent--1996 c 69: See note following RCW 39.19.030.

RCW 39.19.080 Prohibited activities--Penalties.

- (1) A person, firm, corporation, business, union, or other organization shall not:
 - (a) Prevent or interfere with a contractor's or subcontractor's compliance with this chapter, or any rule adopted under this chapter;
 - (b) Submit false or fraudulent information to the state concerning compliance with this chapter or any such rule;
 - (c) Fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently

obtaining or retaining or attempting to obtain or retain certification as a minority or women's business enterprise for the purpose of this chapter;

(d) Knowingly make a false statement, whether by affidavit, verified statement, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority or women's business enterprise;

(e) Knowingly obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualification of a business entity that has requested certification as a minority or women's business enterprise;

(f) Fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public moneys to which the person is not entitled under this chapter; or

(g) Knowingly make false statements that any entity is or is not certified as a minority or women's business enterprise for purposes of obtaining a contract governed by this chapter.

(2) Any person or entity violating this chapter or any rule adopted under this chapter shall be subject to the penalties in RCW 39.19.090. Nothing in this section prevents the state agency or educational institution from pursuing such procedures or sanctions as are otherwise provided by statute, rule, or contract provision.

[1987 c 328 § 5; 1983 c 120 § 8.]

RCW 39.19.090 Compliance with chapter or contract--Remedies.

If a person, firm, corporation, or business does not comply with any provision of this chapter or with a contract requirement established under this chapter, the state may withhold payment, debar the contractor, suspend, or terminate the contract and subject the contractor to civil penalties of up to ten percent of the amount of the contract or up to five thousand dollars for each violation. The office shall adopt, by rule, criteria for the imposition of penalties under this section. Wilful repeated violations, exceeding a single violation, may disqualify the contractor from further participation in state contracts for a period of up to three years. An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or educational institution.

The office shall follow administrative procedures under chapter 34.05 RCW in determining a violation and imposing penalties under this chapter.

The procedures and sanctions in this section are not exclusive; nothing in this section prevents the state agency or educational institution administering the contracts from pursuing such procedures or sanctions as are otherwise provided by statute, rule, or contract provision.

[1987 c 328 § 6; 1983 c 120 § 9.]

RCW 39.19.100 Enforcement by attorney general--Injunctive relief.

The attorney general may bring an action in the name of the state against any person to restrain and prevent the doing of any act prohibited or declared to be unlawful in this chapter. The attorney general may, in the discretion of the court, recover the costs of the action including

reasonable attorneys' fees and the costs of investigation.

[1987 c 328 § 12.]

RCW 39.19.110 Enforcement by attorney general--Investigative powers.

(1) Whenever the attorney general believes that any person (a) may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated, that the attorney general believes to be relevant to the subject matter of an investigation, the attorney general may require such person to answer written interrogatories or give oral testimony regarding a possible violation of this chapter, or of any provision of a contract as required by this chapter, or (b) may have knowledge of any information that the attorney general believes relevant to the subject matter of such an investigation, the attorney general may, before instituting a civil proceeding thereon, execute in writing and cause to be served upon such a person, a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of demands pertaining to the documentary material or information. Documents and information obtained under this section shall not be admissible in criminal prosecutions.

(2) Each such demand shall:

(a) State the statute, the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) State with reasonable specificity what documentary material is required, if the demand is for the production of documentary material;

(c) Prescribe a return date governed by the court rules within which the documentary material is to be produced, the answers to written interrogatories are to be made, or a date, time, and place at which oral testimony is to be taken; and

(d) Identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying, to whom answers to written interrogatories are to be made, or who are to conduct the examination for oral testimony.

(3) No such demand may:

(a) Contain any requirement that would be unreasonable or improper if contained in a subpoena duces tecum, a request for answers to written interrogatories, or a notice of deposition upon oral examination issued under the court rules of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if that person is not a natural person, to any officer or managing agent of the person to be served;

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if that person has no place of business in this state, to the person's principal office or place of business.

(5)(a) Documentary material demanded under this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the attorney general;

(b) Written interrogatories in a demand served under this section shall be answered in the same manner as provided in the civil rules for superior court;

(c) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the same manner as provided in the civil rules for superior court for the taking of depositions. In the course of the deposition, the assistant attorney general conducting the examination may exclude all persons other than the person being examined, the person's counsel, and the officer before whom the testimony is to be taken from the place where the examination is held;

(d) Any person compelled to appear pursuant to a demand for oral testimony under this section may be accompanied by counsel;

(e) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the county within which the person resides, is found, or transacts business, or in such other place as may be agreed upon between the person served and the attorney general.

(6) No documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand, or copies thereof, may, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying by, nor may the contents thereof be disclosed to, anyone other than an authorized employee or agent of the attorney general, without the consent of the person who produced such material, answered written interrogatories, or gave oral testimony: PROVIDED, That under such reasonable terms and conditions as the attorney general shall prescribe, the copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for inspection and copying by the person who produced the material, answered written interrogatories, or gave oral testimony, or any duly authorized representative of that person. The attorney general or any assistant attorney general may use such copies of documentary material, answers to written interrogatories, or transcripts of oral testimony as he or she determines necessary to enforce this chapter, including presentation before any court: PROVIDED FURTHER, That any such material, answers to written interrogatories, or transcripts of oral testimony that contain material designated by the declarant to be trade secrets shall not be presented except with the approval of the court in which the action is pending after adequate notice to the person furnishing the material, answers to written interrogatories, or oral testimony.

(7) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for, or to modify or set aside a demand issued pursuant to subsection (1) of this section, stating good cause, may be filed in the superior court for Thurston county, or in any other county where

the parties reside or are found. A petition, by the person on whom the demand is served, stating good cause, to require the attorney general or any person to perform any duty imposed by this section, and all other petitions in connection with a demand, may be filed in the superior court for Thurston county, or in the county where the parties reside. The court shall have jurisdiction to impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

(8) Whenever any person fails to comply with any civil investigative demand for documentary material, answers to written interrogatories, or oral testimony duly served upon that person under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and the person refuses to surrender such material, the attorney general may file, in the trial court of general jurisdiction in the county in which the person resides, is found, or transacts business, and serve upon that person a petition for an order of the court for the enforcement of this section, except that if such person transacts business in more than one county, the petition shall be filed in the county in which the person maintains his or her principal place of business or in such other county as may be agreed upon by the parties to the petition. Whenever any petition is filed under this section in the trial court of general jurisdiction in any county, the court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect this section, and may impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

[1987 c 328 § 13.]

RCW 39.19.120 Certification of business enterprises.

The office shall be the sole authority to perform certification of minority business enterprises, socially and economically disadvantaged business enterprises, and women's business enterprises throughout the state of Washington. Certification by the state office will allow these firms to participate in programs for these enterprises administered by the state of Washington, any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington.

This state-wide certification process will prevent duplication of effort, achieve efficiency, and permit local jurisdictions to further develop, implement, and/or enhance comprehensive systems of monitoring and compliance for contracts issued by their agencies.

[1987 c 328 § 7.]

RCW 39.19.140 Implementation of state-wide certification.

Implementation of state-wide certification shall be effective January 1, 1988, following consultation by the office with appropriate state and local officials who currently administer similar certification programs. Any business having been certified under any of the programs identified pursuant to *RCW 39.19.130 as a minority and women's business enterprise shall be deemed certified by the office as of January 1, 1988.

[1987 c 328 § 9.]

Notes:

***Reviser's note:** RCW 39.19.130 expired June 30, 1991.

RCW 39.19.150 Local government may petition for reconsideration of business certification.

(1) Any city, county, town, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation having reason to believe that a particular minority and women's business enterprise should not have been certified under RCW 39.19.140 may petition the office for reconsideration. The basis for the petition may be one or more of the following:

(a) The office's rules or regulations were improperly applied; or
(b) Material facts relating to the minority and women's business enterprise's certification application to the office are untrue.

(2) The petitioner shall carry the burden of persuasion. The affected minority or women's business enterprise shall receive notice of the petition and an opportunity to respond.

(3) After reviewing the information presented in support of and in opposition to the petition, the office shall issue a written decision, granting or denying the petition. If the office grants the petition, it may revoke, suspend, or refuse to renew the certification or impose sanctions under this chapter as appropriate.

(4) The office's decision on a petition is administratively final and the rights of appeal set out in the office regulations shall apply. A certification shall remain in effect while a petition is pending.

[1987 c 328 § 10.]

RCW 39.19.160 Local government responsible for monitoring compliance.

Any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington utilizing the certification by the office retains the responsibility for monitoring compliance with the programs under its jurisdiction. The office shall not be responsible for enforcement of local ordinances, rules, or regulations, however titled.

[1987 c 328 § 11.]

RCW 39.19.170 Prequalification of minority and women-owned businesses--Waiver of performance bond.

(1) State agencies shall not require a performance bond for any public works project that does not exceed twenty-five thousand dollars awarded to a prequalified and certified minority or woman-owned business that has been prequalified as provided under subsection (2) of this section.

- (2) A limited prequalification questionnaire shall be required assuring:
- (a) That the bidder has adequate financial resources or the ability to secure such resources;
 - (b) That the bidder can meet the performance schedule;
 - (c) That the bidder is experienced in the type of work to be performed; and
 - (d) That all equipment to be used is adequate and functioning and that all equipment operators are qualified to operate such equipment.

[1993 c 512 § 10.]

Notes:

Short title--Part headings and section captions--Severability--Effective date--1993 c 512: See RCW 43.172.900 through 43.172.903.

RCW 39.19.200 Minority and women's business enterprises account--Created.

The minority and women's business enterprises account is created in the custody of the state treasurer. All receipts from RCW 39.19.210, 39.19.220, and 39.19.230 shall be deposited in the account. Expenditures from the account may be used only for the purposes defraying all or part of the costs of the office in administering this chapter. Only the director or the director's designee may authorize expenditures from the account. Moneys in the account may be spent only after appropriation.

[1993 c 195 § 1.]

Notes:

Effective date of 1993 c 195--1993 sp.s. c 24: "Chapter 195, Laws of 1993 is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 sp.s. c 24 § 930.]

RCW 39.19.210 Businesses using the office--Fees.

The office may charge a reasonable fee or other appropriate charge, to be set by rule adopted by the office under chapter 34.05 RCW, to a business using the services of the office.

[1993 c 195 § 2.]

Notes:

Effective date of 1993 c 195--1993 sp.s. c 24: See note following RCW 39.19.200.

RCW 39.19.220 Political subdivisions--Fees.

The office may charge to a political subdivision in this state a reasonable fee or other appropriate charge, to be set by rule adopted by the office under chapter 34.05 RCW, prorated on the relative benefit to the political subdivision, for the certification under this chapter of a business.

[1993 c 195 § 3.]

Notes:

Effective date of 1993 c 195--1993 sp.s. c 24: See note following RCW 39.19.200.

RCW 39.19.230 State agencies and educational institutions--Fees.

The office may charge to a state agency and educational institutions, as both are defined in RCW 39.19.020, a reasonable fee or other appropriate charge, to be set by rule adopted by the office under chapter 34.05 RCW, based upon the state agency's or educational institution's expenditure level of funds subject to the office.

[1993 c 195 § 4.]

Notes:

Effective date of 1993 c 195--1993 sp.s. c 24: See note following RCW 39.19.200.

RCW 39.19.910 Effective date--Applicability--1983 c 120.

(1) This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983.

(2) Contracts entered into before September 1, 1983, are not subject to this act.

[1983 c 120 § 21.]

RCW 39.19.920 Severability--Conflict with federal requirements--1983 c 120.

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

(2) If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state.

[1983 c 120 § 18.]

RCW 39.19.921 Severability--1987 c 328.

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

[1987 c 328 § 17.]

Chapter 39.23 RCW

PURCHASE OF PRODUCTS AND SERVICES OF SHELTERED WORKSHOPS, DSHS

PROGRAMS

RCW	
39.23.005	Declaration of intent.
39.23.010	Definitions.
39.23.020	Products and/or services, purchase of--Authorization--Determining fair market price.

RCW 39.23.005 Declaration of intent.

It is the intent of the legislature to encourage municipalities to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services which operate facilities serving the handicapped and disadvantaged.

[1975 c 20 § 1.]

RCW 39.23.010 Definitions.

As used in RCW 39.23.005 and 39.23.020 the term "sheltered workshops" shall have the meaning ascribed to it by RCW 82.04.385 and "programs of the department of social and health services" shall mean the group training homes and day training centers defined in *RCW 72.33.800 and "municipality" shall have the meaning ascribed to it by RCW 39.04.010.

[1975 c 20 § 2.]

Notes:

***Reviser's note:** RCW 72.33.800 was repealed by 1988 c 176 § 1007. See Title 71A RCW.

RCW 39.23.020 Products and/or services, purchase of--Authorization--Determining fair market price.

Municipalities are hereby authorized to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services. Such purchases shall be at the fair market price of such products and services as determined by a municipality. To determine the fair market price a municipality shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are additional cost factors which shall be considered in determining fair market price. Upon the establishment of the fair market price as provided for in this section a municipality is hereby empowered to negotiate directly with sheltered workshops or officials in charge of the programs of the department of social and health services for the purchase of the products or services.

[1977 ex.s. c 10 § 1; 1975 c 20 § 3.]

Chapter 39.24 RCW

PUBLIC PURCHASE PREFERENCES

Sections

39.24.050 Purchase of paper products meeting certain specifications required.

Notes:

Powers and duties of division of purchasing: RCW 43.19.190.

Purchase of correctional industries produced products: Chapter 72.60 RCW.

Reciprocity in bidding: RCW 43.19.704.

RCW 39.24.050 Purchase of paper products meeting certain specifications required.

A governmental unit shall, to the maximum extent economically feasible, purchase paper products which meet the specifications established by the department of general administration under RCW 43.19.538.

[1982 c 61 § 3.]

Chapter 39.28 RCW EMERGENCY PUBLIC WORKS

Sections

39.28.010 Definitions.

39.28.020 Powers conferred.

39.28.030 Construction of act.

39.28.040 Loans and grants to finance preliminary public works expenditures.

RCW 39.28.010 Definitions.

The following terms wherever used or referred to in RCW 39.28.010 through 39.28.030 shall have the following meaning unless a different meaning appears from the context.

(1) The term "municipality" shall mean the state, a county, city, town, district or other municipal corporation or political subdivision;

(2) The term "governing body" shall mean the body, a board charged with the governing of the municipality;

(3) The term "law" shall mean any act or statute, general, special or local, of this state, including, without being limited to, the charter of any municipality;

(4) The term "bonds" shall mean bonds, interim receipts, certificates, or other obligations of a municipality issued or to be issued by its governing body for the purpose of financing or aiding in the financing of any work, undertaking or project for which a loan or grant, or both, has heretofore been made or may hereafter be made by any federal agency;

(5) The term "Recovery Act" shall mean any acts of the congress of the United States of

America to reduce and relieve unemployment or to provide for the construction of public works;

(6) The term "federal agency" shall include the United States of America, the president of the United States of America, and any agency or instrumentality of the United States of America, which has heretofore been or hereafter may be designated, created or authorized to make loans or grants;

(7) The term "public works project" shall mean any work, project, or undertaking which any municipality, is authorized or required by law to undertake or any lawful purpose for which any municipality is authorized or required by law to make an appropriation;

(8) The term "contract" or "agreement" between a federal agency and a municipality shall include contracts and agreements in the customary form and shall also be deemed to include an allotment of funds, resolution, unilateral promise, or commitment by a federal agency by which it shall undertake to make a loan or grant, or both, upon the performance of specified conditions or compliance with rules and regulations theretofore or thereafter promulgated, prescribed or published by a federal agency. In the case of such an allotment of funds, resolution, unilateral promise, or commitment by a federal agency, the terms, conditions and restrictions therein set forth and the rules and regulations theretofore or thereafter promulgated, prescribed or published shall, for the purpose of RCW 39.28.010 through 39.28.030, be deemed to constitute covenants of such a contract which shall be performed by the municipality, if the municipality accepts any money from such federal agency.

[1971 c 76 § 4; 1937 c 107 § 2; RRS § 10322A-8. Prior: 1935 c 107 § 2; RRS § 10322A-2.]

Notes:

Short title: "This act may be cited as 'The Municipal Emergency Procedure Act (Revision of 1937)'."
[1937 c 107 § 1; RRS § 10322A-7. Prior: 1935 c 107 § 1; RRS § 10322A-1.]

Severability--1937 c 107: "If any provision of this act, or the application thereof to any person, body, or circumstances shall be held invalid, the remainder of the act and the application of each provision to persons, bodies, or circumstances other than those as to which it shall have been held invalid shall not be affected thereby."
[1937 c 107 § 5; RRS § 10322A-11. Prior: 1935 c 107 § 5; RRS § 10322A-5.]

RCW 39.28.020 Powers conferred.

Every municipality shall have power and is hereby authorized:

(1) To accept from any federal agency grants for or in aid of the construction of any public works project;

(2) To make contracts and execute instruments containing such terms, provisions, and conditions as in the discretion of the governing body of the municipality may be necessary, proper or advisable for the purpose of obtaining grants or loans, or both, from any federal agency pursuant to or by virtue of the Recovery Act; to make all other contracts and execute all other instruments necessary, proper or advisable in or for the furtherance of any public works project and to carry out and perform the terms and conditions of all such contracts or instruments;

(3) To subscribe to and comply with the Recovery Act and any rules and regulations made by any federal agency with regard to any grants or loans, or both, from any federal agency;

(4) To perform any acts authorized under RCW 39.28.010 through 39.28.030 through or

by means of its own officers, agents and employees, or by contracts with corporations, firms or individuals;

(5) To award any contract for the construction of any public works project or part thereof upon any day at least fifteen days after one publication of a notice requesting bids upon such contract in a newspaper of general circulation in the municipality: PROVIDED, That in any case where publication of notice may be made in a shorter period of time under the provisions of existing statute or charter, such statute or charter shall govern;

(6) To sell bonds at private sale to any federal agency without any public advertisement;

(7) To issue interim receipts, certificates or other temporary obligations, in such form and containing such terms, conditions and provisions as the governing body of the municipality issuing the same may determine, pending the preparation or execution of definite bonds for the purpose of financing the construction of a public works project;

(8) To issue bonds bearing the signatures of officers in office on the date of signing such bonds, notwithstanding that before delivery thereof any or all the persons whose signatures appear thereon shall have ceased to be the officers of the municipality issuing the same;

(9) To include in the cost of a public works project which may be financed by the issuance of bonds: (a) Engineering, inspection, accounting, fiscal and legal expenses; (b) the cost of issuance of the bonds, including engraving, printing, advertising, and other similar expenses; (c) any interest costs during the period of construction of such public works project and for six months thereafter on money borrowed or estimated to be borrowed;

(10) To stipulate in any contract for the construction of any public works project or part thereof the maximum hours that any laborer, worker, or mechanic should be permitted or required to work in any one calendar day or calendar week or calendar month, and the minimum wages to be paid to laborers, workers, or mechanics in connection with any public works project: PROVIDED, That no such stipulation shall provide for hours in excess of or for wages less than may now or hereafter be required by any other law;

(11) To exercise any power conferred by RCW 39.28.010 through 39.28.030 for the purpose of obtaining grants or loans, or both, from any federal agency pursuant to or by virtue of the Recovery Act, independently or in conjunction with any other power or powers conferred by RCW 39.28.010 through 39.28.030 or heretofore or hereafter conferred by any other law;

(12) To do all acts and things necessary or convenient to carry out the powers expressly given in RCW 39.28.010 through 39.28.030.

[1989 c 12 § 12; 1937 c 107 § 3; RRS § 10322A-9. Prior: 1935 c 107 § 3; RRS § 10322A-3.]

Notes:

Short title--Severability--1937 c 107: See notes following RCW 39.28.010.

RCW 39.28.030 Construction of act.

The powers conferred by RCW 39.28.010 through 39.28.030 shall be in addition and supplemental to and not in substitution for the powers now or hereafter conferred upon any municipality by any other law. RCW 39.28.010 through 39.28.030 is intended to aid in relieving the existing emergency by simplifying the procedure for the construction and financing of public

works projects. RCW 39.28.010 through 39.28.030 is remedial in nature and the powers hereby granted shall be liberally construed. Nothing in RCW 39.28.010 through 39.28.030 shall be construed to authorize the issuance of bonds for any purpose by any municipality not authorized to issue bonds for such purpose under any other law heretofore or hereafter enacted, nor to dispense with the approval by a state department, board, officer or commission of a public works project where such approval is necessary under provisions of existing law: PROVIDED, That any port district which is now indebted in an amount equal to or in excess of the indebtedness which may be contracted without a vote of the electors of the district is hereby authorized, for the purposes of RCW 39.28.010 through 39.28.030, through its governing body, to contract a further indebtedness and borrow money for port purposes and issue general bonds therefor, as in RCW 39.28.010 through 39.28.030 provided, in an additional amount not exceeding three-sixteenths of one percent of the value of the taxable property in the district, as the term "value of the taxable property" is defined in RCW 39.36.015, without the assent of the voters of the district: PROVIDED, FURTHER, That such additional indebtedness together with the existing indebtedness of such port district shall not exceed the total indebtedness permitted to be incurred by such port district under existing laws.

[1970 ex.s. c 42 § 25; 1937 c 107 § 4; RRS § 10322A-10. Prior: 1935 c 107 § 4; RRS § 10322A-4.]

Notes:

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

Short title--Severability--1937 c 107: See notes following RCW 39.28.010.

RCW 39.28.040 Loans and grants to finance preliminary public works expenditures.

The state of Washington, its various counties, municipal corporations, quasi municipal corporations, cities, towns, villages and all other political subdivisions of the state are hereby authorized to accept from the federal government all loans, advances, grants in aid, or donations that may be made available by any federal agency for the purpose of financing the cost of architectural, engineering, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other acts preliminary to the construction of public works.

[1971 c 76 § 5; 1945 c 106 § 1; Rem. Supp. 1945 § 10322-45.]

**Chapter 39.29 RCW
PERSONAL SERVICE CONTRACTS**

Sections

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39.29.900	Severability--1987 c 414.

RCW 39.29.003 Intent.

It is the intent of this chapter to establish a policy of open competition for all personal service contracts entered into by state agencies, unless specifically exempted under this chapter. It is further the intent to provide for legislative and executive review of all personal service contracts, to centralize the location of information about personal service contracts for ease of public review, and ensure proper accounting of personal services expenditures.

[1998 c 101 § 1; 1993 c 433 § 1; 1987 c 414 § 1; 1979 ex.s. c 61 § 1.]

RCW 39.29.006 Definitions.

As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(4) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(5) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

- (a) Present a real, immediate threat to the proper performance of essential functions; or
- (b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(6) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant.

(7) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection (9) of this section. This term does include client services.

(8) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.380.

(9) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

(10) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

[1998 c 101 § 2; 1993 c 433 § 2; 1987 c 414 § 2; 1981 c 263 § 1; 1979 ex.s. c 61 § 2.]

RCW 39.29.008 Limitation on personal service contracts.

Personal services may be procured only to resolve a particular agency problem or issue or to expedite a specific project that is temporary in nature. An agency may procure personal services only if it documents that:

- (1) The service is critical to agency responsibilities or operations, or is mandated or authorized by the legislature;
- (2) Sufficient staffing or expertise is not available within the agency to perform the service; and
- (3) Other qualified public resources are not available to perform the service.

[1993 c 433 § 6.]

RCW 39.29.011 Competitive solicitation required--Exceptions.

All personal service contracts shall be entered into pursuant to competitive solicitation, except for:

- (1) Emergency contracts;

(2) Sole source contracts;

(3) Contract amendments;

(4) Contracts between a consultant and an agency of less than twenty thousand dollars. However, contracts of five thousand dollars or greater but less than twenty thousand dollars shall have documented evidence of competition. Agencies shall not structure contracts to evade these requirements; and

(5) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the director of the office of financial management when it has been determined that a competitive solicitation process is not appropriate or cost-effective.

[1998 c 101 § 3; 1987 c 414 § 3.]

RCW 39.29.016 Emergency contracts.

Emergency contracts shall be filed with the office of financial management and made available for public inspection within three working days following the commencement of work or execution of the contract, whichever occurs first. Documented justification for emergency contracts shall be provided to the office of financial management when the contract is filed.

[1998 c 101 § 4; 1996 c 288 § 29; 1987 c 414 § 4.]

RCW 39.29.018 Sole source contracts.

(1) Sole source contracts shall be filed with the office of financial management and made available for public inspection at least ten working days prior to the proposed starting date of the contract. Documented justification for sole source contracts shall be provided to the office of financial management when the contract is filed. For sole source contracts of twenty thousand dollars or more, documented justification shall include evidence that the agency attempted to identify potential consultants by advertising through state-wide or regional newspapers.

(2) The office of financial management shall approve sole source contracts of twenty thousand dollars or more before any such contract becomes binding and before any services may be performed under the contract. These requirements shall also apply to sole source contracts of less than twenty thousand dollars if the total amount of such contracts between an agency and the same consultant is twenty thousand dollars or more within a fiscal year. Agencies shall ensure that the costs, fees, or rates negotiated in filed sole source contracts of twenty thousand dollars or more are reasonable.

[1998 c 101 § 5; 1996 c 288 § 30; 1993 c 433 § 5; 1987 c 414 § 5.]

RCW 39.29.020 Compliance--Expenditure of funds prohibited--Civil penalty.

No state officer or activity of state government subject to this chapter shall expend any funds for personal service contracts unless the agency has complied with the competitive procurement and other requirements of this chapter. The state officer or employee executing the

personal service contracts shall be responsible for compliance with the requirements of this chapter. Failure to comply with the requirements of this chapter shall subject the state officer or employee to a civil penalty in the amount of three hundred dollars. A consultant who knowingly violates this chapter in seeking or performing work under a personal services contract shall be subject to a civil penalty of three hundred dollars or twenty-five percent of the amount of the contract, whichever is greater. The state auditor is responsible for auditing violations of this chapter. The attorney general is responsible for prosecuting violations of this chapter.

[1987 c 414 § 6; 1974 ex.s. c 191 § 2.]

RCW 39.29.025 Amendments.

(1) Substantial changes in either the scope of work specified in the contract or in the scope of work specified in the formal solicitation document must generally be awarded as new contracts. Substantial changes executed by contract amendments must be submitted to the office of financial management, and are subject to approval by the office of financial management.

(2) An amendment or amendments to personal service contracts, if the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent of the value of the original contract must be provided to the office of financial management.

(3) The office of financial management shall approve amendments provided to it under this section before the amendments become binding and before services may be performed under the amendments.

(4) The amendments must be filed with the office of financial management and made available for public inspection at least ten working days prior to the proposed starting date of services under the amendments.

(5) The office of financial management shall approve amendments provided to it under this section only if they meet the criteria for approval of the amendments established by the director of the office of financial management.

[1998 c 101 § 6; 1996 c 288 § 31; 1993 c 433 § 3.]

RCW 39.29.040 Exemption of certain contracts.

This chapter does not apply to:

(1) Contracts specifying a fee of less than five thousand dollars if the total of the contracts from that agency with the contractor within a fiscal year does not exceed five thousand dollars;

(2) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;

(3) Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;

(4) Contracts awarded for services to be performed for a standard fee, when the standard fee is established by the contracting agency or any other governmental entity and a like contract is available to all qualified applicants;

(5) Contracts for services that are necessary to the conduct of collaborative research if prior approval is granted by the funding source;

(6) Contracts for client services;

(7) Contracts for architectural and engineering services as defined in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

(8) Contracts for the employment of expert witnesses for the purposes of litigation; and

(9) Contracts for bank supervision authorized under RCW 30.38.040.

[1998 c 101 § 7; 1996 c 2 § 19; 1995 c 80 § 1; 1987 c 414 § 7; 1986 c 33 § 3; 1979 ex.s. c 61 § 4.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 39.29.050 Contracts subject to requirements established under office of minority and women's business enterprises.

All contracts entered into under this chapter on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW.

[1983 c 120 § 12.]

Notes:

Effective date--Applicability--Severability--Conflict with federal requirements--1983 c 120: See RCW 39.19.910, 39.19.920.

RCW 39.29.055 Contracts--Filing--Public inspection--Review and approval--Effective date.

(1) Personal service contracts subject to competitive solicitation shall be (a) filed with the office of financial management and made available for public inspection; and (b) reviewed and approved by the office of financial management when those contracts provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting.

(2) Personal service contracts subject to competitive solicitation that provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting shall be made available for public inspection at least ten working days before the proposed starting date of the contract. All other contracts shall be effective no earlier than the date they are filed with the office of financial management.

[1998 c 101 § 8; 1996 c 288 § 32; 1993 c 433 § 7.]

RCW 39.29.065 Office of financial management to establish procedures--Adjustment of dollar thresholds.

To implement this chapter, the director of the office of financial management shall establish procedures for the competitive solicitation and award of personal service contracts, recordkeeping requirements, and procedures for the reporting and filing of contracts. For

reporting purposes, the director may establish categories for grouping of contracts. The procedures required under this section shall also include the criteria for amending personal service contracts. At the beginning of each biennium, the director may, by administrative policy, adjust the dollar thresholds prescribed in RCW 39.29.011, 39.29.018, 39.29.040, and *39.29.068 to levels not to exceed the percentage increase in the implicit price deflator. Adjusted dollar thresholds shall be rounded to the nearest five hundred dollar increment.

[1998 c 101 § 9; 1987 c 414 § 8.]

Notes:

***Reviser's note:** The dollar thresholds prescribed in RCW 39.29.068 were amended by 1998 c 101 § 10, and removed by 1998 c 245 § 33.

RCW 39.29.068 Office of financial management to maintain list of contracts--Report to legislature (as amended by 1998 c 101).

The office of financial management shall maintain a publicly available list of all personal service contracts entered into by state agencies during each fiscal year. The list shall identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis. The office of financial management shall also ensure that state accounting definitions and procedures are consistent with RCW 39.29.006 and permit the reporting of personal services expenditures by agency and by type of service. Designations of type of services shall include, but not be limited to, management and organizational services, legal and expert witness services, financial services, computer and information services, social or technical research, marketing, communications, and employee training or recruiting services. The office of financial management shall report annually to the fiscal committees of the senate and house of representatives on sole source contracts filed under this chapter. The report shall describe: (1) The number and aggregate value of contracts for each category established in this section; (2) the number and aggregate value of contracts of (~~two~~) five thousand (~~five hundred~~) dollars or greater but less than (~~ten~~) twenty thousand dollars; (3) the number and aggregate value of contracts of (~~ten~~) twenty thousand dollars or greater; (4) the justification provided by agencies for the use of sole source contracts; and (5) any trends in the use of sole source contracts.

[1998 c 101 § 10; 1993 c 433 § 8.]

RCW 39.29.068 Office of financial management to maintain list of contracts (as amended by 1998 c 245).

The office of financial management shall maintain a publicly available list of all personal service contracts entered into by state agencies during each fiscal year. The list shall identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis. The office of

financial management shall also ensure that state accounting definitions and procedures are consistent with RCW 39.29.006 and permit the reporting of personal services expenditures by agency and by type of service. Designations of type of services shall include, but not be limited to, management and organizational services, legal and expert witness services, financial services, computer and information services, social or technical research, marketing, communications, and employee training or recruiting services. ~~(The office of financial management shall report annually to the fiscal committees of the senate and house of representatives on sole source contracts filed under this chapter. The report shall describe: (1) The number and aggregate value of contracts for each category established in this section; (2) the number and aggregate value of contracts of two thousand five hundred dollars or greater but less than ten thousand dollars; (3) the number and aggregate value of contracts of ten thousand dollars or greater; (4) the justification provided by agencies for the use of sole source contracts; and (5) any trends in the use of sole source contracts.)~~

[1998 c 245 § 33; 1993 c 433 § 8.]

Notes:

Reviser's note: RCW 39.29.068 was amended twice during the 1998 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

RCW 39.29.075 Summary reports on contracts.

As requested by the legislative auditor, the office of financial management shall provide information on contracts filed under this chapter for use in preparation of summary reports on personal services contracts.

[1987 c 414 § 9.]

RCW 39.29.080 Data generated under personal services contracts.

A state agency may not enter into a personal services contract with a consultant under which the consultant could charge additional costs to the agency, the joint legislative audit and review committee, or the state auditor for access to data generated under the contract. A consultant under such contract shall provide access to data generated under the contract to the contracting agency, the joint legislative audit and review committee, and the state auditor. For purposes of this section, "data" includes all information that supports the findings, conclusions, and recommendations of the consultant's reports, including computer models and the methodology for those models.

[1997 c 373 § 1.]

RCW 39.29.090 Contracts awarded by institutions of higher education.

Personal service contracts awarded by institutions of higher education from nonstate

funds do not have to be filed in advance and approved by the office of financial management. Any such contract is subject to all other requirements of this chapter, including the requirements under *RCW 39.29.068 for annual reporting of personal service contracts to the office of financial management.

[1998 c 101 § 11.]

Notes:

***Reviser's note:** Annual reporting requirements under RCW 39.29.068 were amended by 1998 c 101 § 10, and removed by 1998 c 245 § 33.

RCW 39.29.900 Severability--1987 c 414.

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

[1987 c 414 § 13.]

Chapter 39.30 RCW
CONTRACTS--INDEBTEDNESS LIMITATIONS--COMPETITIVE BIDDING
VIOLATIONS

Sections

39.30.010	Executory conditional sales contracts for purchase of property--Limit on indebtedness--Election, when.
39.30.020	Contracts requiring competitive bidding--Violations by municipal officer--Penalties.
39.30.040	Purchases--Competitive bidding--Local governments may consider tax revenues--Purchase of recycled or reused materials or products.
39.30.045	Purchase at auctions.
39.30.050	Contracts to require use of paper products meeting certain specifications.
39.30.060	Bids on public works--Subcontractors must be identified--When.
39.30.070	Exceptions--Contracts or development agreements related to stadium and exhibition center.

RCW 39.30.010 Executory conditional sales contracts for purchase of property--Limit on indebtedness--Election, when.

Any city or town or metropolitan park district or county or library district may execute an executory conditional sales contract with a county or counties, the state or any of its political subdivisions, the government of the United States, or any private party for the purchase of any real or personal property, or property rights in connection with the exercise of any powers or duties which they now or hereafter are authorized to exercise, if the entire amount of the purchase price specified in such contract does not result in a total indebtedness in excess of three-fourths of one percent of the value of the taxable property in such library district or the maximum amount of nonvoter-approved indebtedness authorized in such county, city, town, or

metropolitan park district. If such a proposed contract would result in a total indebtedness in excess of this amount, a proposition in regard to whether or not such a contract may be executed shall be submitted to the voters for approval or rejection in the same manner that bond issues for capital purposes are submitted to the voters. Any city or town or metropolitan park district or county or library district may jointly execute contracts authorized by this section, if the entire amount of the purchase price does not result in a joint total indebtedness in excess of the nonvoter-approved indebtedness limitation of any city, town, metropolitan park district, county, or library district that participates in the jointly executed contract. The term "value of the taxable property" shall have the meaning set forth in RCW 39.36.015.

[1997 c 361 § 2; 1970 ex.s. c 42 § 26; 1963 c 92 § 1; 1961 c 158 § 1.]

Notes:

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

RCW 39.30.020 Contracts requiring competitive bidding--Violations by municipal officer--Penalties.

In addition to any other remedies or penalties contained in any law, municipal charter, ordinance, resolution or other enactment, any municipal officer by or through whom or under whose supervision, in whole or in part, any contract is made in wilful and intentional violation of any law, municipal charter, ordinance, resolution or other enactment requiring competitive bidding upon such contract shall be held liable to a civil penalty of not less than three hundred dollars and may be held liable, jointly and severally with any other such municipal officer, for all consequential damages to the municipal corporation. If, as a result of a criminal action, the violation is found to have been intentional, the municipal officer shall immediately forfeit his office. For purposes of this section, "municipal officer" shall mean an "officer" or "municipal officer" as those terms are defined in RCW 42.23.020(2).

[1974 ex.s. c 74 § 1.]

Notes:

Contracts by cities or towns, bidding requirements: RCW 35.23.352.

RCW 39.30.040 Purchases--Competitive bidding--Local governments may consider tax revenues--Purchase of recycled or reused materials or products.

(1) Whenever a unit of local government is required to make purchases from the lowest bidder or from the supplier offering the lowest price for the items desired to be purchased, the unit of local government may, at its option when awarding a purchase contract, take into consideration tax revenue it would receive from purchasing the supplies, materials, or equipment from a supplier located within its boundaries. The unit of local government must award the purchase contract to the lowest bidder after such tax revenue has been considered. However, any local government may allow for preferential purchase of products made from recycled materials or products that may be recycled or reused. The tax revenues which units of local government

may consider include sales taxes that the unit of local government imposes upon the sale of such supplies, materials, or equipment from the supplier to the unit of local government, and business and occupation taxes that the unit of local government imposes upon the supplier that are measured by the gross receipts of the supplier from such sale. Any unit of local government which considers tax revenues it would receive from the imposition of taxes upon a supplier located within its boundaries, shall also consider tax revenues it would receive from taxes it imposes upon a supplier located outside its boundaries.

(2) As used in this section, the term "unit of local government" means any county, city, town, metropolitan municipal corporation, public transit benefit area, county transportation authority, or other municipal or quasi-municipal corporation authorized to impose sales and use taxes or business and occupation taxes.

[1989 c 431 § 58; 1985 c 72 § 1.]

Notes:

Severability--1989 c 431: See RCW 70.95.901.

RCW 39.30.045 Purchase at auctions.

Any municipality, as defined in RCW 39.04.010, may purchase any supplies, equipment, or materials at auctions conducted by the government of the United States or any agency thereof, any agency of the state of Washington, any municipality or other government agency, or any private party without being subject to public bidding requirements if the items can be obtained at a competitive price.

[1993 c 198 § 4; 1991 c 363 § 112.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 39.30.050 Contracts to require use of paper products meeting certain specifications.

Any contract by a governmental unit shall require the use of paper products to the maximum extent economically feasible that meet the specifications established by the department of general administration under RCW 43.19.538.

[1982 c 61 § 4.]

RCW 39.30.060 Bids on public works--Subcontractors must be identified--When.

Every invitation to bid on a contract that is expected to cost one million dollars or more for the construction, alteration, or repair of any public building or public work of the state or a state agency or municipality as defined under RCW 39.04.010 or an institution of higher education as defined under RCW 28B.10.016 shall require each bidder to submit as part of the bid, or within one hour after the published bid submittal time, the names of the subcontractors

with whom the bidder, if awarded the contract, will subcontract for performance of the work of heating, ventilation and air conditioning, plumbing as described in chapter 18.106 RCW, and electrical as described in chapter 19.28 RCW, or to name itself for the work. The bidder shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the bidder must indicate which subcontractor will be used for which alternate. Failure of the bidder to submit as part of the bid the names of such subcontractors or to name itself to perform such work or the naming of two or more subcontractors to perform the same work shall render the bidder's bid nonresponsive and, therefore, void. The requirement of this section to name the bidder's proposed heating, ventilation and air conditioning, plumbing, and electrical subcontractors applies only to proposed heating, ventilation and air conditioning, plumbing, and electrical subcontractors who will contract directly with the general contractor submitting the bid to the public entity.

[1999 c 109 § 1; 1995 c 94 § 1; 1994 c 91 § 1; 1993 c 378 § 1.]

Notes:

Application--1994 c 91: "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after June 9, 1994." [1994 c 91 § 2.]

Application--1993 c 378: "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after July 25, 1993." [1993 c 378 § 2.]

RCW 39.30.070 Exceptions--Contracts or development agreements related to stadium and exhibition center.

This chapter does not apply to contracts entered into under RCW 36.102.060(4) or development agreements entered into under RCW 36.102.060(7).

[1997 c 220 § 403 (Referendum Bill No. 48, approved June 17, 1997).]

Notes:

Referendum--Other legislation limited--Legislators' personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements--1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law--Severability--1997 c 220: See RCW 36.102.900 and 36.102.901.

**Chapter 39.32 RCW
PURCHASE OF FEDERAL PROPERTY**

Sections

- 39.32.010 Definitions.
- 39.32.020 Acquisition of surplus property authorized.
- 39.32.035 Administration and use of general administration services account--Director's authority to lease and acquire surplus property.
- 39.32.040 Procedure to purchase--Requisitions--Price at which sold--Disposition of proceeds--Duties of governor.
- 39.32.060 Rules and regulations.
- 39.32.070 Purchase of property from federal government authorized--Authority to contract--Bidding--Payment.
- 39.32.080 Purchase of property from federal government authorized--Inconsistent provisions suspended.

39.32.090 Purchases by political subdivisions from or through United States authorized.

Notes:

Authority of counties to receive and distribute federal surplus commodities to needy: RCW 36.39.040.

State purchasing and material control director: RCW 43.19.190.

Public assistance recipients, certification of to receive federal surplus commodities: RCW 74.04.340 through 74.04.360.

RCW 39.32.010 Definitions.

For the purposes of RCW 39.32.010 through 39.32.060:

The term "eligible donee" means any public agency carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, radio and television stations licensed by the federal communications commission as educational radio or educational television stations, museums attended by the public, and public libraries serving all residents of a community, district, state, or region, and which are exempt from taxation under Section 501 of the Internal Revenue Code of 1954, for purposes of education or public health, including research for any such purpose.

The term "public agency" means the state or any subdivision thereof, including any unit of local government, economic development district, emergency services organization, or any instrumentality created by compact or other agreement between the state and a political subdivision, or any Indian tribe, band, group, or community located on a state reservation.

The term "surplus property" means any property, title to which is in the federal, state, or local government or any department or agency thereof, and which property is to be disposed of as surplus under any act of congress or the legislature or local statute, heretofore or hereafter enacted providing for such disposition.

[1995 c 137 § 2; 1977 ex.s. c 135 § 1; 1967 ex.s. c 70 § 1; 1945 c 205 § 1; Rem. Supp. 1945 § 10322-60.]

RCW 39.32.020 Acquisition of surplus property authorized.

The director of general administration is hereby authorized to purchase, lease or otherwise acquire from federal, state, or local government or any surplus property disposal agency thereof surplus property to be used in accordance with the provisions of this chapter.

[1995 c 137 § 3; 1977 ex.s. c 135 § 2; 1967 ex.s. c 70 § 2; 1945 c 205 § 2; Rem. Supp. 1945 § 10322-61.]

Notes:

Authority of superintendent of public instruction to acquire federal surplus or donated food commodities for school district hot lunch program: Chapter 28A.235 RCW.

RCW 39.32.035 Administration and use of general administration services account--Director's authority to lease and acquire surplus property.

The general administration services account shall be administered by the director of general administration and be used for the purchase, lease or other acquisition from time to time of surplus property from any federal, state, or local government surplus property disposal agency. The director may purchase, lease or acquire such surplus property on the requisition of an eligible donee and without such requisition at such time or times as he or she deems it advantageous to do so; and in either case he or she shall be responsible for the care and custody of the property purchased so long as it remains in his or her possession.

[1998 c 105 § 3; 1995 c 137 § 4; 1977 ex.s. c 135 § 3; 1967 ex.s. c 70 § 4; 1945 c 205 § 4; Rem. Supp. 1945 § 10322-63. Formerly RCW 39.32.030, part.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

RCW 39.32.040 Procedure to purchase--Requisitions--Price at which sold--Disposition of proceeds--Duties of governor.

In purchasing federal surplus property on requisition for any eligible donee the director may advance the purchase price thereof from the general administration services account, and he or she shall then in due course bill the proper eligible donee for the amount paid by him or her for the property plus a reasonable amount to cover the expense incurred by him or her in connection with the transaction. In purchasing surplus property without requisition, the director shall be deemed to take title outright and he or she shall then be authorized to resell from time to time any or all of such property to such eligible donees as desire to avail themselves of the privilege of purchasing. All moneys received in payment for surplus property from eligible donees shall be deposited by the director in the general administration services account. The director shall sell federal surplus property to eligible donees at a price sufficient only to reimburse the general administration services account for the cost of the property to the account, plus a reasonable amount to cover expenses incurred in connection with the transaction. Where surplus property is transferred to an eligible donee without cost to the transferee, the director may impose a reasonable charge to cover expenses incurred in connection with the transaction. The governor, through the director of general administration, shall administer the surplus property program in the state and shall perform or supervise all those functions with respect to the program, its agencies and instrumentalities.

[1998 c 105 § 4; 1995 c 137 § 5; 1977 ex.s. c 135 § 4; 1967 ex.s. c 70 § 5; 1945 c 205 § 5; Rem. Supp. 1945 § 10322-64.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

RCW 39.32.060 Rules and regulations.

The director of general administration shall have power to promulgate such rules and

regulations as may be necessary to effectuate the purposes of RCW 39.32.010 through 39.32.060 and to carry out the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

[1977 ex.s. c 135 § 5; 1967 ex.s. c 70 § 6; 1945 c 205 § 7; Rem. Supp. 1945 § 10322-66.]

RCW 39.32.070 Purchase of property from federal government authorized--Authority to contract--Bidding--Payment.

The state of Washington, through any department, division, bureau, board, commission, authority, or agency thereof, and all counties, cities, towns, and other political subdivisions thereof, is hereby authorized to enter into any contract with the United States of America, or with any agency thereof, for the purchase of any equipment, supplies, materials, or other property, without regard to the provisions of any law requiring the advertising, giving of notices, inviting or receiving bids, or which may require the delivery of purchases before payment, and to this end the executive head of any such department, division, bureau, board, commission, authority, or agency of the state, the county commissioners and the executive authority of any city or town, may designate by appropriate resolution or order any office holder or employee of its own to enter a bid or bids in its behalf at any sale of any equipment, supplies, material or other property real or personal owned by the United States of America or any agency thereof, and may authorize said person to make any down payment, or payment in full, required in connection with such bidding.

[1945 c 180 § 1; Rem. Supp. 1945 § 10322-50. FORMER PART OF SECTION: 1945 c 88 § 1 now codified as RCW 39.32.090.]

RCW 39.32.080 Purchase of property from federal government authorized--Inconsistent provisions suspended.

Any provisions of any law, charter, ordinance, resolution, bylaw, rule or regulation which are inconsistent with the provisions of RCW 39.32.070 and 39.32.080 are suspended to the extent such provisions are inconsistent herewith.

[1945 c 180 § 2; Rem. Supp. 1945 § 10322-51.]

RCW 39.32.090 Purchases by political subdivisions from or through United States authorized.

Whenever authorized by ordinance or resolution of its legislative authority any political subdivision of the state shall have power to purchase supplies, materials and/or equipment from or through the United States government without calling for bids, notwithstanding any law or charter provision to the contrary.

[1945 c 88 § 1; Rem. Supp. 1945 § 10322-40. Formerly RCW 39.32.070, part.]

Chapter 39.33 RCW
INTERGOVERNMENTAL DISPOSITION OF PROPERTY

Sections

39.33.010	Sale, exchange, transfer, lease of public property authorized--Section deemed alternative.
39.33.020	Disposal of surplus property--Hearing--Notice.
39.33.050	Public mass transportation systems--Contracts for services or use.
39.33.060	Transfer of property or contract for use for park and recreational purposes.
39.33.070	School districts and libraries--Disposal of obsolete or surplus reading materials--Procedures.

RCW 39.33.010 Sale, exchange, transfer, lease of public property authorized--Section deemed alternative.

(1) The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned.

(2) This section shall be deemed to provide an alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in the state, municipalities or political subdivisions.

(3) No intergovernmental transfer, lease, or other disposition of property made pursuant to any other provision of law prior to May 23, 1972 shall be construed to be invalid solely because the parties thereto did not comply with the procedures of this section.

[1981 c 96 § 1; 1973 c 109 § 1; 1972 ex.s. c 95 § 1; 1953 c 133 § 1.]

Notes:

Exchange of county tax title lands with other governmental agencies: Chapter 36.35 RCW.

RCW 39.33.020 Disposal of surplus property--Hearing--Notice.

Before disposing of surplus property with an estimated value of more than fifty thousand dollars, the state or a political subdivision shall hold a public hearing in the county where the property or the greatest portion thereof is located. At least ten days but not more than twenty-five days prior to the hearing, there shall be published a public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing at least once in a newspaper of general circulation in the area where the property is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the property is located. If real property is involved, the public notice and news release shall identify the property using a description which can easily be understood by the public. If the surplus is real property, the public notice and news release shall also describe the proposed use of the lands involved. If there is a failure to substantially comply with the procedures set

forth in this section, then the sale, transfer, exchange, lease, or other disposal shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the disposal agreement.

[1995 c 123 § 1; 1981 c 96 § 2.]

RCW 39.33.050 Public mass transportation systems--Contracts for services or use.

The legislative body of any municipal corporation, quasi municipal corporation or political subdivision of the state of Washington authorized to develop and operate a public mass transportation system shall have power to contract with the legislative body of any other municipal corporation, quasi municipal corporation or political subdivision of the state of Washington, or with any person, firm or corporation for public transportation services or for the use of all or any part of any publicly owned transportation facilities for such period and under such terms and conditions and upon such rentals, fees and charges as the legislative body operating such public transportation system may determine, and may pledge all or any portion of such rentals, fees and charges and all other revenue derived from the ownership or operation of publicly owned transportation facilities to pay and to secure the payment of general obligation bonds and/or revenue bonds of such municipality issued for the purpose of acquiring or constructing a public mass transportation system.

[1969 ex.s. c 255 § 16.]

Notes:

Construction--Severability--1969 ex.s. c 255: See notes following RCW 35.58.272.
Public transportation systems: RCW 35.58.272 through 35.58.2792.

RCW 39.33.060 Transfer of property or contract for use for park and recreational purposes.

Any governmental unit, as defined in RCW 36.93.020(1) as it now exists or is hereafter amended, may convey its real or personal property or any interest or right therein to, or contract for the use of such property by, the county or park and recreation district wherein such property is located for park or recreational purposes, by private negotiation and upon such terms and with such consideration as might be mutually agreed to by such governmental unit and the board of county commissioners or the park and recreation district board of commissioners.

[1971 ex.s. c 243 § 7.]

Notes:

Severability--1971 ex.s. c 243: See RCW 84.34.920.

RCW 39.33.070 School districts and libraries--Disposal of obsolete or surplus reading materials--Procedures.

Any school district or educational service district, after complying with the requirements

of RCW 28A.335.180, and any library, as defined in RCW 27.12.010, may dispose of surplus or obsolete books, periodicals, newspapers, and other reading materials as follows:

(1) If the reading materials are estimated to have value as reading materials in excess of one thousand dollars, they shall be sold at public auction to the person submitting the highest reasonable bid following publication of notice of the auction in a newspaper with a general circulation in the library or school district.

(2) If no reasonable bids are submitted under subsection (1) of this section or if the reading materials are estimated to have value as reading materials of one thousand dollars or less, the library or school district may directly negotiate the sale of the reading materials to a public or private entity.

(3) If the reading materials are determined to have no value as reading materials or if no purchaser is found under subsection (2) of this section the reading materials may be recycled or destroyed.

These methods for disposing of surplus or obsolete reading materials shall be in addition to any other method available to libraries and school districts for disposal of the property.

[1990 c 33 § 567; 1979 ex.s. c 134 § 1.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Chapter 39.34 RCW INTERLOCAL COOPERATION ACT

Sections

39.34.010	Declaration of purpose.
39.34.020	Definitions.
39.34.030	Joint powers--Agreements for joint or cooperative action, requisites, effect on responsibilities of component agencies--Financing of joint projects.
39.34.040	Agreements to be filed--Status of interstate agreements--Real party in interest--Actions.
39.34.050	Duty to submit agreement to jurisdictional state officer or agency.
39.34.055	Public purchase agreements with public benefit nonprofit corporations.
39.34.060	Participating agencies may appropriate funds and provide personnel, property, and services.
39.34.070	Authority of joint boards to receive loans or grants.
39.34.080	Contracts to perform governmental activities which each contracting agency is authorized to perform.
39.34.085	Agreements for operation of bus services.
39.34.090	Agencies' contracting authority regarding electricity, utilities' powers, preserved.
39.34.100	Powers conferred by chapter are supplemental.
39.34.110	Powers otherwise prohibited by Constitutions or federal laws.
39.34.130	Transactions between state agencies--Charging of costs--Regulation by director of financial management.
39.34.140	Transactions between state agencies--Procedures for payments through transfers upon accounts.
39.34.150	Transactions between state agencies--Advancements.
39.34.160	Transactions between state agencies--Time limitation for expenditure of advance--Unexpended balance.

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- 39.34.170 Transactions between state agencies--Powers and authority cumulative.
39.34.180 Criminal justice responsibilities--Interlocal agreements--Termination.
39.34.900 Short title.
39.34.910 Severability--1967 c 239.
39.34.920 Effective date--1967 c 239.

NOTES:

Hydroelectric resources, creation of separate legal authority by irrigation districts and cities, towns, or public utility districts: RCW 87.03.828.

Irrigation districts, creation of legal authority to carry out powers: RCW 87.03.018.

School district associations, right to mortgage or convey money security interest in association property--Limitations: RCW 28A.335.100.

School districts agreements with other governmental entities for transportation of students, the public or other noncommon school purposes--Limitations: RCW 28A.160.120.

RCW 39.34.010 Declaration of purpose.

It is the purpose of this chapter to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

[1967 c 239 § 1.]

Notes:

Joint operations by municipal corporations and political subdivisions, deposit and control of funds: RCW 43.09.285.

RCW 39.34.020 Definitions.

For the purposes of this chapter, the term "public agency" shall mean any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state.

The term "state" shall mean a state of the United States.

[1985 c 33 § 1; 1979 c 36 § 1; 1977 ex.s. c 283 § 13; 1975 1st ex.s. c 115 § 1; 1973 c 34 § 1; 1971 c 33 § 1; 1969 c 88 § 1; 1969 c 40 § 1; 1967 c 239 § 3.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 39.34.030 Joint powers--Agreements for joint or cooperative action, requisites, effect on responsibilities of component agencies--Financing of joint projects.

(1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of

this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter: PROVIDED, That any such joint or cooperative action by public agencies which are educational service districts and/or school districts shall comply with the provisions of RCW 28A.320.080. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. Such entity may include a nonprofit corporation organized pursuant to chapter 24.03 or 24.06 RCW whose membership is limited solely to the participating public agencies or a partnership organized pursuant to chapter 25.04 RCW whose partners are limited solely to participating public agencies and the funds of any such corporation or partnership shall be subject to audit in the manner provided by law for the auditing of public funds;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (a), (c), (d), (e) and (f) enumerated in subdivision (3) hereof, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. Any joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of joint board".

(5) No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, the performance may be offered in satisfaction of the obligation or

responsibility.

(6) Financing of joint projects by agreement shall be as provided by law.

[1992 c 161 § 4; 1990 c 33 § 568; 1981 c 308 § 2; 1972 ex.s. c 81 § 1; 1967 c 239 § 4.]

Notes:

Intent--1992 c 161: See note following RCW 70.44.450.

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1981 c 308: See note following RCW 28A.320.080.

Joint operations by municipal corporations or political subdivisions, deposit and control of funds: RCW 43.09.285.

RCW 39.34.040 Agreements to be filed--Status of interstate agreements--Real party in interest--Actions.

Prior to its entry into force, an agreement made pursuant to this chapter shall be filed with the county auditor. In the event that an agreement entered into pursuant to this chapter is between or among one or more public agencies of this state and one or more public agencies of another state or of the United States the agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the state.

[1995 c 22 § 1; 1992 c 161 § 5; 1967 c 239 § 5.]

Notes:

Intent--1992 c 161: See note following RCW 70.44.450.

RCW 39.34.050 Duty to submit agreement to jurisdictional state officer or agency.

In the event that an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control. The agreement shall be approved or disapproved by the state officer or agency with regard to matters within his, her, or its jurisdiction within ninety days after receipt of the agreement. If a state officer or agency fails to act within the ninety-day time limit, the agreement shall be deemed approved by that state officer or agency.

[1992 c 161 § 6; 1967 c 239 § 6.]

Notes:

Intent--1992 c 161: See note following RCW 70.44.450.

RCW 39.34.055 Public purchase agreements with public benefit nonprofit corporations.

The office of state procurement within the department of general administration may enter into an agreement with a public benefit nonprofit corporation to allow the public benefit nonprofit corporation to participate in state contracts for purchases administered by the office of state procurement. Such agreement must comply with the requirements of RCW 39.34.030 through 39.34.050. For the purposes of this section "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or a political subdivision of another state.

[1994 c 98 § 1.]

RCW 39.34.060 Participating agencies may appropriate funds and provide personnel, property, and services.

Any public agency entering into an agreement pursuant to this chapter may appropriate funds and may sell, lease, give, or otherwise supply property, personnel, and services to the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking.

[1992 c 161 § 7; 1967 c 239 § 7.]

Notes:

Intent--1992 c 161: See note following RCW 70.44.450.

RCW 39.34.070 Authority of joint boards to receive loans or grants.

Any joint board created pursuant to the provisions of this chapter is hereby authorized to accept loans or grants of federal, state or private funds in order to accomplish the purposes of this chapter provided each of the participating public agencies is authorized by law to receive such funds.

[1967 c 239 § 8.]

RCW 39.34.080 Contracts to perform governmental activities which each contracting agency is authorized to perform.

Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: PROVIDED, That such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties.

[1967 c 239 § 9.]

RCW 39.34.085 Agreements for operation of bus services.

In addition to the other powers granted by chapter 39.34 RCW, one or more cities or towns or a county, or any combination thereof, may enter into agreements with each other or with a public transportation agency of a contiguous state, or contiguous Canadian province, to allow a city or such other transportation agency to operate bus service for the transportation of the general public within the territorial boundaries of such city and/or county or to allow such city and/or county to operate such bus service within the jurisdiction of such other public agency when no such existing bus certificate of public convenience and necessity has been authorized by the Washington utilities and transportation commission: PROVIDED, HOWEVER, That such transportation may extend beyond the territorial boundaries of either party to the agreement if the agreement so provides, and if such service is not in conflict with existing bus service authorized by the Washington utilities and transportation commission. The provisions of this section shall be cumulative and nonexclusive and shall not affect any other right granted by this chapter or any other provision of law.

[1977 c 46 § 1; 1969 ex.s. c 139 § 1.]

RCW 39.34.090 Agencies' contracting authority regarding electricity, utilities' powers, preserved.

Nothing in this chapter shall be construed to increase or decrease existing authority of any public agency of this state to enter into agreements or contracts with any other public agency of this state or of any other state or the United States with regard to the generation, transmission, or distribution of electricity or the existing powers of any private or public utilities.

[1967 c 239 § 10.]

RCW 39.34.100 Powers conferred by chapter are supplemental.

The powers and authority conferred by this chapter shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of any public agency.

[1967 c 239 § 11.]

RCW 39.34.110 Powers otherwise prohibited by Constitutions or federal laws.

No power, privilege, or other authority shall be exercised under this chapter where prohibited by the state Constitution or the Constitution or laws of the federal government.

[1967 c 239 § 12.]

RCW 39.34.130 Transactions between state agencies--Charging of costs--Regulation

by director of financial management.

Except as otherwise provided by law, the full costs of a state agency incurred in providing services or furnishing materials to or for another agency under chapter 39.34 RCW or any other statute shall be charged to the agency contracting for such services or materials and shall be repaid and credited to the fund or appropriation against which the expenditure originally was charged. Amounts representing a return of expenditures from an appropriation shall be considered as returned loans of services or of goods, supplies or other materials furnished, and may be expended as part of the original appropriation to which they belong without further or additional appropriation. Such interagency transactions shall be subject to regulation by the director of financial management, including but not limited to provisions for the determination of costs, prevention of interagency contract costs beyond those which are fully reimbursable, disclosure of reimbursements in the governor's budget and such other requirements and restrictions as will promote more economical and efficient operations of state agencies.

Except as otherwise provided by law, this section shall not apply to the furnishing of materials or services by one agency to another when other funds have been provided specifically for that purpose pursuant to law.

[1979 c 151 § 45; 1969 ex.s. c 61 § 1.]

Notes:

Duty to submit agreement of jurisdictional state officer or agency: RCW 39.34.050.

RCW 39.34.140 Transactions between state agencies--Procedures for payments through transfers upon accounts.

The director of financial management may establish procedures whereby some or all payments between state agencies may be made by transfers upon the accounts of the state treasurer in lieu of making such payments by warrant or check. Such procedures, when established, shall include provision for corresponding entries to be made in the accounts of the affected agencies.

[1979 c 151 § 46; 1969 ex.s. c 61 § 2.]

RCW 39.34.150 Transactions between state agencies--Advancements.

State agencies are authorized to advance funds to defray charges for materials to be furnished or services to be rendered by other state agencies. Such advances shall be made only upon the approval of the director of financial management, or his order made pursuant to an appropriate regulation requiring advances in certain cases. An advance shall be made from the fund or appropriation available for the procuring of such services or materials, to the state agency which is to perform the services or furnish the materials, in an amount no greater than the estimated charges therefor.

[1979 c 151 § 47; 1969 ex.s. c 61 § 3.]

RCW 39.34.160 Transactions between state agencies--Time limitation for expenditure of advance--Unexpended balance.

An advance made under RCW 39.34.130 through 39.34.150 from appropriated funds shall be available for expenditure for no longer than the period of the appropriation from which it was made. When the actual costs of materials and services have been finally determined, and in no event later than the lapsing of the appropriation, any unexpended balance of the advance shall be returned to the agency for credit to the fund or account from which it was made.

[1969 ex.s. c 61 § 4.]

RCW 39.34.170 Transactions between state agencies--Powers and authority cumulative.

The powers and authority conferred by RCW 39.34.130 through 39.34.160 shall be construed as in addition and supplemental to powers or authority conferred by any other law, and not to limit any other powers or authority of any public agency expressly granted by any other statute.

[1969 ex.s. c 61 § 5.]

RCW 39.34.180 Criminal justice responsibilities--Interlocal agreements--Termination.

(1) Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services. Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense.

(2) The following principles must be followed in negotiating interlocal agreements or contracts: Cities and counties must consider (a) anticipated costs of services; and (b) anticipated and potential revenues to fund the services, including fines and fees, criminal justice funding, and state-authorized sales tax funding levied for criminal justice purposes.

(3) If an agreement as to the levels of compensation within an interlocal agreement or contract for gross misdemeanor and misdemeanor services cannot be reached between a city and county, then either party may invoke binding arbitration on the compensation issued by notice to the other party. In the case of establishing initial compensation, the notice shall request arbitration within thirty days. In the case of nonrenewal of an existing contract or interlocal agreement, the notice must be given one hundred twenty days prior to the expiration of the existing contract or agreement and the existing contract or agreement remains in effect until a

new agreement is reached or until an arbitration award on the matter of fees is made. The city and county each select one arbitrator, and the initial two arbitrators pick a third arbitrator.

(4) A city or county that wishes to terminate an agreement for the provision of court services must provide written notice of the intent to terminate the agreement in accordance with RCW 3.50.810 and 35.20.010.

(5) For cities or towns that have not adopted, in whole or in part, criminal code or ordinance provisions related to misdemeanor and gross misdemeanor crimes as defined by state law, this section shall have no application until July 1, 1998.

[2001 c 68 § 4; 1996 c 308 § 1.]

NOTES:

Effective date--1996 c 308: "This act shall take effect January 1, 1997." [1996 c 308 § 2.]

RCW 39.34.900 Short title.

This chapter may be cited as the "Interlocal Cooperation Act."

[1967 c 239 § 2.]

RCW 39.34.910 Severability--1967 c 239.

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

[1967 c 239 § 14.]

RCW 39.34.920 Effective date--1967 c 239.

The effective date of this chapter is July 1, 1967.

[1967 c 239 § 15.]

**Chapter 39.35 RCW
ENERGY CONSERVATION IN DESIGN OF PUBLIC FACILITIES**

Sections

39.35.010	Legislative finding.
39.35.020	Legislative declaration.
39.35.030	Definitions.
39.35.040	Facility design to include life-cycle cost analysis.
39.35.050	Life-cycle cost analysis--Guidelines.
39.35.060	Life-cycle cost analysis--Review fees.
39.35.900	Severability--1975 1st ex.s. c 177.

RCW 39.35.010 Legislative finding.

The legislature hereby finds:

- (1) That major publicly owned or leased facilities have a significant impact on our state's consumption of energy;
- (2) That energy conservation practices including energy management systems and renewable energy systems adopted for the design, construction, and utilization of such facilities will have a beneficial effect on our overall supply of energy;
- (3) That the cost of the energy consumed by such facilities over the life of the facilities shall be considered in addition to the initial cost of constructing such facilities;
- (4) That the cost of energy is significant and major facility designs shall be based on the total life-cycle cost, including the initial construction cost, and the cost, over the economic life of a major facility, of the energy consumed, and of the operation and maintenance of a major facility as they affect energy consumption; and
- (5) That the use of energy systems in these facilities which utilize renewable resources such as solar energy, wood or wood waste, or other nonconventional fuels, and which incorporate energy management systems, shall be considered in the design of all publicly owned or leased facilities.

[2001 c 214 § 15; 1982 c 159 § 1; 1975 1st ex.s. c 177 § 1.]

NOTES:

Findings--2001 c 214: "(1) The legislature hereby finds that:

(a) The economy of the state and the health, safety, and welfare of its citizens are threatened by the current energy supply and price instabilities;

(b) Many energy efficiency programs for public buildings launched during the 1970s and 1980s were not maintained during the subsequent sustained period of low energy costs and abundant supply; and

(c) Conservation programs originally established in the 1970s and 1980s can be improved or updated. New programs drawing on recently developed technologies, including demand-side energy management systems, can materially increase the efficiency of energy use by the public sector.

(2) It is the policy of the state of Washington that:

(a) State government is committed to achieving significant gains in energy efficiency. Conventional conservation programs will be reviewed and updated in light of experience gained since their commencement;

(b) State government must play a leading role in demonstrating updated and new energy efficiency technologies. New programs or measures made possible by technological advances, such as demand-side response measures and energy management systems, shall be treated in the same manner as conventional conservation programs and will be integrated into the state's energy efficiency programs." [2001 c 214 § 14.]

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Applicability--1982 c 159: "This act does not apply to a major facility construction or renovation on which a life-cycle cost analysis is commenced under chapter 39.35 RCW before June 10, 1982." [1982 c 159 § 5.]

RCW 39.35.020 Legislative declaration.

The legislature declares that it is the public policy of this state to insure that energy conservation practices and renewable energy systems are employed in the design of major publicly owned or leased facilities and that the use of at least one renewable energy system is considered. To this end the legislature authorizes and directs that public agencies analyze the

cost of energy consumption of each major facility to be planned and constructed or renovated after September 8, 1975.

[1982 c 159 § 2; 1975 1st ex.s. c 177 § 2.]

Notes:

Applicability--1982 c 159: See notes following RCW 39.35.010.

RCW 39.35.030 Definitions.

For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(2) "Department" means the state department of general administration.

(3) "Major facility" means any publicly owned or leased building having twenty-five thousand square feet or more of usable floor space.

(4) "Initial cost" means the moneys required for the capital construction or renovation of a major facility.

(5) "Renovation" means additions, alterations, or repairs within any twelve-month period which exceed fifty percent of the value of a major facility and which will affect any energy system.

(6) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years.

(7) "Energy management system" means a program, energy efficiency equipment, technology, device, or other measure including, but not limited to, a management, educational, or promotional program, smart appliance, meter reading system that provides energy information capability, computer software or hardware, communications equipment or hardware, thermostat or other control equipment, together with related administrative or operational programs, that allows identification and management of opportunities for improvement in the efficiency of energy use, including but not limited to a measure that allows:

(a) Energy consumers to obtain information about their energy usage and the cost of energy in connection with their usage;

(b) Interactive communication between energy consumers and their energy suppliers;

(c) Energy consumers to respond to energy price signals and to manage their purchase and use of energy; or

(d) For other kinds of dynamic, demand-side energy management.

(8) "Life-cycle cost" means the initial cost and cost of operation of a major facility over its economic life. This shall be calculated as the initial cost plus the operation, maintenance, and energy costs over its economic life, reflecting anticipated increases in these costs discounted to present value at the current rate for borrowing public funds, as determined by the office of financial management. The energy cost projections used shall be those provided by the department. The department shall update these projections at least every two years.

(9) "Life-cycle cost analysis" includes, but is not limited to, the following elements:

- (a) The coordination and positioning of a major facility on its physical site;
- (b) The amount and type of fenestration employed in a major facility;
- (c) The amount of insulation incorporated into the design of a major facility;
- (d) The variable occupancy and operating conditions of a major facility; and
- (e) An energy-consumption analysis of a major facility.

(10) "Energy systems" means all utilities, including, but not limited to, heating, air-conditioning, ventilating, lighting, and the supplying of domestic hot water.

(11) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment, and components, and the external energy load imposed on a major facility by the climatic conditions of its location. An energy-consumption analysis of the operation of energy systems of a major facility shall include, but not be limited to, the following elements:

(a) The comparison of three or more system alternatives, at least one of which shall include renewable energy systems, and one of which shall comply at a minimum with the sustainable design guidelines of the United States green building council leadership in energy and environmental design silver standard or similar design standard as may be adopted by rule by the department;

(b) The simulation of each system over the entire range of operation of such facility for a year's operating period; and

(c) The evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

The energy-consumption analysis shall be prepared by a professional engineer or licensed architect who may use computers or such other methods as are capable of producing predictable results.

(12) "Renewable energy systems" means methods of facility design and construction and types of equipment for the utilization of renewable energy sources including, but not limited to, hydroelectric power, active or passive solar space heating or cooling, domestic solar water heating, windmills, waste heat, biomass and/or refuse-derived fuels, photovoltaic devices, and geothermal energy.

(13) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. Where these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. 292.202 (c) through (m) as of July 28, 1991, shall apply.

(14) "Selected buildings" means educational, office, residential care, and correctional facilities that are designed to comply with the design standards analyzed and recommended by the department.

(15) "Design standards" means the heating, air-conditioning, ventilating, and renewable resource systems identified, analyzed, and recommended by the department as providing an efficient energy system or systems based on the economic life of the selected buildings.

[2001 c 214 § 16; 1996 c 186 § 402; 1994 c 242 § 1; 1991 c 201 § 14; 1982 c 159 § 3; 1975 1st ex.s. c 177 § 3.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Captions not law--Severability--1991 c 201: See RCW 39.35C.900 and 39.35C.901.

Applicability--1982 c 159: See notes following RCW 39.35.010.

RCW 39.35.040 Facility design to include life-cycle cost analysis.

Whenever a public agency determines that any major facility is to be constructed or renovated, such agency shall cause to be included in the design phase of such construction or renovation a provision that requires a life-cycle cost analysis conforming with the guidelines developed in RCW 39.35.050 to be prepared for such facility. Such analysis shall be approved by the agency prior to the commencement of actual construction or renovation. A public agency may accept the facility design if the agency is satisfied that the life-cycle cost analysis provides for an efficient energy system or systems based on the economic life of the major facility.

Nothing in this section prohibits the construction or renovation of major facilities which utilize renewable energy systems.

[1994 c 242 § 2; 1982 c 159 § 4; 1975 1st ex.s. c 177 § 4.]

Notes:

Applicability--1982 c 159: See notes following RCW 39.35.010.

RCW 39.35.050 Life-cycle cost analysis--Guidelines.

The department, in consultation with affected public agencies, shall develop and issue guidelines for administering this chapter. The purpose of the guidelines is to define a procedure and method for performance of life-cycle cost analysis to promote the selection of low-life-cycle cost alternatives. At a minimum, the guidelines must contain provisions that:

- (1) Address energy considerations during the planning phase of the project;
- (2) Identify energy components and system alternatives including energy management systems, renewable energy systems, and cogeneration applications prior to commencing the energy consumption analysis;
- (3) Identify simplified methods to assure the lowest life-cycle cost alternatives for selected buildings with between twenty-five thousand and one hundred thousand square feet of usable floor area;
- (4) Establish times during the design process for preparation, review, and approval or disapproval of the life-cycle cost analysis;
- (5) Specify the assumptions to be used for escalation and inflation rates, equipment service lives, economic building lives, and maintenance costs;
- (6) Determine life-cycle cost analysis format and submittal requirements to meet the provisions of chapter 201, Laws of 1991;
- (7) Provide for review and approval of life-cycle cost analysis.

[2001 c 214 § 17; 1996 c 186 § 403; 1994 c 242 § 3; 1991 c 201 § 15.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Captions not law--Severability--1991 c 201: See RCW 39.35C.900 and 39.35C.901.

RCW 39.35.060 Life-cycle cost analysis--Review fees.

The department may impose fees upon affected public agencies for the review of life-cycle cost analyses. The fees shall be deposited in the general administration services account. The purpose of the fees is to recover the costs by the department for review of the analyses. The department shall set fees at a level necessary to recover all of its costs related to increasing the energy efficiency of state-supported new construction. The fees shall not exceed one-tenth of one percent of the total cost of any project or exceed two thousand dollars for any project unless mutually agreed to. The department shall provide detailed calculation ensuring that the energy savings resulting from its review of life-cycle cost analysis justify the costs of performing that review.

[2001 c 292 § 1; 1996 c 186 § 404; 1991 c 201 § 16.]

NOTES:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Captions not law--Severability--1991 c 201: See RCW 39.35C.900 and 39.35C.901.

RCW 39.35.900 Severability--1975 1st ex.s. c 177.

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

[1975 1st ex.s. c 177 § 5.]

**Chapter 39.35A RCW
PERFORMANCE-BASED CONTRACTS FOR ENERGY EQUIPMENT**

Sections

39.35A.010	Legislative finding.
39.35A.020	Definitions.
39.35A.030	Performance-based contracts for energy equipment and supplies.
39.35A.040	Application of other procurement requirements.
39.35A.050	Energy service contractor registry--Identification of performance-based contracting services.

RCW 39.35A.010 Legislative finding.

The legislature finds that:

(1) Conserving energy in publicly owned buildings will have a beneficial effect on our

overall supply of energy;

(2) Conserving energy in publicly owned buildings can result in cost savings for taxpayers; and

(3) Performance-based energy contracts are a means by which municipalities can achieve energy conservation without capital outlay.

Therefore, the legislature declares that it is the policy that a municipality may, after a competitive selection process, negotiate a performance-based energy contract with a firm that offers the best proposal.

[1985 c 169 § 1.]

RCW 39.35A.020 Definitions.

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

(1) "Energy equipment and services" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance.

(2) "Energy management system" has the definition provided in RCW 39.35.030.

(3) "Municipality" has the definition provided in RCW 39.04.010.

(4) "Performance-based contract" means one or more contracts for energy equipment and services between a municipality and any other persons or entities, if the payment obligation for each year under the contract, including the year of installation, is either: (a) Set as a percentage of the annual energy cost savings attributable under the contract to the energy equipment and services; or (b) guaranteed by the other persons or entities to be less than the annual energy cost savings attributable under the contract to the energy equipment and services. Such guarantee shall be, at the option of the municipality, a bond or insurance policy, or some other guarantee determined sufficient by the municipality to provide a level of assurance similar to the level provided by a bond or insurance policy.

[2001 c 214 § 18; 1985 c 169 § 2.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

RCW 39.35A.030 Performance-based contracts for energy equipment and supplies.

(1) Each municipality shall publish in advance its requirements to procure energy equipment and services under a performance-based contract. The announcement shall state concisely the scope and nature of the equipment and services for which a performance-based contract is required, and shall encourage firms to submit proposals to meet these requirements.

(2) The municipality may negotiate a fair and reasonable performance-based contract

with the firm that is identified, based on the criteria that is established by the municipality, to be the firm that submits the best proposal.

(3) If the municipality is unable to negotiate a satisfactory contract with the firm that submits the best proposal, negotiations with that firm shall be formally terminated and the municipality may select another firm in accordance with this section and continue negotiation until a performance-based contract is reached or the selection process is terminated.

[1985 c 169 § 3.]

RCW 39.35A.040 Application of other procurement requirements.

If a municipality chooses, by resolution or other appropriate mechanism, to negotiate a performance-based contract under this chapter, no otherwise applicable statutory procurement requirement applies.

[1985 c 169 § 4.]

RCW 39.35A.050 Energy service contractor registry--Identification of performance-based contracting services.

The state department of general administration shall maintain a registry of energy service contractors and provide assistance to municipalities in identifying available performance-based contracting services.

[2001 c 214 § 19.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

**Chapter 39.35B RCW
LIFE-CYCLE COST ANALYSIS OF PUBLIC FACILITIES**

Sections

39.35B.010	Legislative findings.
39.35B.020	Legislative declaration.
39.35B.030	Intent.
39.35B.040	Implementation.

RCW 39.35B.010 Legislative findings.

The legislature finds that:

(1) Operating costs of a facility over its lifetime may greatly exceed the initial cost of the facility;

(2) In the planning, design, and funding for new construction or major renovation of

state-owned facilities it is desirable to consider not only the initial costs relating to design and construction or acquisition, but the anticipated operating costs relating to the building throughout its life;

(3) The consideration of both initial and operating costs is known as life-cycle cost or life-cycle cost analysis;

(4) Operating costs of a facility for purposes of this chapter include, but are not limited to, energy costs, maintenance and repair costs, and costs of the work or activity performed within the facility, including wages and salaries;

(5) Current law, chapter 39.35 RCW, speaks to life-cycle cost analysis only in relation to energy conservation; and

(6) Life-cycle cost may not be suitable or cost-effective for all capital projects or all components of a facility, and is not an exclusive criteria for decision-making, but is nonetheless a useful framework for evaluating design and capital investment alternatives.

[1986 c 127 § 1.]

RCW 39.35B.020 Legislative declaration.

The legislature declares that:

(1) It is the policy of the state to consider life-cycle costs in the selection of facility design alternatives, to the full extent practical, reasonable, and cost-effective;

(2) Life-cycle cost should be considered by the state government, school districts, and state universities and community colleges in the planning, design, and funding for new construction or major renovations; and

(3) Use of life-cycle cost should be encouraged for cities, counties, and other governmental districts including special purpose districts.

[1986 c 127 § 2.]

RCW 39.35B.030 Intent.

It is the intent of the legislature to:

(1) Expand the definition and use of "life-cycle cost" and "life-cycle cost analysis" to include consideration of all operating costs, as opposed to only energy-related costs as addressed by chapter 39.35 RCW;

(2) Encourage the recognition, development, and use of life-cycle cost concepts and procedures by both the executive and legislative branches in the state's design development and capital budgeting processes;

(3) Ensure the dissemination and use of a common and realistic discount rate by all state agencies in the calculation of the present value of future costs;

(4) Allow and encourage the executive branch to develop specific techniques and procedures for the state government and its agencies, and state universities and community colleges to implement this policy; and

(5) Encourage cities, counties, and other governmental districts including special purpose

districts to adopt programs and procedures to implement this policy.

[1986 c 127 § 3.]

RCW 39.35B.040 Implementation.

The principal executives of all state agencies are responsible for implementing the policy set forth in this chapter. The office of financial management in conjunction with the department of general administration may establish guidelines for compliance by the state government and its agencies, and state universities and community colleges. The office of financial management shall include within its biennial capital budget instructions:

(1) A discount rate for the use of all agencies in calculating the present value of future costs, and several examples of resultant trade-offs between annual operating costs eliminated and additional capital costs thereby justified; and

(2) Types of projects and building components that are particularly appropriate for life-cycle cost analysis.

[1986 c 127 § 4.]

**Chapter 39.35C RCW
ENERGY CONSERVATION PROJECTS**

Sections

39.35C.010	Definitions.
39.35C.020	State agency and school district conservation projects--Implementation--Department assistance.
39.35C.025	Energy audit of school district facilities--Completion dates--Identification, implementation of cost-effective energy conservation measures.
39.35C.030	Department coordination of conservation development with utilities.
39.35C.040	Sale of conserved energy.
39.35C.050	Authority of state agencies and school districts to implement conservation.
39.35C.060	Authority to finance conservation in school districts and state agencies.
39.35C.070	Development of cogeneration projects.
39.35C.080	Sale of cogenerated electricity and thermal energy.
39.35C.090	Additional authority of state agencies.
39.35C.100	Energy efficiency construction account.
39.35C.130	Adoption of rules.
39.35C.900	Captions not law--1991 c 201.
39.35C.901	Severability--1991 c 201.

RCW 39.35C.010 Definitions.

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

(1) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. If these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions

established by 18 C.F.R. Sec. 292.202 (c) through (m) apply.

(2) "Conservation" means reduced energy consumption or energy cost, or increased efficiency in the use of energy, and activities, measures, or equipment designed to achieve such results, but does not include thermal or electric energy production from cogeneration.

(3) "Cost-effective" means that the present value to a state agency or school district of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(4) "Energy" means energy as defined in RCW 43.21F.025(1).

(5) "Energy audit" has the definition provided in RCW 43.19.670.

(6) "Energy efficiency project" means a conservation or cogeneration project.

(7) "Energy efficiency services" means assistance furnished by the department to state agencies and school districts in identifying, evaluating, and implementing energy efficiency projects.

(8) "Department" means the state department of general administration.

(9) "Performance-based contracting" means contracts for which payment is conditional on achieving contractually specified energy savings.

(10) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(11) "Public facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency or school district.

(12) "State agency" means every state office or department, whether elective or appointive, state institutions of higher education, and all boards, commissions, or divisions of state government, however designated.

(13) "State facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency.

(14) "Utility" means privately or publicly owned electric and gas utilities, electric cooperatives and mutuals, whether located within or without Washington state.

(15) "Local utility" means the utility or utilities in whose service territory a public facility is located.

[2001 c 214 § 20; 1996 c 186 § 405; 1991 c 201 § 2.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.020 State agency and school district conservation projects--Implementation--Department assistance.

(1) Each state agency and school district shall implement cost-effective conservation

improvements and maintain efficient operation of its facilities in order to minimize energy consumption and related environmental impacts and reduce operating costs. Each state agency shall undertake an energy audit and implement cost-effective conservation measures pursuant to the time schedules and requirements set forth in chapter 43.19 RCW, except that any state agency that, after December 31, 1997, has completed energy audits and implemented cost-effective conservation measures, or has contracted with an energy service company for energy audits and conservation measures, is deemed to have met the requirements of this subsection for those facilities included in the audits and conservation measures. Each school district shall undertake an energy audit and implement cost-effective conservation measures pursuant to the time schedules and requirements set forth in RCW 39.35C.025. Performance-based contracting shall be the preferred method for completing energy audits and implementing cost-effective conservation measures.

(2) The department shall assist state agencies and school districts in identifying, evaluating, and implementing cost-effective conservation projects at their facilities. The assistance shall include the following:

(a) Notifying state agencies and school districts of their responsibilities under this chapter;

(b) Apprising state agencies and school districts of opportunities to develop and finance such projects;

(c) Providing technical and analytical support, including procurement of performance-based contracting services;

(d) Reviewing verification procedures for energy savings; and

(e) Assisting in the structuring and arranging of financing for cost-effective conservation projects.

(3) Conservation projects implemented under this chapter shall have appropriate levels of monitoring to verify the performance and measure the energy savings over the life of the project. The department shall solicit involvement in program planning and implementation from utilities and other energy conservation suppliers, especially those that have demonstrated experience in performance-based energy programs.

(4) The department shall comply with the requirements of chapter 39.80 RCW when contracting for architectural or engineering services.

(5) The department shall recover any costs and expenses it incurs in providing assistance pursuant to this section, including reimbursement from third parties participating in conservation projects. The department shall enter into a written agreement with the public agency for the recovery of costs.

[2001 c 214 § 21; 1996 c 186 § 406; 1991 c 201 § 3.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.025 Energy audit of school district facilities--Completion dates--Identification, implementation of cost-effective energy conservation measures.

(1) Except as provided in subsections (2) and (3) of this section, each school district shall conduct an energy audit of its facilities. This energy audit may be conducted by contract or by other arrangement, including appropriate district staff. Performance-based contracting shall be the preferred method for implementing and completing energy audits.

(a) For each district facility, the energy consumption surveys shall be completed no later than December 31, 2001, and the walk-through surveys shall be completed no later than October 1, 2002. Upon completion of each walk-through survey, the district shall implement energy conservation maintenance and operation procedures that may be identified for any district facility. These procedures shall be implemented as soon as possible, but not later than twelve months after the walk-through survey.

(b) Except as provided in subsection (3) of this section, if a walk-through survey has identified potentially cost-effective energy conservation measures, the district shall undertake an investment grade audit of the facility. Investment grade audits shall be completed no later than June 30, 2003, and installation of cost-effective conservation measures recommended in the investment grade audit shall be completed no later than December 31, 2004.

(2) A school district that, after December 31, 1997, has completed energy audits and implemented cost-effective conservation measures, or has contracted with an energy service company for energy audits and conservation measures, is deemed to have met the requirements of this section for those facilities included in the audits and conservation measures.

(3) A school district that after reasonable efforts and consultation with the department is unable to obtain a contract with an energy service company to conduct an investment grade audit or install cost-effective conservation measures recommended in an investment grade audit, is exempt from the requirements of subsection (1)(b) of this section.

[2001 c 214 § 22.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

RCW 39.35C.030 Department coordination of conservation development with utilities.

(1) The department shall consult with the local utilities to develop priorities for energy conservation projects pursuant to this chapter, cooperate where possible with existing utility programs, and consult with the local utilities prior to implementing projects in their service territory.

(2) A local utility shall be offered the initial opportunity to participate in the development of conservation projects in the following manner:

(a) Before initiating projects in a local utility service territory, the department shall notify the local utility in writing, on an annual basis, of public facilities in the local utility's service territory at which the department anticipates cost-effective conservation projects will be developed.

(b) Within sixty days of receipt of this notification, the local utility may express interest in these projects by submitting to the department a written description of the role the local utility is willing to perform in developing and acquiring the conservation at these facilities. This role may include any local utility conservation programs which would be available to the public facility, any competitive bidding or solicitation process which the local utility will be undertaking in accordance with the rules of the utilities and transportation commission or the public utility district, municipal utility, cooperative, or mutual governing body for which the public facility would be eligible, or any other role the local utility may be willing to perform.

(c) Upon receipt of the written description from the local utility, the department shall, through discussions with the local utility, and with involvement from state agencies and school districts responsible for the public facilities, develop a plan for coordinated delivery of conservation services and financing or make a determination of whether to participate in the local utility's competitive bidding or solicitation process. The plan shall identify the local utility in roles that the local utility is willing to perform and that are consistent with the provisions of RCW 39.35C.040(2) (d) and (e).

[1996 c 186 § 407; 1991 c 201 § 4.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.040 Sale of conserved energy.

(1) It is the intent of this chapter that the state, state agencies, and school districts are compensated fairly for the energy savings provided to utilities and be allowed to participate on an equal basis in any utility conservation program, bidding, or solicitation process. State agencies and school districts shall not receive preferential treatment. For the purposes of this section, any type of compensation from a utility or the Bonneville power administration intended to achieve reductions or efficiencies in energy use which are cost-effective to the utility or the Bonneville power administration shall be regarded as a sale of energy savings. Such compensation may include credits to the energy bill, low or no interest loans, rebates, or payment per unit of energy saved. The department shall, in coordination with utilities, the Bonneville power administration, state agencies, and school districts, facilitate the sale of energy savings at public facilities including participation in any competitive bidding or solicitation which has been agreed to by the state agency or school district. Energy savings may only be sold to local utilities or, under conditions specified in this section, to the Bonneville power administration. The department shall not attempt to sell energy savings occurring in one utility service territory to a different utility. Nothing in this chapter mandates that utilities purchase the energy savings.

(2) To ensure an equitable allocation of benefits to the state, state agencies, and school districts, the following conditions shall apply to transactions between utilities or the Bonneville power administration and state agencies or school districts for sales of energy savings:

(a) A transaction shall be approved by both the state agency or school district and the department.

(b) The state agency or school district and the department shall work together throughout the planning and negotiation process for such transactions unless the department determines that its participation will not further the purposes of this section.

(c) Before making a decision under (d) of this subsection, the department shall review the proposed transaction for its technical and economic feasibility, the adequacy and reasonableness of procedures proposed for verification of project or program performance, the degree of certainty of benefits to the state, state agency, or school district, the degree of risk assumed by the state or school district, the benefits offered to the state, state agency, or school district and such other factors as the department determines to be prudent.

(d) The department shall approve a transaction unless it finds, pursuant to the review in (c) of this subsection, that the transaction would not result in an equitable allocation of costs and benefits to the state, state agency, or school district, in which case the transaction shall be disapproved.

(e) In addition to the requirements of (c) and (d) of this subsection, in areas in which the Bonneville power administration has a program for the purchase of energy savings at public facilities, the department shall approve the transaction unless the local utility cannot offer a benefit substantially equivalent to that offered by the Bonneville power administration, in which case the transaction shall be disapproved. In determining whether the local utility can offer a substantially equivalent benefit, the department shall consider the net present value of the payment for energy savings; any goods, services, or financial assistance provided by the local utility; and any risks borne by the local utility. Any direct negative financial impact on a nongrowing, local utility shall be considered.

(3) Any party to a potential transaction may, within thirty days of any decision to disapprove a transaction made pursuant to subsection (2)(c), (d), or (e) of this section, request an independent reviewer who is mutually agreeable to all parties to the transaction to review the decision. The parties shall within thirty days of selection submit to the independent reviewer documentation supporting their positions. The independent reviewer shall render advice regarding the validity of the disapproval within an additional thirty days.

[1996 c 186 § 408; 1991 c 201 § 5.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.050 Authority of state agencies and school districts to implement conservation.

In addition to any other authorities conferred by law:

(1) The department, with the consent of the state agency or school district responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may:

(a) Develop and finance conservation at public facilities in accordance with express provisions of this chapter;

(b) Contract for energy services, including performance-based contracts;

(c) Contract to sell energy savings from a conservation project at public facilities to local utilities or the Bonneville power administration.

(2) A state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may undertake procurements for third-party development of conservation at its facilities.

(3) A school district may:

(a) Develop and finance conservation at school district facilities;

(b) Contract for energy services, including performance-based contracts at school district facilities; and

(c) Contract to sell energy savings from energy conservation projects at school district facilities to local utilities or the Bonneville power administration directly or to local utilities or the Bonneville power administration through third parties.

(4) In exercising the authority granted by subsections (1), (2), and (3) of this section, a school district or state agency must comply with the provisions of RCW 39.35C.040.

[1996 c 186 § 409; 1991 c 201 § 6.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.060 Authority to finance conservation in school districts and state agencies.

State agencies may use financing contracts under chapter 39.94 RCW to provide all or part of the funding for conservation projects. The department shall determine the eligibility of such projects for financing contracts. The repayments of the financing contracts shall be sufficient to pay, when due, the principal and interest on the contracts.

[1996 c 186 § 410; 1991 c 201 § 7.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.070 Development of cogeneration projects.

(1) Consistent with the region's need to develop cost-effective, high efficiency electric energy resources, the state shall investigate and, if appropriate, pursue development of cost-effective opportunities for cogeneration in existing or new state facilities.

(2) To assist state agencies in identifying, evaluating, and developing potential cogeneration projects at their facilities, the department shall notify state agencies of their responsibilities under this chapter; apprise them of opportunities to develop and finance such projects; and provide technical and analytical support. The department shall recover costs for such assistance through written agreements, including reimbursement from third parties participating in such projects, for any costs and expenses incurred in providing such assistance.

(3)(a) The department shall identify priorities for cogeneration projects at state facilities, and, where such projects are initially deemed desirable by the department and the appropriate state agency, the department shall notify the local utility serving the state facility of its intent to conduct a feasibility study at such facility. The department shall consult with the local utility and provide the local utility an opportunity to participate in the development of the feasibility study for the state facility it serves.

(b) If the local utility has an interest in participating in the feasibility study, it shall notify the department and the state agency whose facility or facilities it serves within sixty days of receipt of notification pursuant to (a) of this subsection as to the nature and scope of its desired participation. The department, state agency, and local utility shall negotiate the responsibilities, if any, of each in conducting the feasibility study, and these responsibilities shall be specified in a written agreement.

(c) If a local utility identifies a potential cogeneration project at a state facility for which it intends to conduct a feasibility study, it shall notify the department and the appropriate state agency. The department, state agency, and local utility shall negotiate the responsibilities, if any, of each in conducting the feasibility study, and these responsibilities shall be specified in a written agreement. Nothing in this section shall preclude a local utility from conducting an independent assessment of a potential cogeneration project at a state facility.

(d) Agreements written pursuant to (a) and (b) of this subsection shall include a provision for the recovery of costs incurred by a local utility in performing a feasibility study in the event such utility does not participate in the development of the cogeneration project. If the local utility does participate in the cogeneration project through energy purchase, project development or ownership, recovery of the utility's costs may be deferred or provided for through negotiation on agreements for energy purchase, project development or ownership.

(e) If the local utility declines participation in the feasibility study, the department and the state agency may receive and solicit proposals to conduct the feasibility study from other parties. Participation of these other parties shall also be secured and defined by a written agreement which may include the provision for reimbursement of costs incurred in the formulation of the feasibility study.

(4) The feasibility study shall include consideration of regional and local utility needs for power, the consistency of the proposed cogeneration project with the state energy strategy, the cost and certainty of fuel supplies, the value of electricity produced, the capability of the state agency to own and/or operate such facilities, the capability of utilities or third parties to own and/or operate such facilities, requirements for and costs of standby sources of power, costs associated with interconnection with the local electric utility's transmission system, the capability of the local electric utility to wheel electricity generated by the facility, costs associated with obtaining wheeling services, potential financial risks and losses to the state and/or state agency, measures to mitigate the financial risk to the state and/or state agency, and benefits to the state and to the state agency from a range of design configurations, ownership, and operation options.

(5) Based upon the findings of the feasibility study, the department and the state agency shall determine whether a cogeneration project will be cost-effective and whether development

of a cogeneration project should be pursued. This determination shall be made in consultation with the local utility or, if the local utility had not participated in the development of the feasibility study, with any third party that may have participated in the development of the feasibility study.

(a) Recognizing the local utility's expertise, knowledge, and ownership and operation of the local utility systems, the department and the state agency shall have the authority to negotiate directly with the local utility for the purpose of entering into a sole source contract to develop, own, and/or operate the cogeneration facility. The contract may also include provisions for the purchase of electricity or thermal energy from the cogeneration facility, the acquisition of a fuel source, and any financial considerations which may accrue to the state from ownership and/or operation of the cogeneration facility by the local utility.

(b) The department may enter into contracts through competitive negotiation under this subsection for the development, ownership, and/or operation of a cogeneration facility. In determining an acceptable bid, the department and the state agency may consider such factors as technical knowledge, experience, management, staff, or schedule, as may be necessary to achieve economical construction or operation of the project. The selection of a developer or operator of a cogeneration facility shall be made in accordance with procedures for competitive bidding under chapter 43.19 RCW.

(c) The department shall comply with the requirements of chapter 39.80 RCW when contracting for architectural or engineering services.

(6)(a) The state may own and/or operate a cogeneration project at a state facility. However, unless the cogeneration project is determined to be cost-effective, based on the findings of the feasibility study, the department and state agency shall not pursue development of the project as a state-owned facility. If the project is found to be cost-effective, and the department and the state agency agree development of the cogeneration project should be pursued as a state-owned and/or operated facility, the department shall assist the state agency in the preparation of a finance and development plan for the cogeneration project. Any such plan shall fully account for and specify all costs to the state for developing and/or operating the cogeneration facility.

(b) It is the general intent of this chapter that cogeneration projects developed and owned by the state will be sized to the projected thermal energy load of the state facility over the useful life of the project. The principal purpose and use of such projects is to supply thermal energy to a state facility and not primarily to develop generating capacity for the sale of electricity. For state-owned projects with electricity production in excess of projected thermal requirements, the department shall seek and obtain legislative appropriation and approval for development. Nothing in chapter 201, Laws of 1991 shall be construed to authorize any state agency to sell electricity or thermal energy on a retail basis.

(7) When a cogeneration facility will be developed, owned, and/or operated by a state agency or third party other than the local serving utility, the department and the state agency shall negotiate a written agreement with the local utility. Elements of such an agreement shall include provisions to ensure system safety, provisions to ensure reliability of any interconnected operations equipment necessary for parallel operation and switching equipment capable of

isolating the generation facility, the provision of and reimbursement for standby services, if required, and the provision of and reimbursement for wheeling electricity, if the provision of such has been agreed to by the local utility.

(8) The state may develop and own a thermal energy distribution system associated with a cogeneration project for the principal purpose of distributing thermal energy at the state facility. If thermal energy is to be sold outside the state facility, the state may only sell the thermal energy to a utility.

[1996 c 186 § 411; 1991 c 201 § 8.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.080 Sale of cogenerated electricity and thermal energy.

It is the intention of chapter 201, Laws of 1991 that the state and its agencies are compensated fairly for the energy provided to utilities from cogeneration at state facilities. Such compensation may include revenues from sales of electricity or thermal energy to utilities, lease of state properties, and value of thermal energy provided to the facility. It is also the intent of chapter 201, Laws of 1991 that the state and its agencies be accorded the opportunity to compete on a fair and reasonable basis to fulfill a utility's new resource acquisition needs when selling the energy produced from cogeneration projects at state facilities through energy purchase agreements.

(1)(a) The department and state agencies may participate in any utility request for resource proposal process, as either established under the rules and regulations of the utilities and transportation commission, or by the governing board of a public utility district, municipal utility, cooperative, or mutual.

(b) If a local utility does not have a request for resource proposal pending, the energy office [department] or a state agency may negotiate an equitable and mutually beneficial energy purchase agreement with that utility.

(2) To ensure an equitable allocation of benefits to the state and its agencies, the following conditions shall apply to energy purchase agreements negotiated between utilities and state agencies:

(a) An energy purchase agreement shall be approved by both the department and the affected state agency.

(b) The department and the state agency shall work together throughout the planning and negotiation process for energy purchase agreements, unless the department determines that its participation will not further the purposes of this section.

(c) Before approving an energy purchase agreement, the department shall review the proposed agreement for its technical and economic feasibility, the degree of certainty of benefits, the degree of financial risk assumed by the state and/or the state agency, the benefits offered to the state and/or state agency, and other such factors as the department deems prudent. The department shall approve an energy purchase agreement unless it finds that such an agreement

would not result in an equitable allocation of costs and benefits, in which case the transaction shall be disapproved.

(3)(a) The state or state agency shall comply with and shall be bound by applicable avoided cost schedules, electric power wheeling charges, interconnection requirements, utility tariffs, and regulatory provisions to the same extent it would be required to comply and would be bound if it were a private citizen. The state shall neither seek regulatory advantage, nor change regulations, regulatory policy, process, or decisions to its advantage as a seller of cogenerated energy. Nothing contained in chapter 201, Laws of 1991 shall be construed to mandate or require public or private utilities to wheel electric energy resources within or beyond their service territories. Nothing in chapter 201, Laws of 1991 authorizes any state agency or school district to make any sale of energy or waste heat beyond the explicit provisions of chapter 201, Laws of 1991. Nothing contained in chapter 201, Laws of 1991 requires a utility to purchase energy from the state or a state agency or enter into any agreement in connection with a cogeneration facility.

(b) The state shall neither construct, nor be party to an agreement for developing a cogeneration project at a state facility for the purpose of supplying its own electrical needs, unless it can show that such an arrangement would be in the economic interest of the state taking into account the cost of (i) interconnection requirements, as specified by the local electric utility, (ii) standby charges, as may be required by the local electric utility, and (iii) the current price of electricity offered by the local electric utility. If the local electric utility can demonstrate that the cogeneration project may place an undue burden on the electric utility, the department or the state agency shall attempt to negotiate a mutually beneficial agreement that would minimize the burden upon the ratepayers of the local electric utility.

(4) Any party to an energy purchase agreement may, within thirty days of any decision made pursuant to subsection (2)(c) of this section to disapprove the agreement made pursuant to this section, request an independent reviewer who is mutually agreeable to all parties to review the decision. The parties shall within thirty days of selection submit to the independent reviewer documentation supporting their positions. The independent reviewer shall render advice regarding the validity of the disapproval within an additional thirty days.

(5) For the purposes of this section, "waste heat" means the thermal energy that otherwise would be released to the environment from an industrial process, electric generation, or other process.

[1996 c 186 § 412; 1996 c 33 § 4; 1991 c 201 § 9.]

Notes:

Reviser's note: This section was amended by 1996 c 33 § 4 and by 1996 c 186 § 412, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Findings--1996 c 33: See note following RCW 80.04.550.

RCW 39.35C.090 Additional authority of state agencies.

In addition to any other authorities conferred by law:

(1) The department, with the consent of the state agency responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may:

- (a) Contract to sell electric energy generated at state facilities to a utility; and
- (b) Contract to sell thermal energy produced at state facilities to a utility.

(2) A state or regional university acting independently, and any other state agency acting through the department of general administration or as otherwise authorized by law, may:

(a) Acquire, install, permit, construct, own, operate, and maintain cogeneration and facility heating and cooling measures or equipment, or both, at its facilities;

(b) Lease state property for the installation and operation of cogeneration and facility heating and cooling equipment at its facilities;

(c) Contract to purchase all or part of the electric or thermal output of cogeneration plants at its facilities;

(d) Contract to purchase or otherwise acquire fuel or other energy sources needed to operate cogeneration plants at its facilities; and

(e) Undertake procurements for third-party development of cogeneration projects at its facilities, with successful bidders to be selected based on the responsible bid, including nonprice elements listed in RCW 43.19.1911, that offers the greatest net achievable benefits to the state and its agencies.

(3) After July 28, 1991, a state agency shall consult with the department prior to exercising any authority granted by this section.

(4) In exercising the authority granted by subsections (1) and (2) of this section, a state agency must comply with the provisions of RCW 39.35C.080.

[1996 c 186 § 413; 1991 c 201 § 10.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.100 Energy efficiency construction account.

(1) The energy efficiency construction account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation and only for the following purposes:

(a) Construction of energy efficiency projects, including project evaluation and verification of benefits, project design, project development, project construction, and project administration.

(b) Payment of principal and interest and other costs required under bond covenant on bonds issued for the purpose of (a) of this subsection.

(2) Sources for this account may include:

(a) General obligation and revenue bond proceeds appropriated by the legislature;

(b) Loan repayments under RCW 39.35C.060 sufficient to pay principal and interest obligations; and

(c) Funding from federal, state, and local agencies.

[1996 c 186 § 414; 1991 c 201 § 11.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.130 Adoption of rules.

The department may adopt rules to implement RCW 39.35C.020 through 39.35C.040, 39.35C.070, 39.35C.080, and 39.35.050.

[1996 c 186 § 416; 1991 c 201 § 17.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 39.35C.900 Captions not law--1991 c 201.

Captions as used in chapter 201, Laws of 1991 constitute no part of the law.

[1991 c 201 § 22.]

RCW 39.35C.901 Severability--1991 c 201.

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

[1991 c 201 § 24.]

Chapter 39.36 RCW

LIMITATION OF INDEBTEDNESS OF TAXING DISTRICTS

Sections

39.36.010	Definitions.
39.36.015	"Value of the taxable property" defined.
39.36.020	Limitation of indebtedness prescribed.
39.36.030	Computation of indebtedness.
39.36.040	Authorizations in violation of chapter void.
39.36.050	Ballot proposition authorizing indebtedness--Excess property tax levies.
39.36.060	Chapter not applicable to loan agreements underchapter 39.69 RCW.
39.36.900	Validation--1969 c 142.

Notes:

Limitation of state debt: State Constitution Art. 8 § 1.

Limitation on levies: State Constitution Art. 7 § 2.

Limitations on municipal indebtedness: State Constitution Art. 8 § 6.

RCW 39.36.010 Definitions.

The term "taxing district" as herein used shall be held to mean and embrace all counties, cities, towns, townships, port districts, school districts, metropolitan park districts or other municipal corporations which now, or may hereafter exist.

The term "the last assessed valuation of the taxable property in such taxing district" as used herein shall be held to mean and embrace the aggregate assessed valuation for such taxing district as placed on the last completed and balanced tax rolls of the county next preceding the date of contracting the debt or incurring the liability.

[1917 c 143 § 4; RRS § 5608.]

RCW 39.36.015 "Value of the taxable property" defined.

Whenever used in *this 1970 amendatory act, the term "value of the taxable property" shall mean the actual value of the taxable property in a taxing district incurring indebtedness, as the term "taxing district" is defined in RCW 39.36.010, to be ascertained by the last assessment for state and county purposes previous to the incurring of such indebtedness except that in incorporated cities the assessment shall be taken from the last assessment for city purposes, plus the timber assessed value for the district as defined in RCW 84.33.035.

[1984 c 204 § 15; 1970 ex.s. c 42 § 1.]

Notes:

***Reviser's note:** The phrase "this 1970 amendatory act" refers to 1970 ex.s. c 42, which amended RCW 39.36.015, 27.12.070, 27.12.222, 28A.47.801, 28A.51.010, 28A.51.020, 28A.58.550, 35.37.040, 35.58.450, 35.61.100, 35.61.110, 35A.40.090, 36.67.010, 36.67.020, 36.68.520, 36.69.140, 36.76.010, 36.76.080, 37.16.010, 37.16.020, 39.28.030, 39.30.010, 39.36.020, 47.57.530, 52.08.080, 52.16.080, 53.08.030, 53.36.030, 54.24.018, 56.16.050, 57.20.110, 57.20.120, 88.32.230, 89.30.400, 89.30.403, and 86.05.920.

Savings--Effective date--1984 c 204: See notes following RCW 84.33.035.

Severability--1970 ex.s. c 42: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1970 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 42 § 41.]

Effective date--1970 ex.s. c 42: "The effective date of this 1970 amendatory act is November 1, 1970."
[1970 ex.s. c 42 § 42.]

RCW 39.36.020 Limitation of indebtedness prescribed.

(1) Except as otherwise expressly provided by law or in subsections (2), (3) and (4) of this section, no taxing district shall for any purpose become indebted in any manner to an amount exceeding three-eighths of one percent of the value of the taxable property in such taxing district without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness incurred at any time exceed one and one-fourth percent on the value of the taxable property therein.

(2)(a)(i) Public hospital districts are limited to an indebtedness amount not exceeding

three-fourths of one percent of the value of the taxable property in such public hospital districts without the assent of three-fifths of the voters therein voting at an election held for that purpose.

(ii) Counties, cities, and towns are limited to an indebtedness amount not exceeding one and one-half percent of the value of the taxable property in such counties, cities, or towns without the assent of three-fifths of the voters therein voting at an election held for that purpose.

(b) In cases requiring such assent counties, cities, towns, and public hospital districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein. However, any county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW may become indebted to a larger amount for its authorized metropolitan functions, as provided under chapter 35.58 RCW, but not exceeding an additional three-fourths of one percent of the value of the taxable property in the county without the assent of three-fifths of the voters therein voting at an election held for that purpose, and in cases requiring such assent not exceeding an additional two and one-half percent of the value of the taxable property in the county.

(3) School districts are limited to an indebtedness amount not exceeding three-eighths of one percent of the value of the taxable property in such district without the assent of three-fifths of the voters therein voting at an election held for that purpose. In cases requiring such assent school districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein.

(4) No part of the indebtedness allowed in this chapter shall be incurred for any purpose other than strictly county, city, town, school district, township, port district, metropolitan park district, or other municipal purposes: PROVIDED, That a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional, determined as herein provided, for supplying such city or town with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the city or town; and a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional for acquiring or developing open space, park facilities, and capital facilities associated with economic development: PROVIDED FURTHER, That any school district may become indebted to a larger amount but not exceeding two and one-half percent additional for capital outlays.

(5) Such indebtedness may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of indebtedness which could then lawfully be incurred. Such indebtedness may be incurred in one or more series of bonds from time to time out of such authorization but at no time shall the total general indebtedness of any taxing district exceed the above limitation.

The term "value of the taxable property" as used in this section shall have the meaning set forth in RCW 39.36.015.

[2000 c 156 § 1; 1994 c 277 § 1; 1993 c 240 § 12; 1971 ex.s. c 218 § 1; 1971 c 38 § 1; 1970 ex.s. c 42 § 27; 1969 c 142 § 3; 1967 c 107 § 4; 1959 c 227 § 1; 1953 c 163 § 2; 1917 c 143 § 1; RRS § 5605.]

Notes:

Effective date--2000 c 156: "This act is necessary for the immediate preservation of the public peace,

health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 27, 2000]." [2000 c 156 § 2.]

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

Validating--1953 c 163: "Bonds authorized, issued and sold by any school district prior to the effective date of this act [March 18, 1953] and not in excess of the limitations provided in sections 1 and 2 thereof are hereby approved, ratified and validated, and are a legal and irrevocable obligation of such school district." [1953 c 163 § 3.] This applies to RCW 28A.51.010 and 39.36.020.

Cemetery districts, limitation upon indebtedness: RCW 68.52.310.

Cities other than first class, limitations upon indebtedness: RCW 35.37.040, 35.37.050.

Conditional sales contract debt, not counted as part of debt limit: RCW 28A.335.200, 39.30.010.

Counties, limitations upon indebtedness: Chapter 36.67 RCW.

Executory conditional sales contracts, limitations on indebtedness: RCW 28A.335.200, 39.30.010.

Leases by cities and towns, limitations on indebtedness: RCW 35.42.200.

Metropolitan municipal corporations, limitations on indebtedness: RCW 35.58.450.

Metropolitan park districts, incurring indebtedness: RCW 35.61.100, 35.61.110.

Municipal corporations, limitations upon indebtedness: State Constitution Art. 8 § 6 (Amendment 27).

Port districts, limitations upon indebtedness: RCW 39.28.030, 53.36.030.

Public utility districts, limitations upon indebtedness: RCW 54.24.018.

School districts, limitations upon indebtedness: Chapters 28A.530, 28A.535 RCW.

Validation requirement: RCW 39.40.010.

Water-sewer districts, limitations upon indebtedness: RCW 57.20.110, 57.20.120.

RCW 39.36.030 Computation of indebtedness.

(1) Whenever it shall be necessary to compute the indebtedness of a taxing district for bonding or any other indebtedness purposes, taxes levied for the current year and cash on hand received for the purpose of carrying on the business of such taxing district for such current year shall be considered as an asset only as against indebtedness incurred during such current year which is payable from such taxes or cash on hand: PROVIDED, HOWEVER, That all taxes levied for the payment of bonds, warrants or other public debts of such taxing district, shall be deemed a competent and sufficient asset of the taxing district to be considered in calculating the constitutional debt limit or the debt limit prescribed by this chapter for any taxing district: PROVIDED, That the provisions of this section shall not apply in computing the debt limit of a taxing district in connection with bonds authorized pursuant to a vote of the electors at an election called prior to March 1, 1917.

(2) If reductions in assessed valuation of property within a taxing district result in the outstanding indebtedness of the taxing district exceeding its statutory indebtedness limitations, the amount of such excess indebtedness shall not be included in the statutory indebtedness ceiling. Additional indebtedness that is subject to indebtedness limitations, other than refinancing indebtedness that does not increase the total amount of indebtedness, may not be issued by such a taxing district until its total outstanding indebtedness, including that which this subsection removes from the statutory indebtedness limitations, is below these limitations.

(3) Nothing in this section authorizes taxing districts to incur indebtedness beyond constitutional indebtedness limitations.

[1986 c 50 § 1; 1921 c 123 § 1; 1917 c 143 § 2; RRS § 5606.]

RCW 39.36.040 Authorizations in violation of chapter void.

All orders, authorizations, allowances, contracts, payments or liabilities to pay, made or attempted to be made in violation of this chapter, shall be absolutely void and shall never be the foundation of a claim against a taxing district.

[1994 c 81 § 75; 1923 c 45 § 1; 1917 c 143 § 3; RRS § 5607.]

RCW 39.36.050 Ballot proposition authorizing indebtedness--Excess property tax levies.

The governing body of a taxing district desiring to place a ballot proposition authorizing indebtedness before the voters may submit the proposition at any special election held on the dates authorized in chapter 29.13 RCW. The ballot proposition shall include the maximum amount of the indebtedness to be authorized, the maximum term any bonds may have, a description of the purpose or purposes of the bond issue, and whether excess property tax levies authorized under RCW 84.52.056 will be authorized.

When it is required that such bonds be retired by excess property tax levies, or when the governing body desires such bonds be retired by excess property tax levies, the ballot proposition shall also include authorization for such excess bond retirement property tax levies provided under RCW 84.52.056.

Notice of the proposed election shall be published as required by RCW 29.27.080.

[1984 c 186 § 3.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

RCW 39.36.060 Chapter not applicable to loan agreements under chapter 39.69 RCW.

This chapter does not apply to a loan made pursuant to a loan agreement under chapter 39.69 RCW, and any computation of indebtedness under this chapter shall exclude the amount of any loan under such a loan agreement.

[1987 c 19 § 5.]

RCW 39.36.900 Validation--1969 c 142.

All bonds heretofore issued, or heretofore voted and which may have been or may hereafter be issued, by any taxing district pursuant to any of the foregoing sections as amended or for any of the purposes authorized by any of said sections are hereby validated.

[1969 c 142 § 6.]

Notes:

Reviser's note: This applies to RCW 28A.51.010, 36.67.040, and 39.36.020.

Chapter 39.40 RCW
VOTE REQUIRED AT BOND ELECTIONS

Sections

39.40.010	Forty percent poll of voters required.
39.40.020	Existing election laws to apply.
39.40.030	Certification of votes--Canvass.
39.40.040	Prior bonds not affected.
39.40.900	Severability--1925 c 13.

Notes:

County acquisition of land for military purposes, bond election for: Chapter 37.16 RCW.

County roads and bridges, bond elections: Chapter 36.76 RCW.

Irrigation districts, bond elections: Chapter 87.03 RCW.

Port districts, vote required for certain bond issues: RCW 53.36.030.

Public utility districts, bond elections, vote required: RCW 54.24.018.

RCW 39.40.010 Forty percent poll of voters required.

No general obligation bonds of any county, port district, or metropolitan park district upon which a vote of the people is required under existing laws shall be issued, nor shall they become a lien upon the taxable property within such county or district unless, in addition to all other requirements provided by law in the matter of the issuance of general obligation bonds by such county or district, the total vote cast upon such proposition shall exceed forty percent of the total number of voters voting in such county or district at the general county or state election next preceding such bond election.

[1961 ex.s. c 15 § 1; 1959 c 290 § 3; 1925 c 13 § 1; RRS § 5646-1.]

Notes:

Exceeding debt limitation by municipalities: State Constitution Art. 8 § 6 (Amendment 27).

Vote required for excess levy to retire bonds issued for capital purposes: RCW 84.52.056.

RCW 39.40.020 Existing election laws to apply.

In all such elections the provisions of existing law with respect to registration, opening and closing of registration books and the duties of officers and the appointment and selection of election officials shall apply.

[1925 c 13 § 2; RRS § 5646-2.]

Notes:

Election laws in general: Title 29 RCW.

RCW 39.40.030 Certification of votes--Canvass.

The election officials in each of the precincts included within any such district shall, as soon as possible and in no case later than five days after the closing of the polls of any election involving the issuance of bonds, certify to the county auditor of the county within which such district is located the total number of votes cast for and against each separate proposal and the vote shall be canvassed and certified by a canvassing board consisting of the chairman of the board of county commissioners, the county auditor, and the prosecuting attorney who shall declare the result thereof.

[1959 c 290 § 4; 1925 c 13 § 3; RRS § 5646-3.]

RCW 39.40.040 Prior bonds not affected.

This chapter shall not affect the validity or the issuance of any such bonds voted at any lawful election held prior to the taking effect of this chapter.

[1925 c 13 § 4; RRS § 5646-4.]

RCW 39.40.900 Severability--1925 c 13.

If any section or provision of this chapter be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

[1925 c 13 § 5; RRS § 5646-5.]

**Chapter 39.42 RCW
STATE BONDS, NOTES, AND OTHER EVIDENCES OF INDEBTEDNESS**

Sections

39.42.010	Scope of application.
39.42.020	Evidences of indebtedness--Issuance--Signature.
39.42.030	Evidences of indebtedness--Issuance--State finance committee, duties and powers.
39.42.040	Disposition of proceeds from sale of bonds.
39.42.050	Anticipation notes--Issued, when--Payment of principal and interest.
39.42.060	Limitation on issuance of evidences of indebtedness--Annual computation of amount required to pay on outstanding debt.
39.42.070	Computation of general state revenues--Filing of certificate--Estimate of debt capacity.
39.42.080	Obligations allowable under debt limitation.
39.42.090	Certificates of indebtedness--Issued, when--Retirement.
39.42.100	Evidences of indebtedness--Defects not to affect validity--Copy of resolution authorizing issuance filed--Action to contest before delivery.
39.42.110	Evidences of indebtedness--As negotiable instruments, legal investments, and security for deposits.
39.42.120	Excess earnings account--Payments to United States treasury.
39.42.900	Effective date--1971 ex.s. c 184.

RCW 39.42.010 Scope of application.

This chapter shall apply to all bonds, notes and other evidences of indebtedness of the state authorized by the legislature after *the effective date of this chapter, unless otherwise provided in the authorizing acts.

[1971 ex.s. c 184 § 1.]

Notes:

***Reviser's note:** For "the effective date of this chapter," see RCW 39.42.900.

RCW 39.42.020 Evidences of indebtedness--Issuance--Signature.

Bonds, notes or other evidences of indebtedness shall be issued by the state finance committee. They may be issued at one time or in a series from time to time. The maturity date of each series shall be determined by the state finance committee, but in no case shall any bonds mature later than thirty years from the date of issue. All evidences of indebtedness shall be signed in the name of the state by the governor and the treasurer. The facsimile signature of said officials is authorized and said evidences of indebtedness may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on such evidences of indebtedness has ceased to hold office at the time of issue or at the time of delivery to the purchaser.

[1971 ex.s. c 184 § 2.]

RCW 39.42.030 Evidences of indebtedness--Issuance--State finance committee, duties and powers.

The state finance committee shall determine by resolution the amount, date or dates, terms, conditions, covenants, denominations, interest rate or rates (which may be fixed or variable), maturity or maturities, redemption rights, manner of execution and authentication, manner and price of sale and form of all bonds, notes, or other evidences of indebtedness.

Such bonds, notes, or other evidences of indebtedness shall be payable either to the bearer or to the registered owner as provided in RCW 39.46.030. The resolution may provide for the deposit in trust with any qualified public depository of all or any part of the proceeds of the bonds, notes, or other evidences of indebtedness or money set aside for the payment thereof.

The state finance committee shall also determine by resolution whether interest on all or any part of the bonds is to be payable periodically during the term of such bonds or only at the maturity of the bonds. For purposes of the limitations on the amount of bonds authorized to be issued contained in the acts authorizing their issuance, the amount of bonds which pay interest only at maturity shall be equal to the price, exclusive of accrued interest, at which the bonds are initially offered to the public.

The state finance committee may issue, under chapter 39.53 RCW and this chapter,

bonds, notes, or other evidences of indebtedness to refund at or prior to maturity any outstanding state bonds, notes, or other evidences of indebtedness.

The state finance committee may obtain bond insurance, letters of credit or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidences of indebtedness, and may authorize the execution and delivery of agreements, promissory notes, and other related instruments.

[1989 1st ex.s. c 14 § 16; 1983 c 167 § 104; 1971 ex.s. c 184 § 3.]

Notes:

Severability--Effective dates--1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.42.040 Disposition of proceeds from sale of bonds.

The proceeds of the sale of any bonds shall be used solely for the purposes, including any expense incurred in connection with the issuance and sale of such bonds, specified in the general statute or special act authorizing the issuance of such bonds.

[1971 ex.s. c 184 § 4.]

RCW 39.42.050 Anticipation notes--Issued, when--Payment of principal and interest.

When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". If, prior to the issuance of the bonds, it becomes necessary to redeem outstanding notes, additional bond anticipation notes may be issued to redeem the outstanding notes. Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of such anticipation notes which have been issued. The interest on anticipation notes shall be paid from the revenue source and with the same priority of payment specified in the respective bond acts for payment of principal of and interest on the bonds against which anticipation notes are sold. The procedure for paying the interest on the notes, including the transfer of necessary funds for that purpose, shall be the same as prescribed for the bonds.

If the bonds shall constitute general obligations of the state and pledge the full faith and credit of the state to the payment thereof, then the notes issued in anticipation thereof shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. The owner and holder of any of the notes or the trustee for the owner and holder of any of the notes may, by a mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

[1981 c 29 § 1; 1971 ex.s. c 184 § 5.]

Notes:

Application--1981 c 29: "This act shall apply to all outstanding bond anticipation notes of the state, and interest on the notes shall be paid as provided in RCW 39.42.050: PROVIDED, That in the event such interest is not paid as provided in RCW 39.42.050 it shall be paid from such source or sources as are specified in such notes." [1981 c 29 § 2.] "This act" consists of the 1981 amendment of RCW 39.42.050.

RCW 39.42.060 Limitation on issuance of evidences of indebtedness--Annual computation of amount required to pay on outstanding debt.

No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the aggregate debt contracted by the state to exceed that amount for which payments of principal and interest in any fiscal year would require the state to expend more than seven percent of the arithmetic mean of its general state revenues, as defined in section 1(c) of Article VIII of the Washington state Constitution for the three immediately preceding fiscal years as certified by the treasurer in accordance with RCW 39.42.070. It shall be the duty of the state finance committee to compute annually the amount required to pay principal of and interest on outstanding debt. In making such computation, the state finance committee shall include all borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be paid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, and shall include debt incurred pursuant to section 3 of Article VIII of the Washington state Constitution, but shall exclude the following:

- (1) Obligations for the payment of current expenses of state government;
- (2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;
- (3) Principal of and interest on bond anticipation notes;
- (4) Any indebtedness which has been refunded;
- (5) Financing contracts entered into under chapter 39.94 RCW;
- (6) Indebtedness authorized or incurred before July 1, 1993, pursuant to statute which requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from money other than general state revenues or from the special excise tax imposed pursuant to chapter 67.40 RCW;
- (7) Indebtedness authorized and incurred after July 1, 1993, pursuant to statute that requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from (a) moneys outside the state treasury, except higher education operating fees, (b) higher education building fees, (c) indirect costs recovered from federal grants and contracts, and (d) fees and charges associated with hospitals operated or managed by institutions of higher education;
- (8) Any agreement, promissory note, or other instrument entered into by the state finance committee under RCW 39.42.030 in connection with its acquisition of bond insurance, letters of credit, or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidence of

indebtedness;

(9) Indebtedness incurred for the purposes identified in RCW 43.99N.020;

(10) Indebtedness incurred for the purposes of the school district bond guaranty established by chapter 39.98 RCW;

(11) Indebtedness incurred for the purposes of replacing the waterproof membrane over the east plaza garage and revising related landscaping construction pursuant to RCW 43.99Q.070; and

(12) Indebtedness incurred for the purposes of the state legislative building rehabilitation, to the extent that principal and interest payments of such indebtedness are paid from the capitol building construction account pursuant to RCW 43.99Q.140(2)(b).

To the extent necessary because of the constitutional or statutory debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes, or other evidences of indebtedness by the state shall be determined by the state finance committee.

[2001 2nd sp.s. c 9 § 18; 1999 c 273 § 9; 1997 c 220 § 220 (Referendum Bill No. 48, approved June 17, 1997); 1993 c 52 § 1. Prior: 1989 1st ex.s. c 14 § 17; 1989 c 356 § 7; 1983 1st ex.s. c 36 § 1; 1979 ex.s. c 204 § 1; 1971 ex.s. c 184 § 6.]

NOTES:

Severability--Effective date--2001 2nd sp.s. c 9: See RCW 43.99Q.900 and 43.99Q.901.

Contingent effective date--1999 c 273: See RCW 39.98.900.

Referendum--Other legislation limited--Legislators' personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements--1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law--Severability--1997 c 220: See RCW 36.102.900 and 36.102.901.

Effective date--1993 c 52: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 52 § 2.]

Severability--Effective dates--1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

RCW 39.42.070 Computation of general state revenues--Filing of certificate--Estimate of debt capacity.

On or after *the effective date of this act, the treasurer shall compute general state revenues for the three fiscal years immediately preceding such date and shall determine the arithmetic mean thereof. As soon as is practicable after the close of each fiscal year thereafter, he shall do likewise. In determining the amount of general state revenues, the treasurer shall include all state money received in the treasury from each and every source whatsoever except: (1) fees and revenues derived from the ownership or operation of any undertaking, facility or project; (2) moneys received as gifts, grants, donations, aid or assistance or otherwise from the United States or any department, bureau or corporation thereof, or any person, firm or corporation, public or private, when the terms and conditions of such gift, grant, donation, aid or assistance require the application and disbursement of such moneys otherwise than for the general purposes of the state of Washington; (3) moneys to be paid into and received from retirement system funds, and performance bonds and deposits; (4) moneys to be paid into and received from trust funds including but not limited to moneys received from taxes levied for specific purposes and the several permanent and irreducible funds of the state and the moneys derived therefrom but

excluding bond redemption funds; (5) proceeds received from the sale of bonds or other evidences of indebtedness. Upon computing general state revenues, the treasurer shall make and file in the office of the secretary of state, a certificate containing the results of such computations. Copies of said certificate shall be sent to each elected official of the state and each member of the legislature. The treasurer shall, at the same time, advise each elected official and each member of the legislature of the current available debt capacity of the state, and may make estimated projections for one or more years concerning debt capacity.

[1971 ex.s. c 184 § 7.]

Notes:

***Reviser's note:** For "the effective date of this act," see RCW 39.42.900.

RCW 39.42.080 Obligations allowable under debt limitation.

The foregoing limitation on the aggregate amount of indebtedness of the state shall not prevent:

(1) The issuance of obligations to refund or replace any such indebtedness existing at any time in an amount not exceeding 1.05 times the amount which, taking into account earnings from the investment of the proceeds of the issue, is required to pay the principal thereof, interest thereon, and any premium payable with respect thereto, and the costs incurred in accomplishing such refunding, as provided in chapter 39.53 RCW, as now or hereafter amended: PROVIDED, That any proceeds of the refunding, bonds in excess of those acquired to accomplish such refunding or any obligations acquired with such excess proceeds, shall be applied exclusively for the payment of principal, interest, or call premiums with respect to such refunding obligations;

(2) The issuance of obligations in anticipation of revenues to be received by the state during a period of twelve calendar months next following their issuance;

(3) The issuance of obligations payable solely from revenues of particular public improvements;

(4) A pledge of the full faith, credit, and taxing power of the state to guarantee the payment of any obligation payable from any of revenues received from any of the following sources:

(a) the fees collected by the state as license fees for motor vehicles;

(b) excise taxes collected by the state on the sale, distribution, or use of motor vehicle fuel; and

(c) interest on the permanent common school fund:

PROVIDED, That the legislature shall, at all times, provide sufficient revenues from such sources to pay the principal and interest due on all obligations for which said source of revenue is pledged.

[1974 ex.s. c 111 § 1; 1971 ex.s. c 184 § 8.]

Notes:

Severability--1974 ex.s. c 111: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 111 § 6.]

RCW 39.42.090 Certificates of indebtedness--Issued, when--Retirement.

The state finance committee may issue certificates of indebtedness in such sum or sums that may be necessary to meet temporary deficiencies of the treasury. Such certificates may be issued only to provide for the appropriations already made by the legislature and such certificates must be retired and the debt discharged other than by refunding within twelve months after the date of issuance.

For the purposes of this section, the state treasury shall include all statutorily established funds and accounts except for any of the permanent irreducible funds of the state treasury.

[1985 c 57 § 21; 1971 ex.s. c 184 § 9.]

Notes:

Effective date--1985 c 57: See note following RCW 18.04.105.

RCW 39.42.100 Evidences of indebtedness--Defects not to affect validity--Copy of resolution authorizing issuance filed--Action to contest before delivery.

Bonds, notes, or other obligations issued and sold by the state of Washington pursuant to and in conformity with this chapter shall not be invalid for any irregularity or defect in the proceedings of the issuance or sale thereof, except as provided in this paragraph, and shall be incontestable in the hands of a bona fide purchaser or holder thereof. Whenever the state finance committee determines to issue bonds, notes or other evidences of indebtedness, it shall file with the treasurer a certified copy of the resolution authorizing their issuance at least thirty days prior to delivery to the purchaser of such bonds, notes, of other evidences of indebtedness. At any time prior to delivery, any person in interest shall have the right to institute an appropriate action or proceeding to contest the validity of the authorized indebtedness, the pledge of revenues for the payment of principal and interest on such indebtedness, the validity of the collection and disposition of revenue necessary to pay the principal and interest on such indebtedness, the expenditure of the proceeds derived from the sale of the evidences of indebtedness for the purposes specified by law, and the validity of all other provisions and proceedings in connection with the authorization and issuance of the evidences of indebtedness. If such action or proceeding shall not have been instituted prior to delivery, then the validity of the evidences of indebtedness shall be conclusively presumed and no court shall have authority to inquire into such matters.

[1971 ex.s. c 184 § 10.]

RCW 39.42.110 Evidences of indebtedness--As negotiable instruments, legal investments, and security for deposits.

All evidences of indebtedness issued under the provisions of this chapter shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits.

[1971 ex.s. c 184 § 11.]

RCW 39.42.120 Excess earnings account--Payments to United States treasury.

The excess earnings account is created in the state treasury. From the revenue funds from which principal and interest payments on bonds are provided, the state treasurer shall periodically transfer to the excess earnings account such amounts as are owed to the federal government under section 148 of the federal internal revenue code. Pursuant to legislative appropriation from the excess earnings account, the state treasurer shall periodically remit to the United States treasury any amounts owed to the federal government under section 148 of the federal internal revenue code.

[1988 c 92 § 1.]

RCW 39.42.900 Effective date--1971 ex.s. c 184.

This act shall become effective coincident with the effective date of the constitutional amendment to Article VIII, section 1 and to Article VIII, section 3 of the Washington state Constitution as presented for a vote of the people by HJR 52, 1971 regular session. Unless such constitutional amendment shall be approved by the people at the next general election, this chapter shall be null and void.

[1971 ex.s. c 184 § 12.]

Notes:

Reviser's note: House Joint Resolution No. 52 was approved by the voters at the November 1972 general election.

Chapter 39.44 RCW

BONDS--MISCELLANEOUS PROVISIONS, BOND INFORMATION REPORTING

Sections

39.44.070	Life of bonds.
39.44.100	Facsimile signatures on bonds and coupons.
39.44.101	Facsimile signatures on bonds and coupons--Fraud--Destruction of plates--Penalty.
39.44.102	Facsimile signatures on bonds and coupons--Statements and signatures required on registered bonds.
39.44.110	Registration--Payment--Assignment.
39.44.120	Payment of coupon interest.
39.44.130	Treasurers as registration officers--Fiscal agent.
39.44.140	Revenue bonds--Funds for reserve purposes may be included in issue amount.
39.44.200	State and local government bond information--Definitions.
39.44.210	State and local government bond information--Submittal--Contents--Annual report.
39.44.230	State and local government bond information--Rules.
39.44.240	State and local government bond information--Validity of bonds not affected.
39.44.900	Validation--Savings--1982 c 216.

Notes:

Cities and towns, local improvement bonds: Chapter 35.45 RCW.

Counties, bonds

form, interest, etc.: Chapter 36.67 RCW.

to acquire land for military purposes, form, interest, etc.: Chapter 37.08 RCW.

County road bonds, form, interest, etc.: Chapter 36.76 RCW.

Funding bonds, interest rate, form, sale, payment, etc.: Chapter 39.52 RCW.

Industrial development revenue bonds: Chapter 39.84 RCW.

Irrigation district bonds, form, interest, maturity, etc.: RCW 87.03.200.

Municipal revenue bond act: Chapter 35.41 RCW.

Port district bonds, form, terms, etc.: Chapters 53.40 and 53.44 RCW.

Public utility district bonds, form, terms, etc.: RCW 54.24.018.

School district bonds, form, terms of sale, etc.: Chapter 28A.530 RCW.

Validation: Chapter 39.90 RCW.

Water-sewer district bonds, form, terms, etc.: RCW 57.20.010.

RCW 39.44.070 Life of bonds.

Notwithstanding the provisions of any charter to the contrary, bonds issued under *RCW 39.44.010 through 39.44.080 may be issued to run for a period up to forty years from the date of the issue and shall, as near as practicable, be issued for a period which shall not exceed the life of the improvement to be acquired by the use of the bonds.

[1967 c 107 § 5; 1923 c 151 § 5; RRS § 5583-5.]

Notes:

***Reviser's note:** RCW 39.44.010, 39.44.011, 39.44.020, 39.44.030, 39.44.060, and 39.44.080 were repealed by 1984 c 186 § 70.

RCW 39.44.100 Facsimile signatures on bonds and coupons.

On all bonds hereafter issued by the state or any agency thereof or by any county, city, town, municipal corporation, quasi municipal corporation, junior taxing district, school district or other political subdivision of the state, the printed, engraved or lithographed facsimile signatures of the officers required by law to sign the bonds or any interest coupons thereon shall be sufficient signature on such bonds or coupons: PROVIDED, That such facsimile signatures shall not be used on the bonds of issues of less than one hundred thousand dollars par value and may always be used on interest coupons.

Whenever such facsimile signature reproduction of the signature of any officer is used in place of the personal signature of such officer, the issuing authority shall specify in a written order or requisition to the printer, engraver, or lithographer, the number of bonds or coupons upon which such facsimile signature is to be printed, engraved, or lithographed, and the manner of numbering the bonds or coupons upon which such signature shall be placed. Within ninety days after the completion of the printing, engraving, or lithographing of such bonds or coupons, the plate or plates used for the purpose of affixing the facsimile signature shall be destroyed and

it shall be the duty of the issuing authority, within ninety days after receipt of the completed bonds or coupons, to ascertain that such plate or plates have been destroyed.

[1983 c 167 § 107; 1961 c 141 § 3; 1955 c 375 § 1; 1941 c 52 § 1; Rem. Supp. 1941 § 5583-1a.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.
Uniform facsimile signature of public officials act: Chapter 39.62 RCW.

RCW 39.44.101 Facsimile signatures on bonds and coupons--Fraud--Destruction of plates--Penalty.

Every printer, engraver, or lithographer, who with the intent to defraud, prints, engraves, or lithographs a facsimile signature upon any bond or coupon without written order of the issuing authority, or fails to destroy such plate or plates containing the facsimile signature upon direction of such issuing authority, shall be guilty of a felony.

[1955 c 375 § 2.]

Notes:

Fraud, forgery: Chapter 9A.60 RCW.

RCW 39.44.102 Facsimile signatures on bonds and coupons--Statements and signatures required on registered bonds.

Where any bond so issued requires registration by the county treasurer, that bond shall bear a statement on the back thereof showing the name of the person to whom sold, date of issue, the number and series of the bond, and shall be signed by the county treasurer in his own name or by a deputy county treasurer in his own name.

[1955 c 375 § 3.]

RCW 39.44.110 Registration--Payment--Assignment.

Upon the presentation at the office of the officer or agent hereinafter provided for, any bond which is bearer in form that has heretofore been or may hereafter be issued by any county, city, town, port, school district, or other municipal or quasi municipal corporation in this state, may, if so provided in the proceedings authorizing the issuance of the same, be registered as to principal in the name of the owner upon the books of such municipality to be kept in said office, such registration to be noted on the reverse of the bond by such officer or agent. The principal of any bond so registered shall be payable only to the payee, his legal representative, successors or assigns, and such bond shall be transferable to another registered holder or back to bearer only upon presentation to such officer or agent, with a written assignment duly acknowledged or proved. The name of the assignee shall be written upon any bond so transferred and in the books so kept in the office of such officer or agent.

[1983 c 167 § 108; 1961 c 141 § 4; 1915 c 91 § 1; RRS § 5494.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.44.120 Payment of coupon interest.

If so provided in the proceedings authorizing the issuance of any such bonds, upon the registration thereof as to principal, or at any time thereafter, the coupons thereto attached, evidencing all interest to be paid thereon to the date of maturity, may be surrendered to the officer or agent hereinafter provided and the bonds shall also become registered as to interest. Such coupons shall be canceled by such officer or agent, who shall sign a statement endorsed upon such bond of the cancellation of all unmatured coupons and the registration of such bond. Thereafter the interest evidenced by such canceled coupons shall be paid at the times provided therein to the registered owner of such bond in lawful money of the United States of America mailed to his address.

[1983 c 167 § 109; 1961 c 141 § 5; 1915 c 91 § 2; RRS § 5495.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.44.130 Treasurers as registration officers--Fiscal agent.

(1) The duties prescribed in this chapter as to the registration of bonds of any city or town shall be performed by the treasurer thereof, and as to those of any county, port or school district by the county treasurer of the county in which such port or school district lies; but any treasurer as defined in RCW 39.46.020 may designate its legally designated fiscal agency or agencies for the performance of such duties, after making arrangements with such fiscal agency therefor, which arrangements may include provision for the payment by the bond owner of a fee for each registration.

(2) The county treasurer as ex officio treasurer of a special district shall act as fiscal agent or may appoint the fiscal agent to be used by the county.

[1995 c 38 § 5; 1994 c 301 § 9; 1985 c 84 § 2; 1983 c 167 § 110; 1971 ex.s. c 79 § 1; 1915 c 91 § 3; RRS § 5496.]

Notes:

Acts of municipal officers ratified and confirmed--1995 c 38: See note following RCW 3.02.045.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Fiscal agencies: Chapter 43.80 RCW.

RCW 39.44.140 Revenue bonds--Funds for reserve purposes may be included in issue amount.

Any county, city, town, political subdivision, or other municipal or quasi municipal corporation authorized to issue revenue bonds may include in the amount of any such issue funds for the purpose of establishing, maintaining or increasing reserves to:

- (1) Secure the payment of the principal of and interest on such revenue bonds; or
- (2) Provide for replacements or renewals of or repairs or betterments to revenue

producing facilities; or

(3) Provide for contingencies, including, but not limited to, loss of revenue caused by such contingencies.

The authority granted pursuant to this section is additional and supplemental to any existing authority to issue revenue bonds and nothing in this section shall prevent the issuance of such bonds pursuant to any other law: PROVIDED, That no such bond issue may include an amount in excess of fifteen percent thereof for the purpose of establishing, maintaining or increasing reserves as enumerated above.

[1983 c 167 § 111; 1977 ex.s. c 229 § 1.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.44.200 State and local government bond information--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 39.44.200 through 39.44.240.

(1) "Bond" means "bond" as defined in RCW 39.46.020, but also includes any other indebtedness that may be issued by any local government to fund private activities or purposes where the indebtedness is of a nonrecourse nature payable from private sources, including debt issued under chapter 39.50 RCW.

(2) "Local government" means "local government" as defined in RCW 39.46.020.

(3) "Type of bond" includes: (a) General obligation bonds, including councilmanic and voter-approved bonds; (b) revenue bonds; (c) local improvement district bonds; (d) special assessment bonds such as those issued by irrigation districts and diking districts; and (e) other classes of bonds.

(4) "State" means "state" as defined in RCW 39.46.020 but also includes any commissions or other entities of the state.

[2001 c 299 § 14; 1990 c 220 § 1; 1989 c 225 § 1; 1987 c 297 § 12; 1985 c 130 § 5.]

NOTES:

Severability--1987 c 297: See RCW 39.86.906.

RCW 39.44.210 State and local government bond information--Submittal--Contents--Annual report.

For each state or local government bond issued, the underwriter of the issue shall supply the department of community, trade, and economic development with information on the bond issue within twenty days of its issuance. In cases where the issuer of the bond makes a direct or private sale to a purchaser without benefit of an underwriter, the issuer shall supply the required information. The bond issue information shall be provided on a form prescribed by the department of community, trade, and economic development and shall include but is not limited to: (1) The par value of the bond issue; (2) the effective interest rates; (3) a schedule of maturities; (4) the purposes of the bond issue; (5) cost of issuance information; and (6) the type of bonds that are issued. A copy of the bond covenants shall be supplied with this information.

For each state or local government bond issued, the issuer's bond counsel promptly shall provide to the underwriter or to the department of community, trade, and economic development information on the amount of any fees charged for services rendered with regard to the bond issue.

Each local government that issues any type of bond shall make a report annually to the department of community, trade, and economic development that includes a summary of all the outstanding bonds of the local government as of the first day of January in that year. Such report shall distinguish the outstanding bond issues on the basis of the type of bond, as defined in RCW 39.44.200, and shall report the local government's outstanding indebtedness compared to any applicable limitations on indebtedness, including RCW 35.42.200, 39.30.010, and 39.36.020.

[1995 c 399 § 54; 1990 c 220 § 2; 1989 c 225 § 2; 1985 c 130 § 1.]

Notes:

Fiscal agencies: Chapter 43.80 RCW.

Publication of local government bond information by department of community, trade, and economic development--Adoption of rules: RCW 43.63A.155.

RCW 39.44.230 State and local government bond information--Rules.

The department of community, trade, and economic development may adopt rules and regulations pursuant to the administrative procedure act to require (1) the submission of bond issuance information by underwriters and bond counsel to the department of community, trade, and economic development in a timely manner and (2) the submission of additional information on bond issues by state and local governments, including summaries of outstanding bond issues.

[1995 c 399 § 55; 1989 c 225 § 3; 1985 c 130 § 3.]

RCW 39.44.240 State and local government bond information--Validity of bonds not affected.

Failure to file the information required by RCW 39.44.210 and 39.44.230 shall not affect the validity of the bonds that are issued.

[1989 c 225 § 4; 1985 c 130 § 4.]

RCW 39.44.900 Validation--Savings--1982 c 216.

All bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to April 3, 1982, or the proposition for the issuance of which will be submitted at such an election pursuant to action of the legislative authority of the issuer taken prior to April 3, 1982, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification if such bonds are or were sold and issued in accordance with the sale provisions and with an interest rate or rates not greater than those

permitted by the applicable provision of *this amendatory act, and any such bonds heretofore sold are declared valid obligations of the issuer. This section shall not apply to bonds having a total value exceeding fifteen million dollars.

[1982 c 216 § 12.]

Notes:

***Reviser's note:** "this amendatory act" [1982 c 216] consists of the 1982 amendments to RCW 39.44.030 and 43.80.110 and the enactment of RCW 39.44.900 and chapter 39.50 RCW.

Chapter 39.46 RCW
BONDS--OTHER MISCELLANEOUS PROVISIONS--REGISTRATION

Sections

39.46.010	Purposes--Liberal construction.
39.46.020	Definitions.
39.46.030	Registration system authorized--Requirements--Fiscal agencies, agents.
39.46.040	Bonds--Issuer to determine amount, terms, conditions, interest, etc.
39.46.050	Bonds--Issuer authorized to establish lines of credit.
39.46.060	Bonds--Reproduction of physical instrument.
39.46.070	Bonds--Payment of costs of issuance and sale.
39.46.100	RCW 39.46.010 through 39.46.070 constitutes alternative method.
39.46.110	Local government general obligation bonds--Indebtedness--Payment--Notice by special district.
39.46.120	Notice of intent to sell general obligation bonds.
39.46.150	Revenue bonds--Alternative method of issuance--Limitations.
39.46.160	Revenue bonds--Alternative method of issuance--Bonds may include reserve funds.

RCW 39.46.010 Purposes--Liberal construction.

The purposes of this chapter are to permit the state and local governments to conform with registration requirements of federal law which are necessary to exempt interest payments from federal income taxes when the state or local governments issue bonds or incur other obligations and to authorize the establishment and maintenance of differing systems of registering bonds and other obligations as these systems are developed and recognized, which may be instituted, discontinued, and reinstated from time to time. It is further the purpose of this chapter to grant local governments an alternative flexible authority to structure and sell their bond issues and to include a variety of features on their bonds.

This act shall be liberally construed to effect its purposes.

[1983 c 167 § 1.]

Notes:

Severability--1983 c 167: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 167 § 273.]

RCW 39.46.020 Definitions.

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

(1) "Bond" means any agreement which may or may not be represented by a physical instrument, including notes, warrants, or certificates of indebtedness, that evidences an indebtedness of the state or a local government or a fund thereof, where the state or local government agrees to pay a specified amount of money, with or without interest, at a designated time or times to either registered owners or bearers, including debt issued under chapter 39.50 RCW.

(2) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi municipal corporation, including any public corporation created by such an entity.

(3) "Obligation" means an agreement that evidences an indebtedness of the state or a local government, other than a bond, and includes, but is not limited to, conditional sales contracts, lease obligations, and promissory notes.

(4) "State" includes the state, agencies of the state, and public corporations created by the state or agencies of the state.

(5) "Treasurer" means the state treasurer, county treasurer, city treasurer, or treasurer of any other municipal corporation.

[2001 c 299 § 15; 1995 c 38 § 6; 1994 c 301 § 10; 1983 c 167 § 2.]

NOTES:

Acts of municipal officers ratified and confirmed--1995 c 38: See note following RCW 3.02.045.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.46.030 Registration system authorized--Requirements--Fiscal agencies, agents.

(1) The state and local governments are authorized to establish a system of registering the ownership of their bonds or other obligations as to principal and interest, or principal only. Registration may include, without limitation: (a) A book entry system of recording the ownership of a bond or other obligation whether or not a physical instrument is issued; or (b) recording the ownership of a bond or other obligation together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond or other obligation and either the reissuance of the old bond or other obligation or the issuance of a new bond or other obligation to the new owner.

(2) The system of registration shall define the method or methods by which transfer of the registered bonds or other obligations shall be effective, and by which payment of principal and any interest shall be made. The system of registration may permit the issuance of bonds or other obligations in any denomination to represent several registered bonds or other obligations of smaller denominations. The system of registration may also provide for any writing relating to a bond or other obligation that is not issued as a physical instrument, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and

payment dates, for varying denominations, for communications to the owners of bonds or other obligations, for accounting, canceled certificate destruction, registration and release of securing interests, and for such other incidental matters pertaining to the registration of bonds or other obligations as the issuer may deem to be necessary or appropriate.

(3)(a) The state treasurer or a local treasurer may appoint (i) one or more of the fiscal agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW or (ii) other fiscal agents to act with respect to an issue of its bonds or other obligations as authenticating trustee, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal agency so acting. The state treasurer or local treasurers may also enter into agreements with the fiscal agency or agencies in connection with the establishment and maintenance by such fiscal agency or agencies of a central depository system for the transfer or pledge of bonds or other obligations.

(b) The county treasurer as ex officio treasurer of a special district shall act as fiscal agent for such special district, unless the county treasurer appoints either one or more of the fiscal agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW or other fiscal agents selected in a manner consistent with RCW 43.80.120 to act with respect to an issue of its bonds or other obligations as authenticating trustee, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal agency.

(4) Nothing in this section precludes the issuer, or a trustee appointed by the issuer pursuant to any other provision of law, from itself performing, either alone or jointly with other issuers, fiscal agencies, or trustees, any transfer, registration, authentication, payment, or other function described in this section.

[1995 c 38 § 7; 1994 c 301 § 11; 1985 c 84 § 1; 1983 c 167 § 3.]

Notes:

Acts of municipal officers ratified and confirmed--1995 c 38: See note following RCW 3.02.045.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.46.040 Bonds--Issuer to determine amount, terms, conditions, interest, etc.

A local government authorized to issue bonds shall determine for the bond issue its amount, date or dates, terms not in excess of the maximum term otherwise provided in law, conditions, bond denominations, interest rate or rates, which may be fixed or variable, interest payment dates, maturity or maturities, redemption rights, registration privileges, manner of execution, price, manner of sale, covenants, and form, including registration as to principal and interest, registration as to principal only, or bearer. Registration may be as provided in RCW 39.46.030.

[1983 c 167 § 4.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.46.050 Bonds--Issuer authorized to establish lines of credit.

Each local government authorized to issue bonds is authorized to establish lines of credit with any qualified public depository to be drawn upon in exchange for its bonds or other obligations, to delegate to its fiscal officer authority to determine the amount of credit extended, and to pay interest and other finance or service charges. The interest rates on such bonds or other obligations may be a fixed rate or rates set periodically or a variable rate or rates determined by agreement of the parties.

[1983 c 167 § 5.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.46.060 Bonds--Reproduction of physical instrument.

Where bonds are issued by the state or a local government as physical instruments, the bonds shall be printed, engraved, lithographed, typed, or reproduced and the manual or facsimile signatures of both a designated officer and chairperson of the governing body or chief executive shall be included on each bond.

[1983 c 167 § 6.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.46.070 Bonds--Payment of costs of issuance and sale.

The proceeds of any bonds issued by the state or a local government may be used to pay incidental costs and costs related to the sale and issuance of the bonds. Such costs include payments for fiscal and legal expenses, obtaining bond ratings, printing, engraving, advertising, establishing and funding reserve accounts and other accounts, an amount for working capital, capitalized interest for up to six months, necessary and related engineering, architectural, planning, and inspection costs, and other similar activities or purposes.

[1983 c 167 § 7.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.46.100 RCW 39.46.010 through 39.46.070 constitutes alternative method.

RCW 39.46.010 through 39.46.070 shall be deemed to provide a complete, additional, and alternative method for the performance of those subjects authorized by these sections and shall be regarded as supplemental and additional to powers conferred by other state laws. Whenever bonds and other obligations are issued and sold in conformance with RCW 39.46.010 through 39.46.070, such issuance and sale need not comply with contrary requirements of other state laws applicable to the issuance and sale of bonds or other obligations.

[1983 c 167 § 8.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.46.110 Local government general obligation bonds--Indebtedness--Payment--Notice by special district.

(1) General obligation bonds of local governments shall be subject to this section. Unless otherwise stated in law, the maximum term of any general obligation bond issue shall be forty years.

(2) General obligation bonds constitute an indebtedness of the local government issuing the bonds that are subject to the indebtedness limitations provided in Article VIII, section 6 of the state Constitution and are payable from tax revenues of the local government and such other money lawfully available and pledged or provided by the governing body of the local government for that purpose. Such governing body may pledge the full faith, credit and resources of the local government for the payment of general obligation bonds. The payment of such bonds shall be enforceable in mandamus against the local government and its officials. The officials now or hereafter charged by law with the duty of levying taxes pledged for the payment of general obligation bonds and interest thereon shall, in the manner provided by law, make an annual levy of such taxes sufficient together with other moneys lawfully available and pledge [pledged] therefor to meet the payments of principal and interest on the bonds as they come due.

(3) General obligation bonds, whether or not issued as physical instruments, shall be executed in the manner determined by the governing body or legislative body of the issuer. If the issuer is the county or a special district for which the county treasurer is the treasurer, the issuer shall notify the county treasurer at least thirty days in advance of authorizing the issuance of bonds or the incurrence of other certificates of indebtedness.

(4) Unless another statute specifically provides otherwise, the owner of a general obligation bond, or the owner of an interest coupon, issued by a local government shall not have any claim against the state arising from the general obligation bond or interest coupon.

(5) As used in this section, the term "local government" means every unit of local government, including municipal corporations, quasi municipal corporations, and political subdivisions, where property ownership is not a prerequisite to vote in the local government's elections.

[1998 c 106 § 7; 1995 c 38 § 8; 1994 c 301 § 12; 1984 c 186 § 2.]

NOTES:

Acts of municipal officers ratified and confirmed--1995 c 38: See note following RCW 3.02.045.

Purpose--1984 c 186: "The purpose of this 1984 act is to provide simplified and uniform authorities for various local governments to issue and sell general obligation bonds. It is not the purpose of this 1984 act to alter the indebtedness limitation of local governments." [1984 c 186 § 1.]

RCW 39.46.120 Notice of intent to sell general obligation bonds.

Notice of intent to sell general obligation bonds at a public sale shall be provided in a reasonable manner as determined by the legislative authority or governing body of the issuer.

[1984 c 186 § 4.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

RCW 39.46.150 Revenue bonds--Alternative method of issuance--Limitations.

(1) Any local government authorized to issue revenue bonds may issue revenue bonds under this section and RCW 39.46.160. If a local government chooses to issue revenue bonds under this section and RCW 39.46.160, the issue shall be subject to the limitations and restrictions of these sections. The authority to issue revenue bonds under this section and RCW 39.46.160 is supplementary and in addition to any authority otherwise existing. The maximum term of any revenue bonds shall be forty years unless another statute authorizing the local government to issue revenue bonds provides for a different maximum term, in which event the local government may issue revenue bonds only with terms not in excess of such different maximum term.

(2) The governing body of a local government issuing revenue bonds shall create a special fund or funds, or use an existing special fund or funds, exclusively from which, along with reserve funds which may be created by the governing body, the principal and interest on such revenue bonds shall be payable. These reserve funds include those authorized to be created by RCW 39.46.160.

Subject to the limitations contained in this section, the governing body of a local government may provide such covenants as it may deem necessary to secure the payment of the principal of and interest on revenue bonds, and premium on revenue bonds, if any. Such covenants may include, but are not limited to, depositing certain revenues into a special fund or funds as provided in subsection (3) of this section; establishing, maintaining, and collecting fees, rates, charges, tariffs, or rentals, on facilities and services, the income of which is pledged for the payment of such bonds; operating, maintaining, managing, accounting, and auditing the local government; appointing trustees, depositories, and paying agents; and any and all matters of like or different character, which affect the security or protection of the revenue bonds.

(3) The governing body may obligate the local government to set aside and pay into a special fund or funds created under subsection (2) of this section a proportion or a fixed amount of the revenues from the following: (a) The public improvements, projects, or facilities that are financed by the revenue bonds; or (b) the public utility or system, or an addition or extension to the public utility or system, where the improvements, projects, or facilities financed by the revenue bonds are a portion of the public utility or system; or (c) all the revenues of the local government; or (d) any other money legally available for such purposes. As used in this subsection, the term "revenues" includes the operating revenues of a local government that result from fees, rates, charges, tariffs, or rentals imposed upon the use or availability or benefit from projects, facilities, or utilities owned or operated by the local government and from related services provided by the local government and other revenues legally available to be pledged to secure the revenue bonds.

The proportion or fixed amount of revenue so obligated shall be a lien and charge against these revenues, subject only to maintenance and operating expenses. The governing body shall have due regard for the cost of maintenance and operation of the public utility, system,

improvement, project, facility, addition, or extension that generates revenues obligated to be placed into the special fund or funds from which the revenue bonds are payable, and shall not set aside into the special fund or funds a greater amount or proportion of the revenues that in its judgment will be available over and above such cost of maintenance and operation and the proportion or fixed amount, if any, of the revenue so previously pledged. Other revenues, including tax revenues, lawfully available for maintenance or operation of revenue generating facilities may be used for maintenance and operation purposes even though the facilities are acquired, constructed, expanded, replaced, or repaired with moneys arising from the sale of revenue bonds. However, the use of these other revenues for maintenance and operation purposes shall not be deemed to directly or indirectly guarantee the revenue bonds or create a general obligation. The obligation to maintain and impose fees, rates, charges, tariffs, or rentals at levels sufficient to finance maintenance and operations shall remain if the other revenues available for such purposes diminish or cease.

The governing body may also provide that revenue bonds payable out of the same source or sources of revenue may later be issued on a parity with any revenue bonds being issued and sold.

(4) A revenue bond issued by a local government shall not constitute an obligation of the state, either general or special, nor a general obligation of the local government issuing the bond, but is a special obligation of the local government issuing the bond, and the interest and principal on the bond shall only be payable from the special fund or funds established pursuant to subsection (2) of this section, the revenues lawfully pledged to the special fund or funds, and any lawfully created reserve funds. The owner of a revenue bond shall not have any claim for the payment thereof against the local government arising from the revenue bond except for payment from the special fund or funds, the revenues lawfully pledged to the special fund or funds, and any lawfully created reserve funds. The owner of a revenue bond issued by a local government shall not have any claim against the state arising from the revenue bond. Tax revenues shall not be used directly or indirectly to secure or guarantee the payment of the principal of or interest on revenue bonds.

[(5)] The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a) Each revenue bond that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the bonds.

(6) The authority to create a fund shall include the authority to create accounts within a fund.

(7) Local governments issuing revenue bonds, payable from revenues derived from projects, facilities, or utilities, shall covenant to maintain and keep these projects, facilities, or utilities in proper operating condition for their useful life.

[1986 c 168 § 1.]

Notes:

Funds for reserve purposes may be included in issue amount: RCW 39.44.140.

RCW 39.46.160 Revenue bonds--Alternative method of issuance--Bonds may include reserve funds.

Any local government issuing revenue bonds under this section and RCW 39.46.150 may include in the amount of any such issue money for the purpose of establishing, maintaining, or increasing reserve funds to:

- (1) Secure the payment of the principal of and interest on such revenue bonds; or
- (2) Provide for replacements or renewals of or repairs or betterments to revenue producing facilities; or
- (3) Provide for contingencies, including, but not limited to, loss of revenue caused by such contingencies.

[1986 c 168 § 2.]

**Chapter 39.48 RCW
BONDS SOLD TO GOVERNMENT AT PRIVATE SALE**

Sections

39.48.010	Authority conferred.
39.48.020	Amortization--Requirements relaxed.
39.48.030	"Issuer" defined.
39.48.040	Chapter optional.

RCW 39.48.010 Authority conferred.

Bonds and securities of all kinds heretofore or hereafter authorized, issued by any issuing corporation or district (hereinafter called the "issuer" and as hereinafter specified), whether such bonds and securities be issued for such issuer itself or for any other taxing or assessment district within its limits, and whether payable in whole or in part out of and from general taxes or payable in whole or in part out of and from the earnings to be derived from any utility, system, construction, work, or works, belonging to or operated by any such issuer, or payable in whole or in part out of and from "local" or "benefit" assessments upon lands within any assessment district or assessment subdivision within any such issuer, may be sold to the United States government or to any department, corporation or agency thereof by private sale without giving any prior notice thereof by publication or otherwise and in such manner as the governing authority of such issuer may provide: PROVIDED, Only that bonds or other securities sold at private sale under the authority of this chapter shall bear interest at a rate or rates as authorized by the issuer and that all bonds and securities sold and issued under the authority of this chapter shall be sold, if now required by existing law, at not less than par and accrued interest.

[1970 ex.s. c 56 § 59; 1969 ex.s. c 232 § 76; 1933 ex.s. c 30 § 1; RRS § 5583-11.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 39.48.020 Amortization--Requirements relaxed.

It shall be proper to provide with respect to any bonds now required to be amortized as provided by *RCW 39.44.010 through 39.44.080, that such amortized annual maturities shall commence to be payable at any time on or before five years from the date of said bonds, and that any bonds, or any part thereof, issued under the authority of this chapter, shall be redeemable prior to their fixed maturities, as provided by the governing board or authority of any such issuer.

[1933 ex.s. c 30 § 2; RRS § 5583-12.]

Notes:

***Reviser's note:** RCW 39.44.010, 39.44.011, 39.44.020, 39.44.030, 39.44.060, and 39.44.080 were repealed by 1984 c 186 § 70.

RCW 39.48.030 "Issuer" defined.

The issuing corporations, districts, and subdivisions hereinbefore referred to and described as "issuer", shall include any county, city, town, school district, port district, metropolitan park district, taxing district, assessment district or any public corporation or municipal corporation authorized by existing law to issue bonds, securities or other evidences of indebtedness for itself or for any other taxing or assessment district therein or department thereof.

[1933 ex.s. c 30 § 3; RRS § 5583-13.]

RCW 39.48.040 Chapter optional.

It shall be optional with any such issuer, at its discretion, to exercise all or any of the powers conferred by this chapter in connection with the adoption and exercise by any such issuer of the provisions and powers granted by existing law.

[1933 ex.s. c 30 § 4; RRS § 5583-14.]

**Chapter 39.50 RCW
SHORT-TERM OBLIGATIONS--MUNICIPAL CORPORATIONS**

Sections

39.50.010	Definitions.
39.50.020	Short-term obligations authorized.
39.50.030	Issuance of short-term obligations--Procedure--Interest rate--Contracts for future sale.
39.50.040	Refunding and renewal of short-term obligations.
39.50.050	Short-term obligations--Security.
39.50.060	Nonvoted general indebtedness.
39.50.070	Funds for payment of principal and interest.
39.50.900	Chapter cumulative--Applicability to joint operating agencies.

RCW 39.50.010 Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Governing body" means the legislative authority of a municipal corporation by whatever name designated;

(2) "Local improvement district" includes local improvement districts, utility local improvement districts, road improvement districts, and other improvement districts that a municipal corporation is authorized by law to establish;

(3) "Municipal corporation" means any city, town, county, water-sewer district, school district, port district, public utility district, metropolitan municipal corporation, public transportation benefit area, park and recreation district, irrigation district, fire protection district or any other municipal or quasi municipal corporation described as such by statute, or regional transit authority, except joint operating agencies under chapter 43.52 RCW;

(4) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the municipal corporation exercising any power under this chapter takes formal action and adopts legislative provisions and matters of some permanency; and

(5) "Short-term obligations" are warrants, notes, capital leases, or other evidences of indebtedness, except bonds.

[2001 c 299 § 16; 1999 c 153 § 54; 1998 c 106 § 8; 1985 c 332 § 8; 1982 c 216 § 2.]

NOTES:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 39.50.020 Short-term obligations authorized.

Subject to any applicable budget requirements, any municipal corporation may borrow money and issue short-term obligations as provided in this chapter, the proceeds of which may be used for any lawful purpose of the municipal corporation. Short-term obligations may be issued in anticipation of the receipt of revenues, taxes, or grants or the sale of (1) general obligation bonds if the bonds may be issued without the assent of the voters or if previously ratified by the voters; (2) revenue bonds if the bonds have been authorized by ordinance; (3) local improvement district bonds if the bonds have been authorized by ordinance. These short-term obligations shall be repaid out of money derived from the source or sources in anticipation of which they were issued or from any money otherwise legally available for this purpose.

[1982 c 216 § 3.]

RCW 39.50.030 Issuance of short-term obligations--Procedure--Interest rate--Contracts for future sale.

(1) The issuance of short-term obligations shall be authorized by ordinance of the governing body which ordinance shall fix the maximum amount of the obligations to be issued or, if applicable, the maximum amount which may be outstanding at any time, the maximum term and interest rate or rates to be borne thereby, the manner of sale, maximum price, form including bearer or registered as provided in RCW 39.46.030, terms, conditions, and the covenants thereof. For those municipalities and taxing and assessment districts for which the county treasurer is not the designated treasurer by law, the ordinance may provide for designation and employment of a paying agent for the short-term obligations and may authorize a designated representative of the municipal corporation, subject to the terms of the ordinance in selling and delivering short-term obligations authorized and fixing the dates, price, interest rates, and other details as may be specified in the ordinance. For the county and those taxing and assessment districts for which the county treasurer is the designated treasurer by law or other appointment, the county treasurer shall be notified thirty days in advance of borrowing under this chapter and will be the designated paying agent to act on its behalf for all payments of principal, interest, and penalties for that obligation, subject to the terms of the ordinance in selling and delivering short-term obligations authorized and fixing the dates, price, interest rates, and other details as may be specified in the ordinance. Short-term obligations issued under this section shall bear such fixed or variable rate or rates of interest as the governing body considers to be in the best interests of the municipal corporation. Variable rates of interest may be fixed in relationship to such standard or index as the governing body designates.

The governing body may make contracts for the future sale of short-term obligations pursuant to which the purchasers are committed to purchase the short-term obligations from time to time on the terms and conditions stated in the contract, and may pay such consideration as it considers proper for the commitments. Short-term obligations issued in anticipation of the receipt of taxes shall be paid within six months from the end of the fiscal year in which they are issued. For the purpose of this subsection, short-term obligations issued in anticipation of the sale of general obligation bonds shall not be considered to be obligations issued in anticipation of the receipt of taxes.

(2) Notwithstanding subsection (1) of this section, such short-term obligations may be issued and sold in accordance with chapter 39.46 RCW.

[2001 c 299 § 17; 1995 c 38 § 9; 1994 c 301 § 13; 1985 c 71 § 1; 1983 c 167 § 112; 1982 c 216 § 4.]

NOTES:

Acts of municipal officers ratified and confirmed--1995 c 38: See note following RCW 3.02.045.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.50.040 Refunding and renewal of short-term obligations.

Short-term obligations may, from time to time, be renewed or refunded by the issuance of short-term obligations and may be funded by the issuance of revenue, local improvement district, special assessment, or general obligation bonds. Short-term obligations payable from taxes shall not be renewed or refunded to a date later than six months from the end of the fiscal year in which the original short-term obligation was issued. For the purpose of this section, short-term

obligations issued in anticipation of the sale of general obligation bonds shall not be considered to be short-term obligations payable from taxes.

[1985 c 332 § 9; 1985 c 71 § 2; 1982 c 216 § 5.]

RCW 39.50.050 Short-term obligations--Security.

Short-term obligations issued in anticipation of the receipt of taxes or the sale of general obligation bonds and the interest thereon shall be secured by the full faith, credit, taxing power, and resources of the municipal corporation. Short-term obligations issued in anticipation of the sale of revenue or local improvement district bonds and the interest thereon may be secured in the same manner as the revenue and local improvement district bonds in anticipation of which the obligations are issued and by an undertaking to issue the bonds. Short-term obligations issued in anticipation of grants, loans, or other sources of money shall be secured in the manner set forth in the ordinance authorizing their issuance.

[1982 c 216 § 6.]

RCW 39.50.060 Nonvoted general indebtedness.

A municipal corporation may incur nonvoted general indebtedness under this chapter up to an amount which, when added to all other authorized and outstanding nonvoted indebtedness of the municipal corporation, is equal to the maximum amount of indebtedness the municipal corporation is otherwise permitted to incur without a vote of the electors.

[1982 c 216 § 7.]

RCW 39.50.070 Funds for payment of principal and interest.

For the purpose of providing funds for the payment of principal of and interest on short-term obligations, the governing body may authorize the creation of a special fund or funds and provide for the payment from authorized sources to such funds of amounts sufficient to meet principal and interest requirements.

[1982 c 216 § 8.]

RCW 39.50.900 Chapter cumulative--Applicability to joint operating agencies.

The authority granted by this chapter shall be in addition and supplemental to any authority previously granted and shall not limit any other powers or authority previously granted to any municipal corporation. The authority granted by this chapter to public utility districts organized under Title 54 RCW shall not extend to joint operating agencies organized under chapter 43.52 RCW.

[1982 c 216 § 9.]

Chapter 39.52 RCW
FUNDING INDEBTEDNESS IN COUNTIES, CITIES AND TOWNS

Sections

39.52.010	Issuance of funding bonds authorized.
39.52.015	Validation of prior bond issues.
39.52.020	Limitations on issuance of bonds.
39.52.035	Tax levy--Purpose.
39.52.050	"Corporate authorities" defined.

Notes:

Cities and towns, ratification and funding of indebtedness: Chapter 35.40 RCW.
Metropolitan municipal corporations, funding and refunding bonds: RCW 35.58.470.
Port districts, funding and refunding indebtedness: Chapter 53.44 RCW.
Public utility districts, funding and refunding bonds: RCW 54.24.090.
School districts, refunding bonds: RCW 28A.530.040.

RCW 39.52.010 Issuance of funding bonds authorized.

Any county, city, or town in the state of Washington which now has or may hereafter have an outstanding indebtedness evidenced by warrants or bonds, including warrants or bonds of any county, city, or town which are special fund obligations of and constitute a lien upon the waterworks or other public utilities of such county, city, or town, and are payable only from the income or funds derived or to be derived therefrom, whether issued originally within the limitations of the Constitution of this state, or of any law thereof, or whether such outstanding indebtedness has been or may hereafter be validated or legalized in the manner prescribed by law, may, by its corporate authorities, provide by ordinance or resolution for the issuance of funding bonds with which to take up and cancel such outstanding indebtedness in the manner hereinafter described, said bonds to constitute general obligations of such county, city, or town: PROVIDED, That special fund obligations payable only from the income funds of the public utility, shall not be refunded by the issuance of general municipal bonds where voter approval is required before general municipal bonds may be issued for such public utility purposes, unless such general municipal bonds shall have been previously authorized. Nothing in this chapter shall be so construed as to prevent any such county, city, or town from funding its indebtedness as now provided by law.

[1995 2nd sp.s. c 17 § 6; 1984 c 186 § 36; 1917 c 145 § 1; 1895 c 170 § 1; RRS § 5617.]

Notes:

Severability--1995 2nd sp.s. c 17: See RCW 43.99K.900.
Purpose--1984 c 186: See note following RCW 39.46.110.

RCW 39.52.015 Validation of prior bond issues.

That all bonds heretofore voted or issued, and which may have been or may hereafter be issued by any county, city or town, for any of the purposes authorized by the preceding section as hereby amended, including general fund bonds issued for the purpose of refunding special utility fund bonds or warrants, shall be validated and have the same force and effect as though said section had been in full force and effect at the time said bonds were either authorized or issued.

[1917 c 145 § 2; RRS § 5618.]

RCW 39.52.020 Limitations on issuance of bonds.

No bonds issued under this chapter shall be issued for a longer period than twenty years. Nothing in this chapter shall be deemed to authorize the issuing of any funding bonds which exceeds any constitutional or statutory limitations of indebtedness. Such bonds shall be issued and sold in accordance with chapters 39.46 and 39.53 RCW, exclusive of RCW 39.53.120.

[1995 2nd sp.s. c 17 § 7; 1984 c 186 § 37; 1983 c 167 § 113; 1970 ex.s. c 56 § 60; 1969 ex.s. c 232 § 31; 1895 c 170 § 2; RRS § 5619.]

Notes:

Severability--1995 2nd sp.s. c 17: See RCW 43.99K.900.

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: "Because market conditions are such that the state, state agencies, state colleges and universities, and the political subdivisions, municipal corporations and quasi municipal corporations of this state are finding it increasingly difficult and, in some cases, impossible to market bond issues and all other obligations, at the maximum permissible rate of interest payable on such bonds and obligations, it is the purpose of this 1970 amendatory act to remove all maximum rates of interest payable on such bonds and obligations." [1970 ex.s. c 56 § 1; 1969 ex.s. c 232 § 1.]

Validation--Saving--1969 ex.s. c 232: "All bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to the effective date of this amendatory act or the proposition for the issuance of which will be submitted at such an election pursuant to action of the legislative authority of the issuer taken prior to the effective date of this amendatory act, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification if such bonds are sold and issued with an interest rate or rates not greater than those permitted by the applicable provision of this amendatory act." [1969 ex.s. c 232 § 94.]

Severability--1969 ex.s. c 232: "If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this 1969 amendatory act, such judgment or decree shall not affect, impair or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this act so adjudged to be invalid or unconstitutional." [1969 ex.s. c 232 § 95.]

Bonds, form, terms of sale, payment, etc.: Chapter 39.44 RCW.

RCW 39.52.035 Tax levy--Purpose.

The corporate authorities of any such county, city or town shall provide annually by ordinance or resolution for the levy and extension on the tax rolls of such county, city or town, and for the collection thereof, of a direct annual tax in addition to all other county, city or town

taxes to be levied according to law, which shall be sufficient to meet the interest on all of said bonds promptly as the same matures, and also sufficient to fully pay each series of bonds as the same matures: PROVIDED, That such ordinance or resolution shall not be repealed until the levy therein provided for shall be fully paid, or the bonds both principal and interest shall be paid or canceled.

[1895 c 170 § 4; RRS § 5621. Formerly RCW 39.52.030, part.]

RCW 39.52.050 "Corporate authorities" defined.

The words "corporate authorities", used in this chapter, shall be held to mean the county legislative authority, or the council or commission of the city or town.

[1984 c 186 § 38; 1895 c 170 § 6; RRS § 5623.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

**Chapter 39.53 RCW
REFUNDING BOND ACT**

Sections

39.53.010	Definitions.
39.53.020	Issuance authorized--Purposes--Saving to public body, criteria.
39.53.030	Refunding bonds may be exchanged for bonds to be refunded or sold.
39.53.040	What bonds may be refunded--Refunding plans--Redemption of refunding bonds.
39.53.045	Bonds payable from special assessments--Not subject to refunding.
39.53.050	Refunding bonds, principal amount--Disposition of reserves held to secure the bonds to be refunded.
39.53.060	Application of proceeds of sale of refunding bonds and other funds--Investment in government obligations--Incidental expenses.
39.53.070	Application of proceeds of sale of refunding bonds and other funds--Contracts for safekeeping and application--Use to pay and secure refunding bonds--Pledge of revenues--Duty to provide sufficient money to accomplish refunding.
39.53.080	Pledge of revenues to payment of refunding bonds when amounts sufficient to pay revenue bonds to be refunded are irrevocably set aside.
39.53.090	Annual maturities of general obligation refunding bonds issued to refund voted general obligation bonds.
39.53.100	Use of deposit moneys and investments in computing indebtedness.
39.53.110	Refunding and other bonds may be issued in combination.
39.53.120	Refunding bonds to be issued in accordance with laws applicable to type of bonds to be refunded.
39.53.130	Amendment of power contracts pursuant to refunding of certain bond issues.
39.53.140	Issuance of general obligation refunding bonds to refund general obligation or revenue bonds.
39.53.900	Short title.
39.53.910	Additional authority--Effect as to other laws.
39.53.920	Severability--1965 ex.s. c 138.
39.53.921	Severability--1977 ex.s. c 262.

RCW 39.53.010 Definitions.

Except where the context otherwise requires, the definitions in this section apply throughout this chapter:

(1) "Bond" means any revenue bond or general obligation bond.

(2) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body which constitutes an indebtedness within the meaning of the constitutional debt limitation.

(3) "Governing body" means the council, commission, board of commissioners, board of directors, board of trustees, board of regents, or other legislative body of the public body designated herein in which the legislative powers of the public body are vested. With respect to the state, "governing body" means the state finance committee.

(4) "Government obligations" means any of the following: (a) Direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America and bank certificates of deposit secured by such obligations; (b) bonds, debentures, notes, participation certificates, or other obligations issued by the banks for cooperatives, the federal intermediate credit bank, the federal home loan bank system, the export-import bank of the United States, federal land banks, or the federal national mortgage association; (c) public housing bonds and project notes fully secured by contracts with the United States; and (d) obligations of financial institutions insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation, to the extent insured or to the extent guaranteed as permitted under any other provision of state law.

(5) "Issuer" means the public body issuing any bond or bonds.

(6) "Ordinance" means an ordinance of a city or town, or ordinance, resolution or other instrument by which the governing body of the public body exercising any power under this chapter takes formal action and adopts legislative provisions and matters of some permanency.

(7) "Public body" means the state of Washington, its agencies, institutions, political subdivisions, and municipal and quasi-municipal corporations now or hereafter existing under the laws of the state of Washington.

(8) "Refunding bonds" means bonds issued for the purpose of paying the principal of or redemption premiums or interest on any outstanding bonds of the issuer, its predecessor, or a related public body.

(9) "Refunding plan" means the plan adopted by an ordinance of a public body to issue refunding bonds and redeem the bonds to be refunded.

(10) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money that is payable from designated revenues, special assessments, or a special fund but excluding any obligation constituting an indebtedness within the meaning of the constitutional debt limitation.

[1999 c 230 § 1; 1984 c 186 § 68; 1973 1st ex.s. c 25 § 1; 1965 ex.s. c 138 § 2.]

Notes:

Application--Construction--1999 c 230: "The authority of a public body to issue refunding bonds pursuant to this act is additional to any existing authority to issue such bonds and nothing in this act shall prevent the issuance of such bonds pursuant to any other law, and this act shall not be construed to amend any existing law authorizing the issuance of refunding bonds by a public body." [1999 c 230 § 13.]

Severability--1999 c 230: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1999 c 230 § 14.]

Purpose--1984 c 186: See note following RCW 39.46.110.

RCW 39.53.020 Issuance authorized--Purposes--Saving to public body, criteria.

The governing body of any public body may by ordinance provide for the issuance of refunding bonds without an election (1) in order to pay or discharge all or any part of an outstanding series or issue of bonds, including any redemption premiums or interest thereon, in arrears or about to become due, and for which sufficient funds are not available, (2) when necessary or in the best interest of the public body to modify debt service or reserve requirements, sources of payment, covenants, or other terms of the bonds to be refunded, or (3) in order to effect a saving to the public body. To determine whether or not a saving will be effected, consideration shall be given to the interest to fixed maturities of the refunding bonds and the bonds to be refunded, the costs of issuance of the refunding bonds, including any sale discount, the redemption premiums, if any, to be paid, and the known earned income from the investment of the refunding bond proceeds pending redemption of the bonds to be refunded.

[1999 c 230 § 2; 1977 ex.s. c 262 § 1; 1974 ex.s. c 111 § 2; 1965 ex.s. c 138 § 3.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

Severability--1974 ex.s. c 111: See note following RCW 39.42.080.

RCW 39.53.030 Refunding bonds may be exchanged for bonds to be refunded or sold.

Any refunding bonds issued may be delivered in exchange for the bonds to be refunded or may be sold in such manner and at such price as the governing body may in its discretion determine advisable.

[1999 c 230 § 3; 1973 1st ex.s. c 25 § 2; 1965 ex.s. c 138 § 4.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

RCW 39.53.040 What bonds may be refunded--Refunding plans--Redemption of refunding bonds.

Bonds may be refunded under this chapter or under any other law of this state which authorizes the issuance of refunding bonds. In any refunding plan under this chapter the governing body shall provide irrevocably in the ordinance authorizing the issuance of the

advance refunding bonds for the redemption or payment of the bonds to be refunded.

The ordinance authorizing the issuance of refunding bonds under this chapter may contain such provisions for the redemption of the refunding bonds prior to maturity and for payment of a premium upon such redemption as the governing body in its discretion may determine advisable.

[1999 c 230 § 4; 1977 ex.s. c 262 § 2; 1973 1st ex.s. c 25 § 3; 1965 ex.s. c 138 § 5.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

RCW 39.53.045 Bonds payable from special assessments--Not subject to refunding.

Bonds payable solely from special assessments or special assessments and a guaranty fund issued on or prior to June 7, 1984, shall not be subject to refunding under this chapter.

[1984 c 186 § 69.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

RCW 39.53.050 Refunding bonds, principal amount--Disposition of reserves held to secure the bonds to be refunded.

The principal amount of refunding bonds may exceed the principal amount of the bonds to be refunded by an amount deemed reasonably required to effect such refunding. The principal amount of the refunding bonds may be less than or the same as the principal amount of the bonds to be refunded so long as provision is duly and sufficiently made for the retirement or redemption of such bonds to be refunded. Any reserves held to secure the bonds to be refunded, or other available money, may be used to accomplish the refunding in accordance with the refunding plan. Reserves not so used shall be pledged as security for the refunding bonds to the extent the reserves, if any, are required. The balance of any such reserves may be used for any lawful purpose.

[1999 c 230 § 5; 1983 1st ex.s. c 69 § 1; 1977 ex.s. c 262 § 3; 1974 ex.s. c 111 § 3; 1965 ex.s. c 138 § 6.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

Severability--1974 ex.s. c 111: See note following RCW 39.42.080.

RCW 39.53.060 Application of proceeds of sale of refunding bonds and other funds--Investment in government obligations--Incidental expenses.

Prior to the application of the proceeds derived from the sale of refunding bonds to the purposes for which such bonds have been issued, such proceeds, together with any other funds the governing body may set aside for the payment of the bonds to be refunded, may be invested and reinvested only in government obligations maturing or having guaranteed redemption prices at the option of the holder at such time or times as may be required to provide funds sufficient to

pay principal, interest and redemption premiums, if any, in accordance with the refunding plan. To the extent incidental expenses have been capitalized, such bond proceeds may be used to defray such expenses.

[1999 c 230 § 6; 1973 1st ex.s. c 25 § 4; 1965 ex.s. c 138 § 7.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

RCW 39.53.070 Application of proceeds of sale of refunding bonds and other funds--Contracts for safekeeping and application--Use to pay and secure refunding bonds--Pledge of revenues--Duty to provide sufficient money to accomplish refunding.

The governing body may contract with respect to the safekeeping and application of the refunding bond proceeds and other funds included therewith and the income therefrom including the right to appoint a trustee which may be any trust company or state or national bank having powers of a trust company within or without the state of Washington. The governing body may provide in the refunding plan that until such moneys are required to redeem or retire the bonds to be refunded, the refunding bond proceeds and other funds, and the income therefrom shall be used to pay and secure the payment of the principal of and interest on the refunding bonds. The governing body may additionally pledge for the payment of revenue refunding bonds any revenues which might legally be pledged for the payment of revenue bonds of the issuer of the type to be refunded. Provisions must be made by the governing body for moneys sufficient in amount to accomplish the refunding as scheduled.

[1999 c 230 § 7; 1973 1st ex.s. c 25 § 5; 1965 ex.s. c 138 § 8.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

RCW 39.53.080 Pledge of revenues to payment of refunding bonds when amounts sufficient to pay revenue bonds to be refunded are irrevocably set aside.

When a public body has irrevocably set aside for and pledged to the payment of revenue bonds to be refunded refunding bond proceeds and other moneys in amounts which together with known earned income from the investment thereof are sufficient in amount to pay the principal of and interest and any redemption premiums on such revenue bonds as the same become due and to accomplish the refunding as scheduled, the governing body may provide that the refunding revenue bonds shall be payable from any source which, either at the time of the issuance of the refunding bonds or the revenue bonds to be refunded, might legally be or have been pledged for the payment of the revenue bonds to be refunded to the extent it may legally do so, notwithstanding the pledge of such revenues for the payment of the revenue bonds to be refunded.

[1999 c 230 § 8; 1965 ex.s. c 138 § 9.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

RCW 39.53.090 Annual maturities of general obligation refunding bonds issued to refund voted general obligation bonds.

The various annual maturities of general obligation refunding bonds issued to refund voted general obligation bonds shall not extend over a longer period of time than the bonds to be refunded. Such maturities may be changed in amount or shortened in term if the estimated respective annual principal and interest requirements of the refunding bonds, computed upon the anticipated effective interest rate the governing body shall in its discretion determine will be borne by such bonds, will not exceed the respective annual principal and interest requirements of the bonds to be refunded, except the issuer may increase the principal amount of annual maturities for the purpose of rounding out maturities to the nearest five thousand dollars.

[1999 c 230 § 9; 1965 ex.s. c 138 § 10.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

RCW 39.53.100 Use of deposit moneys and investments in computing indebtedness.

In computing indebtedness for the purpose of any constitutional or statutory debt limitation there shall be deducted from the amount of outstanding indebtedness the amounts of money and investments credited to or on deposit for general obligation bond retirement.

[1973 1st ex.s. c 25 § 6; 1965 ex.s. c 138 § 11.]

RCW 39.53.110 Refunding and other bonds may be issued in combination.

Refunding bonds and bonds for any other purpose or purposes authorized may be issued separately or issued in combination in one or more series or issues by the same issuer.

[1999 c 230 § 10; 1965 ex.s. c 138 § 12.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

RCW 39.53.120 Refunding bonds to be issued in accordance with laws applicable to type of bonds to be refunded.

Except as specifically provided in this chapter, refunding bonds issued under this chapter shall be issued in accordance with the provisions of law applicable to the type of bonds of the issuer to be refunded, at the time of the issuance of either the refunding bonds or the bonds to be refunded.

[1999 c 230 § 11; 1965 ex.s. c 138 § 13.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

RCW 39.53.130 Amendment of power contracts pursuant to refunding of certain bond issues.

If bonds are to be issued under this chapter for refunding of any bonds issued specifically to finance any electric power and energy project or facility and there are contracts in existence for the sale of electric power and energy generated by such project or facility wherein the cost of power to a purchaser specifically includes a portion of the debt service on the bonds to be refunded, such power contracts shall be amended to reflect in each year during the remaining terms of such contracts that portion of the savings to be realized from such refunding during each such year equal to the percentage of power output from such project or facility purchased by the purchaser under such power contracts. Nothing in this chapter shall be construed to alter, modify or change any such power contracts without the mutual agreement of the parties thereto.

[1965 ex.s. c 138 § 15.]

RCW 39.53.140 Issuance of general obligation refunding bonds to refund general obligation or revenue bonds.

Any public body may issue general obligation refunding bonds to refund any general obligation or revenue bonds of such issuer or its agencies or instrumentalities. The payment of general obligation refunding bonds may be additionally secured by a pledge of the revenues pledged to the payment of the revenue bonds to be refunded.

If the payment of revenue bonds to be refunded by general obligation bonds of the state is secured by (1) fees collected by the state as license fees for motor vehicles, or (2) excise taxes collected by the state on the sale, distribution or use of motor vehicle fuel, or (3) interest on the permanent school fund, then the state shall also pledge to the payment of such refunding bonds the same fees, excise taxes, or interest that were pledged to the payment of the revenue bonds to be refunded.

Any public body may issue revenue refunding bonds to refund any general obligation of such issuer or its agencies or instrumentalities if the bonds to be refunded were issued for purposes for which those revenue refunding bonds could be issued.

[1999 c 230 § 12; 1974 ex.s. c 111 § 4; 1973 1st ex.s. c 25 § 7.]

Notes:

Application--Construction--Severability--1999 c 230: See notes following RCW 39.53.010.

Severability--1974 ex.s. c 111: See note following RCW 39.42.080.

RCW 39.53.900 Short title.

This chapter shall be known as the "Refunding Bond Act."

[1965 ex.s. c 138 § 1.]

RCW 39.53.910 Additional authority--Effect as to other laws.

The authority of a public body to issue refunding bonds pursuant to this chapter is additional to any existing authority to issue such bonds and nothing in this chapter shall prevent

the issuance of such bonds pursuant to any other law, and this chapter shall not be construed to amend any existing law authorizing the issuance of refunding bonds by a public body.

[1965 ex.s. c 138 § 14.]

RCW 39.53.920 Severability--1965 ex.s. c 138.

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

[1965 ex.s. c 138 § 16.]

RCW 39.53.921 Severability--1977 ex.s. c 262.

If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1977 ex.s. c 262 § 4.]

**Chapter 39.56 RCW
WARRANTS**

Sections

39.56.020	Rate on municipal warrants.
39.56.030	Issuing officer to fix rate.
39.56.040	Cancellation of municipal warrants.
39.56.050	Municipal corporations authorized to establish line of credit for payment of warrants--Interest.

Notes:

Interest on judgments: RCW 4.56.110.

Usurious rates of interest: Chapter 19.52 RCW.

RCW 39.56.020 Rate on municipal warrants.

All county, city, town and school warrants, and all warrants or other evidences of indebtedness, drawn upon or payable from any public funds, shall bear interest at a rate or rates as authorized by the issuing authority.

[1970 ex.s. c 56 § 106; 1899 c 80 § 4; RRS § 7302. Prior: 1895 c 136 § 3.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Cities and towns, local improvement district warrants, interest rate: RCW 35.45.130.

RCW 39.56.030 Issuing officer to fix rate.

It shall be the duty of every public officer issuing public warrants to make monthly investigation to ascertain the market value of the current warrants issued by him, and he shall, so far as practicable, fix the rate of interest on the warrants issued by him during the ensuing month so that the par value shall be the market value thereof.

[1981 c 156 § 16; 1981 c 10 § 4; 1899 c 80 § 5; RRS § 7303.]

RCW 39.56.040 Cancellation of municipal warrants.

Registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as if such warrants had never been drawn.

[1975 1st ex.s. c 131 § 1.]

RCW 39.56.050 Municipal corporations authorized to establish line of credit for payment of warrants--Interest.

See RCW 43.09.2853.

Chapter 39.58 RCW

PUBLIC FUNDS--DEPOSITS AND INVESTMENTS--PUBLIC DEPOSITARIES

Sections

- 39.58.010 Definitions.
- 39.58.020 Public funds--Protection against loss.
- 39.58.030 Public deposit protection commission--State finance committee constitutes--Proceedings.
- 39.58.040 General powers of commission.
- 39.58.045 Financial institutions claiming exemption from sales, use or ad valorem taxes--Notification of commission.
- 39.58.050 Collateral for deposits--Segregation--Eligible securities.
- 39.58.060 Loss in a bank public depository--Procedure for payment.
- 39.58.065 Loss in a thrift public depository--Procedure for payment.
- 39.58.070 Subrogation of commission to depositor's rights--Sums received from distribution of assets, payment.
- 39.58.080 Deposit of public funds in public depository required--Deposits in institutions located outside the state.
- 39.58.085 Demand accounts in out-of-state and alien banks--Limitations.
- 39.58.090 Authority to secure deposits in accordance with chapter--Bonds and securities for deposits dispensed with.

39.58.100	Reports of public depositaries--Certification by director of financial institutions.
39.58.103	Notice to commission of reduced net worth.
39.58.105	Investigation of financial institution applying to become public depository--Report.
39.58.108	Requirements to become depository.
39.58.120	Interest rates.
39.58.130	Investment deposits--Net worth of public depository.
39.58.135	Limitations on deposits.
39.58.140	Liability of treasurers.
39.58.155	State-wide custodian--Exemption from chapter.
39.58.750	Receipt, disbursement, or transfer of public funds by wire or other electronic communication means authorized.

Notes:

Department of financial institutions: Chapter 43.320 RCW.

State investment board: Chapter 43.33A RCW.

Surplus funds in state treasury, investment program: Chapter 43.86A RCW.

RCW 39.58.010 Definitions.

In this chapter, unless the context otherwise requires:

(1) "Public funds" means moneys under the control of a treasurer or custodian belonging to, or held for the benefit of, the state or any of its political subdivisions, public corporations, municipal corporations, agencies, courts, boards, commissions, or committees, including moneys held as trustee, agent, or bailee;

(2) "Public depository" means a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has been approved by the commission to hold public deposits, and which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability. Addition of the word "bank" denotes a bank, trust company, or national banking association and the word "thrift" denotes a savings association or savings bank;

(3) "Loss" means the issuance of an order by a regulatory or supervisory authority or a court of competent jurisdiction (a) restraining a public depository from making payments of deposit liabilities or (b) appointing a receiver for a public depository;

(4) "Commission" means the Washington public deposit protection commission created under RCW 39.58.030;

(5) "Eligible collateral" means securities which are enumerated in RCW 39.58.050 (5) and (6) as eligible collateral for public deposits;

(6) The "maximum liability" of a public depository on any given date means a sum equal to ten percent of (a) all public deposits held by the *qualified public depository on the then most recent commission report date, or (b) the average of the balances of said public deposits on the last four immediately preceding reports required pursuant to RCW 39.58.100, whichever amount is greater, less any assessments paid to the commission pursuant to this chapter since the then most recent commission report date;

(7) "Public funds available for investment" means such public funds as are in excess of

the anticipated cash needs throughout the duration of the contemplated investment period;

(8) "Investment deposits" means time deposits, money market deposit accounts, and savings deposits of public funds available for investment;

(9) "Treasurer" shall mean the state treasurer, a county treasurer, a city treasurer, a treasurer of any other municipal corporation, and any other custodian of public funds;

(10) "Financial institution" means any national or state chartered commercial bank or trust company, savings bank, or savings association, or branch or branches thereof, located in this state and lawfully engaged in business;

(11) "Commission report" means a formal accounting rendered by all public depositaries to the commission in response to a demand for specific information made by the commission detailing pertinent affairs of each public depository as of the close of business on a specified date, which is the "commission report date." "Commission report due date" is the last day for the timely filing of a commission report;

(12) "Director of financial institutions" means the Washington state director of the department of financial institutions;

(13) "Net worth" of a public depository means (a) the equity capital as reported to its primary regulatory authority on the quarterly report of condition or statement of condition and may include capital notes and debentures which are subordinate to the interests of depositors, or (b) equity capital adjusted by rule of the commission;

(14) "Depository pledge agreement" means a tripartite agreement executed by the commission with a financial institution and its designated trustee. Such agreement shall be approved by the directors or the loan committee of the financial institution and shall continuously be a record of the financial institution. New securities may be pledged under this agreement in substitution of or in addition to securities originally pledged without executing a new agreement;

(15) "Trustee" means a third-party safekeeping agent which has completed a depository pledge agreement with a public depository and the commission. Such third-party safekeeping agent may be the federal reserve bank of San Francisco, the federal home loan bank of Seattle, the trust department of the public depository, or such other third-party safekeeping agent approved by the commission.

[1996 c 256 § 1; 1994 c 92 § 494; 1984 c 177 § 10; 1983 c 66 § 3; 1977 ex.s. c 95 § 1; 1975 1st ex.s. c 77 § 1; 1973 c 126 § 9; 1969 ex.s. c 193 § 1.]

Notes:

***Reviser's note:** The term "qualified public depository" was redefined as "public depository" by 1996 c 256 § 1.

Severability--1983 c 66: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 66 § 24.]

Severability--1969 ex.s. c 193: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of this act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 193 § 32.]

Construction--1969 ex.s. c 193: "Nothing in this act shall be construed so as to impair the obligation of

any contract or agreement entered into prior to its effective date." [1969 ex.s. c 193 § 33.]

City depositaries: Chapter 35.38 RCW.

County depositaries: Chapter 36.48 RCW.

State depositaries: Chapter 43.85 RCW.

RCW 39.58.020 Public funds--Protection against loss.

All public funds deposited in public depositaries, including investment deposits and accrued interest thereon, shall be protected against loss, as provided in this chapter.

[1996 c 256 § 2; 1984 c 177 § 11; 1983 c 66 § 5; 1973 c 126 § 10; 1969 ex.s. c 193 § 2.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.030 Public deposit protection commission--State finance committee constitutes--Proceedings.

The Washington public deposit protection commission shall be the state finance committee. The record of the proceedings of the public deposit protection commission shall be kept in the office of the commission and a duly certified copy thereof, or any part thereof, shall be admissible in evidence in any action or proceedings in any court of this state.

[1983 c 66 § 6; 1969 ex.s. c 193 § 3.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.040 General powers of commission.

The commission shall have power (1) to make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter; (2) to require any public depositary to furnish such information dealing with public deposits and the exact status of its net worth as the commission shall request. Any public depositary which refuses or neglects to give promptly and accurately or to allow verification of any information so requested shall no longer be a public depositary and shall be excluded from the right to receive or hold public deposits until such time as the commission shall acknowledge that such depositary has furnished the information requested; (3) to take such action as it deems best for the protection, collection, compromise or settlement of any claim arising in case of loss; (4) to prescribe regulations, subject to this chapter, fixing the requirements for qualification of financial institutions as public depositaries, and fixing other terms and conditions consistent with this chapter, under which public deposits may be received and held; (5) to make and enforce regulations setting forth criteria establishing minimum standards for the financial condition of bank and thrift depositaries and, if the minimum standards are not met, providing for additional collateral requirements or restrictions regarding a public depositary's right to receive or hold public deposits; (6) to fix the official date on which any loss shall be deemed to have occurred taking into consideration the

orders, rules and regulations of supervisory authority as they affect the failure or inability of a public depository to repay public deposits in full; and (7) in case loss occurs in more than one public depository, to determine the allocation and time of payment of any sums due to public depositors under this chapter.

[1996 c 256 § 3; 1986 c 25 § 2; 1984 c 177 § 12; 1983 c 66 § 7; 1975 1st ex.s. c 77 § 2; 1969 ex.s. c 193 § 4.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.045 Financial institutions claiming exemption from sales, use or ad valorem taxes--Notification of commission.

The director of the department of revenue shall notify the public deposit protection commission quarterly on the first day of October, January, April, and July of the names and addresses of any financial institutions which have claimed exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state.

[1983 c 66 § 4.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.050 Collateral for deposits--Segregation--Eligible securities.

(1) Every public depository shall complete a depository pledge agreement with the commission and a trustee, and shall at all times maintain, segregated from its other assets, eligible collateral in the form of securities enumerated in this section having a value at least equal to its maximum liability and as otherwise prescribed in this chapter. Such collateral shall be segregated by deposit with the depository's trustee and shall be clearly designated as security for the benefit of public depositors under this chapter.

(2) Securities eligible as collateral shall be valued at market value, and the total market value of securities pledged in accordance with this chapter shall not be reduced by withdrawal or substitution of securities except by prior authorization, in writing, by the commission.

(3) The public depository shall have the right to make substitutions of an equal or greater amount of such collateral at any time.

(4) The income from the securities which have been segregated as collateral shall belong to the public depository without restriction.

(5) Each of the following enumerated classes of securities, providing there has been no default in the payment of principal or interest thereon, shall be eligible to qualify as collateral:

(a) Certificates, notes or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;

(b) State, county, municipal, or school district bonds or warrants of taxing districts of the state of Washington or any other state of the United States, provided that such bonds and

warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations;

(c) The obligations of any United States government-sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(d) Bonds, notes, letters of credit, or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or federal reserve bank;

(e) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof, and any municipality or taxing district of this state;

(f) Direct and general obligation bonds and warrants of any city, town, county, school district, port district, or other political subdivision of any state, having the power to levy general taxes, which are payable from general ad valorem taxes;

(g) Bonds issued by public utility districts as authorized under the provisions of Title 54 RCW, as now or hereafter amended;

(h) Bonds of any city of the state of Washington for the payment of which the entire revenues of the city's water system, power and light system, or both, less maintenance and operating costs, are irrevocably pledged, even though such bonds are not general obligations of such city;

(6) In addition to the securities enumerated in this section, every public depository may also segregate such bonds, securities, and other obligations as are designated to be authorized security for public deposits under the laws of this state.

(7) The commission may at any time or times declare any particular security as ineligible to qualify as collateral when in the commission's judgment it is deemed desirable to do so.

[1996 c 256 § 4; 1989 c 97 § 4; 1984 c 177 § 13; 1983 c 66 § 8; 1975 1st ex.s. c 77 § 3; 1973 c 126 § 11; 1969 ex.s. c 193 § 5.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.060 Loss in a bank public depository--Procedure for payment.

When the commission determines that a loss has occurred in a bank public depository, it shall as soon as possible make payment to the proper public officers of all funds subject to such loss, pursuant to the following procedures:

(1) For the purposes of determining the sums to be paid, the director of financial institutions or the receiver shall, within twenty days after issuance of a restraining order or taking possession of any bank public depository, ascertain the amount of public funds on deposit therein as disclosed by its records and the amount thereof covered by deposit insurance and certify the amounts thereof to the commission and each such public depositor;

(2) Within ten days after receipt of such certification, each such public depositor shall furnish to the commission verified statements of its deposits in such bank public depository as

disclosed by its records;

(3) Upon receipt of such certificate and statements, the commission shall ascertain and fix the amount of such public deposits, net after deduction of any amount received from deposit insurance, and, after determining and declaring the apparent net loss, assess the same against all then bank public depositaries, as follows: First, against the public depositary in which the loss occurred, to the extent of the full value of collateral segregated pursuant to this chapter; second, against all other bank public depositaries pro rata in proportion to the maximum liability of each such depositary as it existed on the date of loss;

(4) Assessments made by the commission shall be payable on the second business day following demand, and in case of the failure of any public depositary so to pay, the commission shall forthwith take possession of the securities segregated as collateral by such depositary pursuant to this chapter and liquidate the same for the purpose of paying such assessment;

(5) Upon receipt of such assessment payments, the commission shall reimburse the public depositors of the public depositary in which the loss occurred to the extent of the depositary's net deposit liability to them.

[1996 c 256 § 5; 1983 c 66 § 9; 1973 c 126 § 12; 1969 ex.s. c 193 § 6.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.065 Loss in a thrift public depositary--Procedure for payment.

When the commission determines that a loss has occurred in a thrift public depositary, it shall as soon as possible make payment to the proper public officers of all funds subject to such loss, pursuant to the following procedures:

(1) For the purposes of determining the sums to be paid, the director of financial institutions or the receiver shall, within twenty days after issuance of a restraining order or taking possession of any thrift public depositary, ascertain the amount of public funds on deposit therein as disclosed by its records and the amount thereof covered by deposit insurance and certify the amounts thereof to the commission and each such public depositor;

(2) Within ten days after receipt of such certification, each such public depositor shall furnish to the commission verified statements of its deposits in such thrift depositary as disclosed by its records;

(3) Upon receipt of such certificate and statements, the commission shall ascertain and fix the amount of such public deposits, net after deduction of any amount received from deposit insurance, and, after determining and declaring the apparent net loss, assess the same against all then thrift public depositaries, as follows: First, against the public depositary in which the loss occurred, to the extent of the full value of collateral segregated pursuant to this chapter; second, against all other thrift public depositaries pro rata in proportion to the maximum liability of each such depositary as it existed on the date of loss;

(4) Assessments made by the commission shall be payable on the second business day following demand, and in case of the failure of any public depositary so to pay, the commission

shall forthwith take possession of the securities segregated as collateral by such depository pursuant to this chapter and liquidate the same for the purpose of paying such assessment;

(5) Upon receipt of such assessment payments, the commission shall reimburse the public depositors of the public depository in which the loss occurred to the extent of the depository's net deposit liability to them.

[1996 c 256 § 6; 1983 c 66 § 10.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.070 Subrogation of commission to depositor's rights--Sums received from distribution of assets, payment.

Upon payment to any public depositor, the commission shall be subrogated to all of such depositor's right, title and interest against the public depository in which the loss occurred and shall share in any distribution of its assets ratably with other depositors. Any sums received from any distribution shall be paid to the public depositors to the extent of any unpaid net deposit liability and the balance remaining shall be paid to the public depositories against which assessments were made, pro rata in proportion to the assessments actually paid by each such depository: PROVIDED, That the public depository in which the loss occurred shall not share in any such distribution of the balance remaining. If the commission incurs expense in enforcing any such claim, the amount thereof shall be paid as a liquidation expense of the public depository in which the loss occurred.

[1996 c 256 § 7; 1973 c 126 § 13; 1969 ex.s. c 193 § 7.]

RCW 39.58.080 Deposit of public funds in public depository required--Deposits in institutions located outside the state.

Except for funds deposited pursuant to a fiscal agency contract with the state fiscal agent or its correspondent bank, funds deposited pursuant to a custodial bank contract with the state's custodial bank, and funds deposited pursuant to a local government multistate joint self-insurance program as provided in RCW 48.62.081, no public funds shall be deposited in demand or investment deposits except in a public depository located in this state or as otherwise expressly permitted by statute: PROVIDED, That the commission, or the chair upon delegation by the commission, upon good cause shown, may authorize, for such time and upon such terms and conditions as the commission or chair deem appropriate, a treasurer to maintain a demand deposit account with a banking institution located outside the state of Washington solely for the purpose of transmitting money received to public depositories in the state of Washington for deposit.

[1996 c 256 § 8; 1991 sp.s. c 30 § 27; 1986 c 160 § 1; 1984 c 177 § 14; 1983 c 66 § 11; 1969 ex.s. c 193 § 8.]

Notes:

Effective date, implementation, application--Severability--1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.085 Demand accounts in out-of-state and alien banks--Limitations.

The commission, or the chair upon delegation by the commission, may authorize state and local governmental entities to establish demand accounts in out-of-state and alien banks in an aggregate amount not to exceed one million dollars. No single governmental entity shall be authorized to hold more than fifty thousand dollars in one demand account.

The governmental entities establishing such demand accounts shall be solely responsible for their proper and prudent management and shall bear total responsibility for any losses incurred by such accounts. Accounts established under the provisions of this section shall not be considered insured by the commission.

The state auditor shall annually monitor compliance with this section and the financial status of such demand accounts.

[1996 c 256 § 9; 1987 c 505 § 21; 1986 c 160 § 2.]

RCW 39.58.090 Authority to secure deposits in accordance with chapter--Bonds and securities for deposits dispensed with.

All institutions located in this state which are permitted by the statutes of this state to hold and receive public funds shall have power to secure such deposits in accordance with this chapter. Except as provided in this chapter, no bond or other security shall be required of or given by any public depository for any public funds on deposit.

[1996 c 256 § 10; 1984 c 177 § 15; 1969 ex.s. c 193 § 9.]

RCW 39.58.100 Reports of public depositories--Certification by director of financial institutions.

On or before each commission report due date, each public depository shall render to the commission a written report, certified under oath, indicating the total amount of public funds on deposit held by it, the net worth of the depository, and the amount and nature of eligible collateral then segregated for the benefit of the commission.

The commission may instruct the director of financial institutions to examine and thereafter certify as to the accuracy of any statement to the commission by any public depository.

[1996 c 256 § 11; 1984 c 177 § 16; 1983 c 66 § 12; 1969 ex.s. c 193 § 10.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.103 Notice to commission of reduced net worth.

Each public depository shall notify the commission in writing within five working days of the happening of an event which causes its net worth to be reduced by an amount greater than ten percent of the amount shown as its net worth on the most recent report submitted pursuant to RCW 39.58.100.

[1983 c 66 § 13; 1975 1st ex.s. c 77 § 4.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.105 Investigation of financial institution applying to become public depository--Report.

The commission may require the state auditor or the director of financial institutions to thoroughly investigate and report to it concerning the condition of any financial institution which makes application to become a public depository, and may also as often as it deems necessary require such investigation and report concerning the condition of any financial institution which has been designated as a public depository. The expense of all such investigations or reports shall be borne by the financial institution examined. In lieu of any such investigation or report, the commission may rely upon information made available to it or the director of financial institutions by the office of the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, the federal reserve board, or any state bank or thrift regulatory agency.

The director of financial institutions shall in addition advise the commission of any action he or she has directed any public depository to take which will result in a reduction of greater than ten percent of the net worth of such depository as shown on the most recent report it submitted pursuant to RCW 39.58.100.

[1996 c 256 § 12; 1983 c 66 § 14; 1975 1st ex.s. c 77 § 5.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.108 Requirements to become depository.

Any financial institution may become a depository upon approval by the commission and segregation of collateral in the manner as set forth in this chapter, and upon compliance with all rules as promulgated by the commission. For the first twelve-month period following qualification as a public depository, the depository shall at all times pledge and segregate eligible securities in an amount equal to not less than ten percent of all public funds on deposit in the depository.

[1996 c 256 § 13; 1984 c 177 § 17; 1983 c 66 § 15; 1975 1st ex.s. c 77 § 6.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.120 Interest rates.

Time deposits issued pursuant to this chapter shall bear interest at a rate not in excess of the maximum rate permitted by any applicable governmental regulation.

[1974 ex.s. c 50 § 1; 1969 ex.s. c 193 § 12.]

RCW 39.58.130 Investment deposits--Net worth of public depository.

A treasurer is authorized to deposit in a public depository any public funds available for investment and secured by collateral in accordance with the provisions of this chapter, and receive interest thereon. The authority provided by this section is additional to any authority now or hereafter provided by law for the investment or deposit of public funds by any such treasurer: PROVIDED, That in no case shall the aggregate of demand and investment deposits of public funds by any such treasurer in any one public depository exceed at any time the net worth of that depository. If a public depository's net worth is reduced, a treasurer may allow public funds on deposit in excess of the reduced net worth to remain until maturity upon pledging by the depository of eligible securities valued at market value in an amount at least equal to the amount of the excess deposits. The collateral shall be segregated as provided in RCW 39.58.050. If the additional securities required by this section are not pledged by the depository, the depository shall permit withdrawal prior to maturity by the treasurer of deposits, including accrued interest, in accordance with applicable statutes and governmental regulations.

[1996 c 256 § 14; 1984 c 177 § 18; 1983 c 66 § 16; 1969 ex.s. c 193 § 13.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 39.58.135 Limitations on deposits.

Notwithstanding RCW 39.58.130, (1) aggregate deposits received by a public depository from all public treasurers shall not exceed at any time one hundred fifty percent of the value of the depository's net worth, nor (2) shall the aggregate deposits received by any public depository exceed thirty percent of the total aggregate deposits of all public treasurers in all depositories as determined by the public deposit protection commission. However, a public depository may receive deposits in excess of the limits provided in this section if eligible securities, as prescribed in RCW 39.58.050, are pledged as collateral in an amount equal to one hundred percent of the value of deposits received in excess of the limitations prescribed in this section.

[1996 c 256 § 15; 1986 c 25 § 1; 1984 c 177 § 19.]

RCW 39.58.140 Liability of treasurers.

When deposits are made in accordance with this chapter, a treasurer shall not be liable for any loss thereof resulting from the failure or default of any public depository without fault or

neglect on his or her part or on the part of his or her assistants or clerks.

[1996 c 256 § 16; 1969 ex.s. c 193 § 29.]

Notes:

Liability of state treasurer: RCW 43.85.070.

RCW 39.58.155 State-wide custodian--Exemption from chapter.

A state-wide custodian under RCW 43.08.280 may be exempted from the requirements of this chapter, based on rules adopted by the public deposit protection commission.

[1999 c 293 § 3.]

Notes:

Purpose--Effective date--1999 c 293: See notes following RCW 43.08.280.

RCW 39.58.750 Receipt, disbursement, or transfer of public funds by wire or other electronic communication means authorized.

Notwithstanding any provision of law to the contrary, the state treasurer or any county, city, or other municipal treasurer or other custodian of public funds may receive, disburse, or transfer public funds under his or her jurisdiction by means of wire or other electronic communication in accordance with accounting standards established by the state auditor under RCW 43.09.200 with regard to municipal treasurers or other custodians or by the office of financial management under RCW 43.88.160 in the case of the state treasurer and other state custodians to safeguard and insure accountability for the funds involved.

[1996 c 256 § 17; 1981 c 101 § 1; 1979 c 151 § 48; 1977 ex.s. c 15 § 1. Formerly RCW 39.58.150.]

Notes:

Effective date--1977 ex.s. c 15: "The effective date of this act shall be July 1, 1977." [1977 ex.s. c 15 § 2.]

**Chapter 39.59 RCW
PUBLIC FUNDS--AUTHORIZED INVESTMENTS**

Sections

39.59.010	Definitions.
39.59.020	Authorized investments--Bonds, warrants, and other investments.
39.59.030	Authorized investments--Mutual funds and money market funds.
39.59.900	Severability--1988 c 281.

RCW 39.59.010 Definitions.

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

throughout this chapter.

(1) "Bond" means any agreement which may or may not be represented by a physical instrument, including but not limited to bonds, notes, warrants, or certificates of indebtedness, that evidences an obligation under which the issuer agrees to pay a specified amount of money, with or without interest, at a designated time or times either to registered owners or bearers.

(2) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation, authority, or other instrumentality created by such an entity.

(3) "Money market fund" means a mutual fund the portfolio which consists of only bonds having maturities or demand or tender provisions of not more than one year, managed by an investment advisor who has posted with the risk management office of the department of general administration a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030 (2) or (3).

(4) "Mutual fund" means a diversified mutual fund registered with the federal securities and exchange commission and which is managed by an investment advisor with assets under management of at least five hundred million dollars and with at least five years' experience in investing in bonds authorized for investment by this chapter and who has posted with the risk management office of the department of general administration a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030(1).

(5) "State" includes a state, agencies, authorities, and instrumentalities of a state, and public corporations created by a state or agencies, authorities, or instrumentalities of a state.

[1988 c 281 § 1.]

Notes:

Enforcement of bonds under RCW 39.59.010 (3) and (4): RCW 43.19.19367.

RCW 39.59.020 Authorized investments--Bonds, warrants, and other investments.

In addition to any other investment authority granted by law and notwithstanding any provision of law to the contrary, the state of Washington and local governments in the state of Washington are authorized to invest their funds and money in their custody or possession, eligible for investment, in:

(1) Bonds of the state of Washington and any local government in the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(2) General obligation bonds of a state other than the state of Washington and general obligation bonds of a local government of a state other than the state of Washington, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency;

(3) Subject to compliance with RCW 39.56.030, registered warrants of a local government in the same county as the government making the investment; or

(4) Any investments authorized by law for the treasurer of the state of Washington or any local government of the state of Washington other than a metropolitan municipal corporation but, except as provided in chapter 39.58 RCW, such investments shall not include certificates of deposit of banks or bank branches not located in the state of Washington.

[1988 c 281 § 2.]

RCW 39.59.030 Authorized investments--Mutual funds and money market funds.

In addition to any other investment authority granted by law, the state of Washington and local governments in the state of Washington are authorized to invest their funds and money in their custody or possession, eligible for investment and subject to the arbitrage provisions of section 148 of the federal internal revenue code or similar provision concerning the investment of state and local money and funds, in:

(1) Shares of mutual funds with portfolios consisting of only United States government bonds or United States government guaranteed bonds issued by federal agencies with average maturities less than four years, or bonds described in RCW 39.59.020 (1) or (2), except that bonds otherwise described in RCW 39.59.020 (1) or (2) shall have one of the four highest credit ratings of a nationally recognized rating agency;

(2) Shares of money market funds with portfolios consisting of only bonds of states and local governments or other issuers authorized by law for investment by local governments, which bonds have at the time of investment one of the two highest credit ratings of a nationally recognized rating agency; or

(3) Shares of money market funds with portfolios consisting of securities otherwise authorized by law for investment by local governments.

[1988 c 281 § 3.]

RCW 39.59.900 Severability--1988 c 281.

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

[1988 c 281 § 10.]

Chapter 39.60 RCW

INVESTMENT OF PUBLIC FUNDS IN BONDS, NOTES, ETC.--COLLATERAL

Sections

39.60.010	Investment of public and trust funds authorized.
39.60.020	Exchange of securities for federal agency bonds.
39.60.030	Obligations eligible as collateral security.
39.60.040	Insured shares, deposits or accounts as collateral--Partially guaranteed obligations.

39.60.050 Investment of public and trust funds in notes, bonds or debentures authorized--Requirements.

Notes:

Bonds and warrants of state and municipal corporations as investment and collateral for public funds:

ferry system bonds: RCW 47.60.100.

highway construction bonds: RCW 47.10.050, 47.10.190, 47.10.320, 47.10.450, 47.10.710.

metropolitan municipal corporation bonds: RCW 35.58.510.

public utility district bonds and warrants: RCW 54.24.120.

state warrants: RCW 43.84.120.

toll bridge bonds: RCW 47.56.150, 47.58.070, 47.60.100.

Investments in bonds and warrants of state and municipal corporations authorized for:

cities of first class, employees' retirement fund: RCW 41.28.080.

city and town pension funds: RCW 35.39.060.

current state funds: RCW 43.84.080.

insurers: RCW 48.13.040.

metropolitan municipal corporation funds: RCW 35.58.520.

mutual savings banks: RCW 32.20.050, 32.20.070, 32.20.110, 32.20.120, 32.20.130.

permanent school fund: State Constitution Art. 16 § 5 (Amendment 44).

savings and loan associations: RCW 33.24.030, 33.24.050, 33.24.080.

state-wide city employees' retirement fund: RCW 41.44.100.

volunteer fire fighters' and reserve officers' relief and pension principal fund: RCW 41.24.030.

workers' compensation funds: RCW 51.44.100.

Investments in federal bonds and securities authorized for:

cities and towns: RCW 35.39.030.

current state funds: RCW 43.84.080.

insurers: RCW 48.13.040.

mutual savings banks: RCW 32.20.030.

savings and loan associations: RCW 33.24.020.

school district capital projects fund: RCW 28A.320.330.

school districts, first class, insurance reserve funds: RCW 28A.330.110.

state-wide city employees' retirement fund: RCW 41.44.100.

workers' compensation funds: RCW 51.44.100.

RCW 39.60.010 Investment of public and trust funds authorized.

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision of the state, or any political or public corporation of the state, or for any insurance company, savings and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary to invest its funds or the moneys in its custody or possession, eligible for investment, in notes or bonds secured by mortgage which the Federal Housing Administrator has insured or has made a commitment to insure in obligations of national mortgage associations, in debentures issued by the Federal Housing Administrator, and in the bonds of the Home Owner's Loan Corporation, a corporation organized under and by virtue of the authority granted

in H.R. 5240, designated as the Home Owner's Loan Act of 1933, passed by the congress of the United States and approved June 13, 1933, and in bonds of any other corporation which is or hereafter may be created by the United States, as a governmental agency or instrumentality.

[1939 c 32 § 1; 1935 c 11 § 1; 1933 ex.s. c 37 § 1; RRS § 5545-1.]

Notes:

Severability--1933 ex.s. c 37: "If any section, subsection, sentence, clause or phrase of this act for any reason shall be held to be unconstitutional, such holding shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act in each section, subsection, sentence, clause and phrase thereof, separately and irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be unconstitutional." [1933 ex.s. c 37 § 4.] This applies to RCW 39.60.010 through 39.60.030.

RCW 39.60.020 Exchange of securities for federal agency bonds.

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be also lawful for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivisions of the state, or any political or public corporation of the state, or for any insurance company, savings and loan association, building and loan association, or for any bank, trust company or other financial institution, operating under the laws of the state of Washington, or for any executor, administrator, guardian or conservator, trustee or other fiduciary, to exchange any mortgages, contracts, judgments or liens owned or held by it, for the bonds of the Home Owners' Loan Corporation, a corporation organized under and by virtue of the authority granted in H.R. 5240, designated as The Home Owners' Loan Act of 1933, passed by the congress of the United States and approved June 13, 1933, or for the bonds of any other corporation which is or hereafter may be created by the United States as a governmental agency or instrumentality; and to accept said bonds at their par value in any such exchange.

[1933 ex.s. c 37 § 2; RRS § 5545-2.]

RCW 39.60.030 Obligations eligible as collateral security.

Wherever, by statute of this state, collateral is required as security for the deposit of public or other funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund is required to be maintained consisting of designated securities, the bonds and other securities herein made eligible for investment shall also be eligible for such purpose.

[1939 c 32 § 2; 1935 c 11 § 2; 1933 ex.s. c 37 § 3; RRS § 5545-3.]

RCW 39.60.040 Insured shares, deposits or accounts as collateral--Partially guaranteed obligations.

The obligations issued pursuant to said Federal Home Loan Bank Act and to said Title IV

of the National Housing Act as such acts are now or hereafter amended, and the shares, deposits or accounts of any institution which has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, may be used at face value or withdrawal value, and bonds or other interest bearing obligations as to which the payment of some but less than the full principal and interest is guaranteed by the United States of America or any agency thereof may be used to the extent of the portion so guaranteed, wherever, by statute of this state or otherwise, collateral is required as security for the deposit of public or other funds, or deposits are required to be made with any public official or department, or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated security, or wherever by statute of this state or otherwise, any surety, whether personal, corporate, or otherwise, or any collateral or security, is required or permitted for any purpose, including without limitation on the generality of the foregoing, any bond, recognizance, or undertaking.

[1967 ex.s. c 48 § 1; 1941 c 249 § 2; Rem. Supp. 1941 § 3791-2.]

RCW 39.60.050 Investment of public and trust funds in notes, bonds or debentures authorized--Requirements.

Notwithstanding the provisions of any other statute of the state of Washington to the contrary, it shall be lawful for the state of Washington and any of its departments, institutions and agencies, municipalities, districts, and any other political subdivision, or any political or public corporation of the state, or for any executor, administrator, guardian, or conservator, trustee or other fiduciary, to invest its funds or the moneys in its custody or possession, eligible for investment, in notes, bonds, or debentures of savings and loan associations, banks, mutual savings banks, savings and loan service corporations operating with approval of the federal home loan bank, and corporate mortgage companies: PROVIDED, That the notes, bonds or debentures are rated not less than "A" by a nationally recognized rating agency, or are insured or guaranteed by an agency of the federal government or by private insurer authorized to do business in the state: PROVIDED FURTHER, That the notes, bonds and debentures insured or guaranteed by a private insurer shall also be backed by a pool of mortgages equal to the amount of the notes, bonds or debentures.

[1970 ex.s. c 93 § 1.]

Notes:

Severability--1970 ex.s. c 93: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 93 § 4.] This applies to RCW 39.60.050 and 35.45.150.
Investment in local improvement district notes: RCW 35.45.150.

**Chapter 39.62 RCW
UNIFORM FACSIMILE SIGNATURE OF PUBLIC OFFICIALS ACT**

39.62.010	Definitions.
39.62.020	Facsimile signature--Authorized--Legal effect.
39.62.030	Facsimile seal--Authorized--Legal effect.
39.62.040	Unauthorized use--Penalty.
39.62.900	Construction--Uniformity.
39.62.910	Short title.
39.62.920	Severability--1969 c 86.

Notes:

Facsimile signatures on bonds and coupons: RCW 39.44.100 through 39.44.102.

RCW 39.62.010 Definitions.

As used in this chapter:

(1) "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state or by any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or by any of its political subdivisions.

(2) "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.

(3) "Authorized officer" means any official of this state or any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted.

(4) "Facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer.

[1969 c 86 § 1.]

RCW 39.62.020 Facsimile signature--Authorized--Legal effect.

Any authorized officer, after filing with the secretary of state his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

(1) Any public security: PROVIDED, That at least one signature required or permitted to be placed thereon shall be manually subscribed, and

(2) Any instrument of payment.

Upon compliance with this chapter by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

[1969 c 86 § 2.]

RCW 39.62.030 Facsimile seal--Authorized--Legal effect.

When the seal of this state or any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or of any of its political subdivisions is required in the execution of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, stamped or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

[1969 c 86 § 3.]

RCW 39.62.040 Unauthorized use--Penalty.

Any person who with intent to defraud uses on a public security or an instrument of payment:

- (1) A facsimile signature, or any reproduction of it, of any authorized officer, or
- (2) Any facsimile seal, or any reproduction of it, of this state or any of its departments, agencies, counties, cities, towns, municipal corporations, junior taxing districts, school districts, or other instrumentalities or of any of its political subdivisions is guilty of a felony.

[1969 c 86 § 4.]

RCW 39.62.900 Construction--Uniformity.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[1969 c 86 § 5.]

RCW 39.62.910 Short title.

This act may be cited as the uniform facsimile signature of public officials act.

[1969 c 86 § 6.]

RCW 39.62.920 Severability--1969 c 86.

If any provision of this 1969 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1969 c 86 § 7.]

**Chapter 39.64 RCW
TAXING DISTRICT RELIEF**

39.64.005	Short title.
39.64.010	Purpose of chapter.
39.64.020	Definitions.
39.64.030	Exercise of powers granted.
39.64.040	Petition in bankruptcy.
39.64.050	Resolution of authorization.
39.64.060	Resolution consenting to readjustment.
39.64.070	Plan of readjustment.
39.64.080	Powers under plan of readjustment.
39.64.085	Authority of operating agencies to levy taxes.
39.64.090	Validation of prior bankruptcy proceedings.
39.64.900	Construction--Severability--1935 c 143.

RCW 39.64.005 Short title.

This chapter may be cited as the taxing district relief act.

[1935 c 143 § 1; RRS § 5608-1.]

RCW 39.64.010 Purpose of chapter.

The purpose of this chapter is to facilitate and permit taxing districts which are unable to meet their debts either in their present amount and/or at the time they fall due, to obtain relief by the readjustment of such debts as provided for by the act of congress hereinafter referred to, by supplementing the powers of those taxing districts for which refunding of debts is provided for by existing statutes, and by providing a method of refunding of debts for those taxing districts for which no method of refunding such debts has heretofore been provided, and by other provisions appropriate to such purposes.

This chapter shall not be construed as in anywise limiting the powers of the federal courts to grant relief as provided for in said act of congress.

[1935 c 143 § 2; RRS § 5608-2.]

RCW 39.64.020 Definitions.

For the purposes of this chapter a "taxing district" is defined to be a "taxing district" as described in section 80 of chapter IX of the act of congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended, to wit:

"Any municipality or other political subdivision of any state, including (but not hereby limiting the generality of the foregoing) any county, city, borough, village, parish, town, or township, unincorporated tax or special assessment district, and any school, drainage, irrigation, reclamation, levee, sewer, or paving, sanitary, port, improvement or other district (hereinafter referred to as a 'taxing district')."

Said act of congress and acts amendatory thereof and supplementary thereto, as the same

may be amended from time to time, are herein referred to as the "federal bankruptcy act."

[1935 c 143 § 3; RRS § 5608-3.]

RCW 39.64.030 Exercise of powers granted.

All powers herein granted to taxing districts in state of Washington may be exercised by such districts. If a taxing district has no officers of its own, such powers may be exercised in its behalf by the officer or officers, board, council or commission having the power to contract in behalf of such district or to levy special assessments or special taxes within such district.

[1935 c 143 § 4; RRS § 5608-4.]

RCW 39.64.040 Petition in bankruptcy.

Any taxing district in the state of Washington is hereby authorized to file the petition mentioned in section 80 of chapter IX of the federal bankruptcy act.

[1935 c 143 § 5; RRS § 5608-5.]

RCW 39.64.050 Resolution of authorization.

Before the filing of any petition referred to in RCW 39.64.040, such taxing district shall adopt a resolution authorizing the filing thereof and authorizing its duly and regularly elected or appointed attorney or special counsel duly appointed for such purpose to file the same and to represent it in the proceedings with respect thereto in the competent United States district court.

[1935 c 143 § 6; RRS § 5608-6.]

RCW 39.64.060 Resolution consenting to readjustment.

No final decree or order of such United States district court confirming a plan of readjustment shall be effective for the purpose of binding such taxing district unless and until such taxing district files with such court a certified copy of a resolution of such taxing district, adopted by it or by the officer or officers, board, council or commission referred to in RCW 39.64.030, consenting to the plan of readjustment set forth or referred to in such final decree or order.

[1935 c 143 § 7; RRS § 5608-7.]

RCW 39.64.070 Plan of readjustment.

Such taxing district is hereby authorized and empowered to take any and all action necessary to carry out any plan of readjustment contemplated in said petition, or as the same may be modified from time to time, notwithstanding any other provisions of law. In case of the refunding of debts of irrigation districts, diking or drainage improvement districts, general debts

of cities, or debts of other taxing districts for the refunding of which provision is already made under existing statutes, such refunding shall be had and done as provided for in such existing statutes, except that the tenor and character of the refunding bonds and the assessments levied to meet such bonds may be modified to conform to the capacity of the taxing district, or the individual lots, tracts, or parcels of real property therein, to meet and carry the charges, both direct and contingent, against them, as found and set forth in the plan of readjustment and decree of court; and except also as such existing provisions of law may be otherwise supplemented by such plan of readjustment or the provisions of this chapter.

[1935 c 143 § 8; RRS § 5608-8.]

RCW 39.64.080 Powers under plan of readjustment.

Such taxing district shall have power to consummate the plan of readjustment, as adopted by the court's decree and approved by it as aforesaid, and if such plan, as approved by such decree, so requires, may, for such purpose, exercise any of the following powers:

(1) Cancel in whole or in part any assessments or any interest or penalties assessed thereon which may be outstanding and a lien upon any property in such taxing district, as and when such assessments are replaced by the readjusted or revised assessments provided for in the plan of readjustment approved by such decree.

(2) Issue refunding bonds to refund bonds theretofore issued by such taxing district. Such refunding bonds shall have such denominations, rates of interest and maturities as shall be provided in such plan of readjustment and shall be payable by special assessments or by general taxes, according to the nature of the taxing district, in the manner provided in such plan of readjustment and decree.

(3) Apportion and levy new assessments or taxes appropriate in time or times of payment to provide funds for the payment of principal and interest of such refunding bonds, and of all expenses incurred by such taxing district in filing the petition mentioned in RCW 39.64.040, and any and all other expenses necessary or incidental to the consummation of the plan of readjustment.

In the case of special assessment districts for the refunding of whose debts no procedure is provided by existing laws, such assessments shall be equitably apportioned and levied upon each lot, tract or parcel of real property within such taxing district, due consideration being given to the relative extent to which the original apportionments upon the various lots, tracts or parcels of real property within such taxing district have already been paid and due consideration also being given to the capacity of the respective lots, tracts or parcels of real property to carry such charges against them. Before levying or apportioning such assessment such taxing district or the officer or officers, board, council or commission mentioned in RCW 39.64.030 shall hold a hearing with reference thereto, notice of which hearing shall be published once a week for four consecutive weeks in the newspaper designated for the publication of legal notices by the legislative body of the city or town, or by the board of county commissioners of the county within which such taxing district or any part thereof is located, or in any newspaper published in the city, town or county within which such taxing district or any part thereof is located and of

general circulation within such taxing district. At such hearing every owner of real property within such taxing district shall be given an opportunity to be heard with respect to the apportionment and levy of such assessment.

(4) In the case of special assessment districts, of cities or towns, provide that if any of the real property within such taxing district shall not, on foreclosure of the lien of such new assessment for delinquent assessments and penalties and interest thereon, be sold for a sufficient amount to pay such delinquent assessments, penalties and interest, or if any real property assessed was not subject to assessment, or if any assessment or installment or installments thereof shall have been eliminated by foreclosure of a tax lien or made void in any other manner, such taxing district shall cause a supplemental assessment sufficient in amount to make up such deficiency to be made on the real property within such taxing district, including real property upon which any such assessment or any installment or installments thereof shall have been so eliminated or made void. Such supplemental assessment shall be apportioned to the various lots, tracts and parcels of real property within such taxing district in proportion to the amounts apportioned thereto in the assessment originally made under such plan of readjustment.

(5) Provide that refunding bonds may, at the option of the holders thereof, be converted into warrants of such denominations and bearing such rate of interest as may be provided in the plan of readjustment, and that the new assessments mentioned in subdivision (3) and the supplemental assessments mentioned in subdivision (4) of this section may be paid in refunding bonds or warrants of such taxing district without regard to the serial numbers thereof, or in money, at the option of the person paying such assessments, such refunding bonds and warrants to be received at their par value in payment of such assessments. In such case such refunding bonds and warrants shall bear the following legend: "This bond (or warrant) shall be accepted at its face value in payment of assessments (including interest and penalties thereon) levied to pay the principal and interest of the series of bonds and warrants of which this bond (or warrant) is one without regard to the serial number appearing upon the face hereof."

(6) Provide that all sums of money already paid to the treasurer of such taxing district or other authorized officer in payment, in whole or in part, of any assessment levied by or for such taxing district or of interest or penalties thereon, shall be transferred by such treasurer or other authorized officer to a new account and made applicable to the payment of refunding bonds and warrants to be issued under such plan of readjustment.

(7) Provide that such treasurer or other authorized officer shall have authority to use funds in his possession not required for payment of current interest of such bonds and warrants, to buy such bonds and warrants in the open market through tenders or by call at the lowest prices obtainable at or below par and accrued interest, without preference of one bond or warrant over another because of its serial number, or for any other cause other than the date and hour of such tender or other offer and the amount which the owner of such bond or warrant agrees to accept for it. In such case such refunding bonds and warrants shall bear the following legend: "This bond (or warrant) may be retired by tender or by call without regard to the serial number appearing upon the face hereof."

(8) Provide that if, after the payment of all interest on refunding bonds and warrants issued under any plan of readjustment adopted pursuant to this chapter and chapter IX of the

federal bankruptcy act and the retirement of such bonds and warrants, there shall be remaining in the hands of the treasurer or other authorized officer of the taxing district which issued such bonds and warrants money applicable under the provisions of this chapter to the payment of such interest, bonds and warrants, such money shall be applied by such treasurer or other authorized officer to the maintenance, repair and replacement of the improvements originally financed by the bonds readjusted under this chapter and the federal bankruptcy act.

(9) The above enumeration of powers shall not be deemed to exclude powers not herein mentioned that may be necessary for or incidental to the accomplishment of the purposes hereof.

[1935 c 143 § 9; RRS § 5608-9.]

RCW 39.64.085 Authority of operating agencies to levy taxes.

Nothing in this chapter may be deemed to grant to any operating agency organized under chapter 43.52 RCW, or a project of any such operating agency, the authority to levy any tax or assessment not otherwise authorized by law.

[1983 2nd ex.s. c 3 § 54.]

Notes:

Construction--Severability--Effective dates--1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

RCW 39.64.090 Validation of prior bankruptcy proceedings.

In the event that any taxing district in the state of Washington, before this chapter takes effect, shall have filed or purported or attempted to file a petition under the provisions of chapter IX of the federal bankruptcy act, or shall have taken or purported or attempted to take any other proceedings under or in contemplation of proceedings under the provisions of said chapter IX, then and in every such case all acts and proceedings of such taxing district, in connection with such petition or proceedings, are hereby, to all intents and purposes, declared as legal and valid as though taken after the *effective date of this chapter.

[1935 c 143 § 10; RRS § 5608-10.]

Notes:

***Reviser's note:** The "effective date of this chapter" was March 21, 1935.

RCW 39.64.900 Construction--Severability--1935 c 143.

This chapter and all its provisions shall be liberally construed to the end that the purposes hereof may be made effective. If any section, part or provision of this chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or of any section, provision or part thereof not adjudged invalid or unconstitutional.

[1935 c 143 § 11; RRS § 5608-11.]

Chapter 39.67 RCW
AGREEMENTS BETWEEN TAXING DISTRICTS

Sections

39.67.010 Agreements contingent on property tax levy--Authorized.
39.67.020 Transfer of funds between taxing districts.

RCW 39.67.010 Agreements contingent on property tax levy--Authorized.

Any agreement or contract between two taxing districts other than the state which is otherwise authorized by law may be made contingent upon a particular property tax levy rate of an identified taxing district other than the state where such rate affects the regular property tax rate of one of the parties to the contract and therefore affects the party's resources with which to perform under the contract. The governing body of every taxing district that could have its tax levy adversely affected by such a contract shall be notified about the contract.

[1988 c 274 § 2; 1986 c 107 § 1.]

Notes:

Purpose--Severability--1988 c 274: See notes following RCW 84.52.010.

Severability--1986 c 107: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 107 § 5.]

Construction--1986 c 107 §§ 1, 2: "Sections 1 and 2 of this act are supplementary and in addition to any other authority granted by law and shall not be construed to limit any other law." [1986 c 107 § 6.]

RCW 39.67.020 Transfer of funds between taxing districts.

Any taxing district other than the state may transfer funds to another taxing district other than the state where the regular property tax levy rate of the second district may affect the regular property tax levy rate of the first district and where such transfer is part of an agreement whereby proration or reduction of property taxes is lessened or avoided. The governing body of every taxing district that could have its tax levy adversely affected by such an agreement shall be notified about the agreement.

[1988 c 274 § 3; 1986 c 107 § 2.]

Notes:

Purpose--Severability--1988 c 274: See notes following RCW 84.52.010.

Severability--Construction--1986 c 107: See notes following RCW 39.67.010.

Chapter 39.69 RCW

PUBLIC LOANS TO MUNICIPAL CORPORATIONS

Sections	
39.69.010	"Municipal corporation" defined.
39.69.020	Loan agreements.
39.69.030	Application of constitutional debt limitations.
39.69.040	Chapter supplemental.

RCW 39.69.010 "Municipal corporation" defined.

As used in this chapter, "municipal corporation" includes counties, cities, towns, port districts, water-sewer districts, school districts, metropolitan park districts, or such other units of local government which are authorized to issue obligations.

[1999 c 153 § 53; 1987 c 19 § 1.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 39.69.020 Loan agreements.

Any municipal corporation may enter into a loan agreement containing the terms and conditions of a loan from an agency of the state of Washington or the United States of America and evidencing the obligation of the municipal corporation to repay that loan under the terms and conditions set forth in the loan agreement. A loan agreement may provide that the municipal corporation will repay the loan solely from revenues set aside into a special fund for repayment of that loan. In the case of a municipal corporation authorized to borrow money payable from taxes, and authorized to levy such taxes, the loan agreement may provide that repayment of the loan is a general obligation of the municipal corporation, or both a general obligation and an obligation payable from revenues set aside into a special fund.

The state or federal agency making the loan shall have such rights of recovery in the event of default in payment or other breach of the loan agreement as may be provided in the loan agreement or otherwise by law.

[1987 c 19 § 2.]

RCW 39.69.030 Application of constitutional debt limitations.

Nothing in this chapter authorizes municipal corporations to incur indebtedness beyond constitutional indebtedness limitations.

[1987 c 19 § 3.]

RCW 39.69.040 Chapter supplemental.

The authority under this chapter is supplemental and in addition to the authority to issue

obligations under any other provision of law.

[1987 c 19 § 4.]

Chapter 39.72 RCW
LOST OR DESTROYED EVIDENCE OF INDEBTEDNESS

Sections

39.72.010 Local government indebtedness--Issuance of duplicate instrument.

39.72.020 Local government indebtedness--Records to be kept--Cancellation of originals.

RCW 39.72.010 Local government indebtedness--Issuance of duplicate instrument.

In case of the loss or destruction of a warrant for the payment of money, or any bond or other instrument or evidence of indebtedness, issued by any county, city or town, district or other political subdivision or municipal corporation of the state of Washington, hereinafter referred to as a municipal corporation, or by any department or agency of such municipal corporation, such municipal corporation may cause a duplicate to be issued in lieu thereof, subject to the same requirements and conditions, and according to the same procedure, as prescribed for the issuance of duplicate state instruments in RCW 43.08.064 and 43.08.066 as now or hereafter amended: PROVIDED, That the requirements of *RCW 43.08.066(2) shall not be applicable to instruments received by employees of the above issuers for the payment of salary or wages or as other compensation for work performed nor shall those requirements be applicable to instruments received by former employees or their beneficiaries for the payment of pension benefits.

[1975-'76 2nd ex.s. c 77 § 1; 1965 ex.s. c 61 § 4.]

Notes:

***Reviser's note:** Subsection (2) of RCW 43.08.066 was removed by chapter 71, Laws of 1979 ex. sess. *Lost or destroyed evidence of indebtedness issued by state: RCW 43.08.064 through 43.08.068.*

RCW 39.72.020 Local government indebtedness--Records to be kept--Cancellation of originals.

When a municipal corporation issues a duplicate instrument, as authorized in this chapter, the issuing officer of such municipal corporation shall keep a full and complete record of all warrants, bonds or other instruments alleged to have been lost or destroyed, which were issued by such municipal corporation, and of the issue of any duplicate therefor; and upon the issuance of any duplicate such officer shall enter upon his books the cancellation of the original instrument and immediately notify the treasurer of the county, city or other municipal corporation, the state auditor, and all trustees and paying agencies authorized to redeem such instruments on behalf of the municipal corporation, of such cancellation. The treasurer shall keep

a similar list of all warrants, bonds or other instruments so canceled.

[1965 ex.s. c 61 § 5.]

Chapter 39.76 RCW INTEREST ON UNPAID PUBLIC CONTRACTS

Sections

39.76.010	Interest on unpaid public contracts--Timely payment.
39.76.011	Interest on unpaid public contracts--When payment is considered to be made.
39.76.020	Interest on unpaid public contracts--Exceptions.
39.76.030	Penalties by state agencies to be paid from administrative funds.
39.76.040	Interest on unpaid public contracts--Attorney fees.

RCW 39.76.010 Interest on unpaid public contracts--Timely payment.

(1) Except as provided in RCW 39.76.020, every state agency and unit of local government shall pay interest at the rate of one percent per month, but at least one dollar per month, on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the state agency or unit of local government fails to make timely payment.

(2) For purposes of this section, payment shall be timely if:

(a) A check or warrant is mailed or is available on the date specified for the amount specified in the applicable contract documents or, if no date is specified, within thirty days of receipt of a properly completed invoice or receipt of goods or services, whichever is later.

(b) For any amount which is required to be withheld under state or federal law, a check or warrant is mailed or is available in the proper amount on the date the amount may be released under the applicable law.

[1981 c 68 § 1.]

Notes:

Application--1992 c 223: See RCW 39.04.901.

RCW 39.76.011 Interest on unpaid public contracts--When payment is considered to be made.

(1) Except as provided in RCW 39.76.020, every state agency, county, city, town, school district, board, commission, or any other public body shall pay interest at a rate of one percent per month, but at least one dollar per month, on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the public body fails to make timely payment.

(2) For purposes of this section, payment shall be timely if:

(a) Except as provided otherwise in this subsection, a check or warrant is mailed or is

available on the date specified for the amount specified in the applicable contract documents but not later than thirty days of receipt of a properly completed invoice or receipt of goods or services, whichever is later. If a contract is funded by grant or federal money, the public body shall pay the prime contractor for satisfactory performance within thirty calendar days of the date the public body receives a payment request that complies with the contract or within thirty calendar days of the date the public body actually receives the grant or federal money, whichever is later.

(b) On written contracts for public works, when part or all of a payment is going to be withheld for unsatisfactory performance or if the payment request made does not comply with the requirements of the contract, the public body shall notify the prime contractor in writing within eight working days after receipt of the payment request stating specifically why part or all of the payment is being withheld and what remedial actions must be taken by the prime contractor to receive the withheld amount.

(c) If the notification by the public body required by (b) of this subsection does not comply with the notice contents required under (b) of this subsection, the public body shall pay the interest under subsection (1) of this section from the ninth working day after receipt of the initial payment request until the contractor receives notice that does comply with the notice contents required under (b) of this subsection.

(d) If part or all of a payment is withheld under (b) of this subsection, the public body shall pay the withheld amount within thirty calendar days after the prime contractor satisfactorily completes the remedial actions identified in the notice. If the withheld amount is not paid within the thirty calendar days, the public body shall pay interest under subsection (1) of this section from the thirty-first calendar day until the date paid.

(e)(i) If the prime contractor on a public works contract, after making a request for payment to the public body but before paying a subcontractor for the subcontractor's performance covered by the payment request, discovers that part or all of the payment otherwise due to the subcontractor is subject to withholding from the subcontractor under the subcontract for unsatisfactory performance, the prime contractor may withhold the amount as allowed under the subcontract. If the prime contractor withholds an amount under this subsection, the prime contractor shall:

(A) Give the subcontractor notice of the remedial actions that must be taken as soon as practicable after determining the cause for the withholding but before the due date for the subcontractor payment;

(B) Give the contracting officer of the public body a copy of the notice furnished to the subcontractor under (e)(i)(A) of this subsection; and

(C) Pay the subcontractor within eight working days after the subcontractor satisfactorily completes the remedial action identified in the notice.

(ii) If the prime contractor does not comply with the notice and payment requirements of (e)(i) of this subsection, the contractor shall pay the subcontractor interest on the withheld amount from the eighth working day at an interest rate that is equal to the amount set forth in subsection (1) of this section.

(3) For the purposes of this section:

(a) A payment is considered to be made when mailed or personally delivered to the party being paid.

(b) An invoice is considered to be received when it is date-stamped or otherwise marked as delivered. If the invoice is not date-stamped or otherwise marked as delivered, the date of the invoice is considered to be the date when the invoice is received.

[1992 c 223 § 1.]

Notes:

Effective date--1992 c 223: "This act shall take effect September 1, 1992." [1992 c 223 § 9.]

Waiver of rights, construction--Application--1992 c 223: See RCW 39.04.900 and 39.04.901.

RCW 39.76.020 Interest on unpaid public contracts--Exceptions.

RCW 39.76.010 does not apply to the following:

- (1) Interagency or intergovernmental transactions;
- (2) Amounts payable to employees or prospective employees of state agencies or local governmental units as reimbursement for expenses;
- (3) Belated claims for any time of delinquency after July 31 following the second year of the fiscal biennium;
- (4) Claims subject to a good faith dispute, when before the date of timely payment, notice of the dispute is:
 - (a) Sent by certified mail;
 - (b) Personally delivered; or
 - (c) Sent in accordance with procedures in the contract;
- (5) Delinquencies due to natural disasters, disruptions in postal or delivery service, work stoppages due to labor disputes, power failures, or any other cause resulting from circumstances clearly beyond the control of the unit of local government or state agency;
- (6) Contracts entered before July 26, 1981; and
- (7) Payment from any retirement system listed in RCW 41.50.030 and chapter 41.24 RCW.

[1981 c 68 § 2.]

RCW 39.76.030 Penalties by state agencies to be paid from administrative funds.

Any state agency required to pay late payment penalties under this chapter shall pay the penalties from funds designated for administrative costs of the agency receiving the public works, personal services, goods and services, equipment, or travel and shall not be paid from funds appropriated for client services.

[1981 c 68 § 3.]

RCW 39.76.040 Interest on unpaid public contracts--Attorney fees.

In any action brought to collect interest due under this chapter, the prevailing party is

entitled to an award of reasonable attorney fees.

[1981 c 68 § 4.]

Chapter 39.80 RCW
CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES

Sections

39.80.010	Legislative declaration.
39.80.020	Definitions.
39.80.030	Agency's requirement for professional services--Advance publication.
39.80.040	Procurement of architectural and engineering services--Submission of statement of qualifications and performance data--Participation by minority and women-owned firms.
39.80.050	Procurement of architectural and engineering services--Contract negotiations.
39.80.060	Procurement of architectural and engineering services--Exception for emergency work.
39.80.070	Contracts, modifications reported to the office of financial management.
39.80.900	Savings.
39.80.910	Severability--1981 c 61.

RCW 39.80.010 Legislative declaration.

The legislature hereby establishes a state policy, to the extent provided in this chapter, that governmental agencies publicly announce requirements for architectural and engineering services, and negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

[1981 c 61 § 1.]

Notes:

Effective date--1981 c 61: "This act shall take effect on January 1, 1982." [1981 c 61 § 9.]

RCW 39.80.020 Definitions.

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

(1) "State agency" means any department, agency, commission, bureau, office, or any other entity or authority of the state government.

(2) "Local agency" means any city and any town, county, special district, municipal corporation, agency, port district or authority, or political subdivision of any type, or any other entity or authority of local government in corporate form or otherwise.

(3) "Special district" means a local unit of government, other than a city, town, or county, authorized by law to perform a single function or a limited number of functions, and including but not limited to, water-sewer districts, irrigation districts, fire districts, school districts, community college districts, hospital districts, transportation districts, and metropolitan

municipal corporations organized under chapter 35.58 RCW.

(4) "Agency" means both state and local agencies and special districts as defined in subsections (1), (2), and (3) of this section.

(5) "Architectural and engineering services" or "professional services" means professional services rendered by any person, other than as an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in chapters 18.08, 18.43, or 18.96 RCW.

(6) "Person" means any individual, organization, group, association, partnership, firm, joint venture, corporation, or any combination thereof.

(7) "Consultant" means any person providing professional services who is not an employee of the agency for which the services are provided.

(8) "Application" means a completed statement of qualifications together with a request to be considered for the award of one or more contracts for professional services.

[1999 c 153 § 55; 1981 c 61 § 2.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Effective date--1981 c 61: See note following RCW 39.80.010.

RCW 39.80.030 Agency's requirement for professional services--Advance publication.

Each agency shall publish in advance that agency's requirement for professional services. The announcement shall state concisely the general scope and nature of the project or work for which the services are required and the address of a representative of the agency who can provide further details. An agency may comply with this section by: (1) Publishing an announcement on each occasion when professional services provided by a consultant are required by the agency; or (2) announcing generally to the public its projected requirements for any category or type of professional services.

[1981 c 61 § 3.]

Notes:

Effective date--1981 c 61: See note following RCW 39.80.010.

RCW 39.80.040 Procurement of architectural and engineering services--Submission of statement of qualifications and performance data--Participation by minority and women-owned firms.

In the procurement of architectural and engineering services, the agency shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, based upon criteria established by the agency, the firm deemed to be the most highly qualified to provide the

services required for the proposed project. Such agency procedures and guidelines shall include a plan to insure that minority and women-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services. The level of participation by minority and women-owned firms shall be consistent with their general availability within the professional communities involved.

[1981 c 61 § 4.]

Notes:

Effective date--1981 c 61: See note following RCW 39.80.010.

RCW 39.80.050 Procurement of architectural and engineering services--Contract negotiations.

(1) The agency shall negotiate a contract with the most qualified firm for architectural and engineering services at a price which the agency determines is fair and reasonable to the agency. In making its determination, the agency shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature thereof.

(2) If the agency is unable to negotiate a satisfactory contract with the firm selected at a price the agency determines to be fair and reasonable, negotiations with that firm shall be formally terminated and the agency shall select other firms in accordance with RCW 39.80.040 and continue in accordance with this section until an agreement is reached or the process is terminated.

[1981 c 61 § 5.]

Notes:

Effective date--1981 c 61: See note following RCW 39.80.010.

RCW 39.80.060 Procurement of architectural and engineering services--Exception for emergency work.

(1) This chapter need not be complied with by any agency when the contracting authority makes a finding in accordance with this or any other applicable law that an emergency requires the immediate execution of the work involved.

(2) Nothing in this chapter shall relieve the contracting authority from complying with applicable law limiting emergency expenditures.

[1981 c 61 § 6.]

Notes:

Effective date--1981 c 61: See note following RCW 39.80.010.

RCW 39.80.070 Contracts, modifications reported to the office of financial management.

Contracts entered into by any state agency for architectural and engineering services, and modifications thereto, shall be reported to the office of financial management on a quarterly basis, in such form as the office of financial management prescribes.

[1993 c 433 § 9.]

RCW 39.80.900 Savings.

Nothing in this chapter shall affect the validity or effect of any contract in existence on January 1, 1982.

[1981 c 61 § 7.]

Notes:

Effective date--1981 c 61: See note following RCW 39.80.010.

RCW 39.80.910 Severability--1981 c 61.

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

[1981 c 61 § 8.]

Notes:

Effective date--1981 c 61: See note following RCW 39.80.010.

**Chapter 39.84 RCW
INDUSTRIAL DEVELOPMENT REVENUE BONDS**

Sections

39.84.010	Finding and declaration of necessity.
39.84.020	Definitions.
39.84.030	Public corporations--Creation, dissolution.
39.84.040	Board of directors of public corporation.
39.84.050	Public corporations--Directors--Conflicts of interest.
39.84.060	Public corporations--Limitations.
39.84.070	Public corporations--Audit by state.
39.84.080	Public corporations--Powers.
39.84.090	Reporting to the department of community, trade, and economic development.
39.84.100	Revenue bonds--Provisions.
39.84.110	Revenue bonds--Refunding.
39.84.120	Trust agreements.
39.84.130	Commingling of bond proceeds or revenues with municipal funds prohibited--Exception.
39.84.140	Subleases and assignments.
39.84.150	Determination of rent.
39.84.160	Proceedings in the event of default.
39.84.170	Implementation of economic development programs by port district--Use of nonprofit corporations--Transfer of funds.
39.84.200	Authority of community economic revitalization board under this chapter.
39.84.900	Construction--Supplemental nature of chapter.
39.84.910	Captions not part of law.
39.84.920	Severability--1981 c 300.

Notes:

Special revenue financing: State Constitution Art. 33 § 1.

RCW 39.84.010 Finding and declaration of necessity.

The legislature hereby finds and declares that this state urgently needs to do the following: Promote higher employment; encourage the development of new jobs; maintain and supplement the capital investments in industry that currently exist in this state; encourage future employment by ensuring future capital investment; attract environmentally sound industry to the state; protect and enhance the quality of natural resources and the environment; and promote the production and conservation of energy.

[1981 c 300 § 1.]

RCW 39.84.020 Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Board of directors" means the board of directors of a public corporation.

(2) "Construction" or "construct" means construction and acquisition, whether by devise, purchase, gift, lease, or otherwise.

(3) "Facilities" means land, rights in land, buildings, structures, docks, wharves, machinery, transmission equipment, public broadcast equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(4) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(5) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement; and "to improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(6) "Industrial development facilities" means manufacturing, processing, research, production, assembly, warehousing, transportation, public broadcasting, pollution control, solid waste disposal, energy facilities, sports facilities, parking facilities associated with industrial development facilities as defined in this section or with historic properties as defined in RCW 84.26.020 and industrial parks. For the purposes of this section, the term "sports facilities" shall not include facilities which are constructed for use by members of a private club or as integral or subordinate parts of a hotel or motel, or which are not available on a regular basis for general public use.

(7) "Industrial park" means acquisition and development of land as the site for an industrial park. For the purposes of this chapter, "development of land" includes the provision of water, sewage, drainage, or similar facilities, or of transportation, energy, or communication

facilities, which are incidental to the use of the site as an industrial park, but does not include the provision of structures or buildings.

(8) "Municipality" means a city, town, county, or port district of this state.

(9) "Ordinance" means any appropriate method of taking official action or adopting a legislative decision by any municipality, whether known as a resolution, ordinance, or otherwise.

(10) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in an industrial development facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of an industrial development facility, including costs of studies assessing the feasibility of an industrial development facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this section.

(11) "Revenue bond" means a nonrecourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of financing an industrial development facility on an interim or permanent basis.

(12) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise.

[1986 c 309 § 1; 1986 c 308 § 2; 1985 c 439 § 1; 1983 1st ex.s. c 51 § 1; 1981 c 300 § 2.]

Notes:

Reviser's note: This section was amended by 1986 c 308 § 2 and by 1986 c 309 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1986 c 308: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 308 § 3.]

RCW 39.84.030 Public corporations--Creation, dissolution.

(1) For the purpose of facilitating economic development and employment opportunities in the state of Washington through the financing of the project costs of industrial development facilities, a municipality may enact an ordinance creating a public corporation for the purposes authorized in this chapter. The ordinance creating the public corporation shall approve a charter for the public corporation containing such provisions as are authorized by and not in conflict with this chapter. Any charter issued under this chapter shall contain in substance the limitations set forth in RCW 39.84.060. In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the public corporation, the public corporation is conclusively presumed to be established and authorized to transact business and exercise its powers under this chapter upon proof of the adoption of the ordinance creating the public

corporation by the governing body. A copy of the ordinance duly certified by the clerk of the governing body of the municipality shall be admissible in evidence in any suit, action, or proceeding.

(2) A public corporation created by a municipality pursuant to this chapter may be dissolved by the municipality if the public corporation: (a) Has no property to administer, other than funds or property, if any, to be paid or transferred to the municipality by which it was established; and (b) all its outstanding obligations have been satisfied. Such a dissolution shall be accomplished by the governing body of the municipality adopting an ordinance providing for the dissolution.

(3) The creating municipality may, at its discretion and at any time, alter or change the structure, organizational programs, or activities of a public corporation, including termination of the public corporation if contracts entered into by the public corporation are not impaired. Any net earnings of a public corporation, beyond those necessary for retirement of indebtedness incurred by it, shall not inure to the benefit of any person other than the creating municipality. Upon dissolution of a public corporation, title to all property owned by the public corporation shall vest in the municipality.

[1981 c 300 § 3.]

RCW 39.84.040 Board of directors of public corporation.

The ordinance creating a public corporation shall include provisions establishing a board of directors to govern the affairs of the public corporation, what constitutes a quorum of the board of directors, and how the public corporation shall conduct its affairs.

[1981 c 300 § 4.]

RCW 39.84.050 Public corporations--Directors--Conflicts of interest.

It shall be illegal for a director, officer, agent, or employee of a public corporation to have, directly or indirectly, any financial interest in any property to be included in or any contract for property, services, or materials to be furnished or used in connection with any industrial development facility financed through the public corporation. Violation of any provision of this section is a gross misdemeanor.

[1981 c 300 § 5.]

RCW 39.84.060 Public corporations--Limitations.

No municipality may give or lend any money or property in aid of a public corporation. The municipality that creates a public corporation shall annually review any financial statements of the public corporation and at all times shall have access to the books and records of the public corporation. No public corporation may issue revenue obligations under this chapter except upon the approval of both the municipality under the auspices of which it was created and the county,

city, or town within whose planning jurisdiction the proposed industrial development facility lies. No revenue bonds may be issued pursuant to this chapter unless the board of directors of the public corporation proposing to issue revenue bonds makes a finding that in its opinion the interest paid on the bonds will be exempt from income taxation by the federal government. Revenue bonds issued by a public corporation under this chapter shall not be considered to constitute a debt of the state, of the municipality, or of any other municipal corporation, quasi municipal corporation, subdivision, or agency of this state or to pledge any or all of the faith and credit of any of these entities. The revenue bonds shall be payable solely from both the revenues derived as a result of the industrial development facilities funded by the revenue bonds, including, without limitation, amounts received under the terms of any financing document or by reason of any additional security furnished by the user of the industrial development facility in connection with the financing thereof, and money and other property received from private sources. Each revenue bond shall contain on its face statements to the effect that: (1) Neither the state, the municipality, or any other municipal corporation, quasi municipal corporation, subdivision, or agency of the state is obligated to pay the principal or the interest thereon; (2) no tax funds or governmental revenue may be used to pay the principal or interest thereon; and (3) neither any or all of the faith and credit nor the taxing power of the state, the municipality, or any other municipal corporation, quasi municipal corporation, subdivision, or agency thereof is pledged to the payment of the principal of or the interest on the revenue bond. A public corporation may incur only those financial obligations which will be paid from revenues received pursuant to financing documents, from fees or charges paid by users or prospective users of the industrial development facilities funded by the revenue bonds, or from the proceeds of revenue bonds. A public corporation established under the terms of this chapter constitutes an authority and an instrumentality (within the meaning of those terms in the regulations of the United States treasury and the rulings of the Internal Revenue Service prescribed pursuant to section 103 of the Internal Revenue Code of 1954, as amended) and may act on behalf of the municipality under whose auspices it is created for the specific public purposes authorized by this chapter. The public corporation is not a municipal corporation within the meaning of the state Constitution and the laws of the state, or a political subdivision within the meaning of the state Constitution and the laws of the state, including without limitation, Article VIII, section 7, of the Washington state Constitution. A municipality shall not delegate to a public corporation any of the municipality's attributes of sovereignty, including, without limitation, the power to tax, the power of eminent domain, and the police power.

[1981 c 300 § 6.]

RCW 39.84.070 Public corporations--Audit by state.

The finances of any public corporation are subject to examination by the state auditor's office pursuant to RCW 43.09.260.

[1981 c 300 § 7.]

RCW 39.84.080 Public corporations--Powers.

(1) A public corporation created under this chapter has the following powers with respect to industrial development facilities together with all powers incidental thereto or necessary for the performance thereof:

- (a) To construct and maintain one or more industrial development facilities;
 - (b) To lease to a lessee all or any part of any industrial development facility for such rentals and upon such terms and conditions, including options to purchase, as its board of directors considers advisable and not in conflict with this chapter;
 - (c) To sell by installment contract or otherwise and convey all or any part of any industrial development facility for such purchase price and upon such terms and conditions as its board of directors considers advisable which are not in conflict with this chapter;
 - (d) To make secured loans for the purpose of providing temporary or permanent financing or refinancing of all or part of the project cost of any industrial development facility, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the project costs; and to charge and collect interest on the loans for the loan payments upon such terms and conditions as its board of directors considers advisable which are not in conflict with this chapter;
 - (e) To issue revenue bonds for the purpose of financing all or part of the project cost of any industrial development facility and to secure the payment of the revenue bonds as provided in this chapter;
 - (f) As security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, to mortgage, pledge, or otherwise encumber any or all of its industrial development facilities or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the public corporation, to secure any loan made by the public corporation and to pledge the revenues and receipts therefrom;
 - (g) To sue and be sued, complain, and defend in its corporate name;
 - (h) To make contracts and to execute all instruments necessary or convenient for the carrying out of its business;
 - (i) To have a corporate seal and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;
 - (j) Subject to the limitations of RCW 39.84.060, to borrow money, accept grants from, or contract with any local, state, or federal governmental agency or with any financial, public, or private corporation;
 - (k) To make and alter bylaws not inconsistent with its charter for the administration and regulation of the affairs of the corporation;
 - (l) To collect fees or charges from users or prospective users of industrial development facilities to recover actual or anticipated administrative costs;
 - (m) To execute financing documents incidental to the powers enumerated in this subsection.
- (2) No public corporation created under this chapter may operate any industrial

development facility as a business other than as lessor, seller, or lender. The purchase and holding of mortgages, deeds of trust, or other security interests and contracting for any servicing thereof is not considered the operation of an industrial development facility.

(3) No public corporation may exercise any of the powers authorized in this section or issue any revenue bonds with respect to any industrial development facility unless the industrial development facility is located wholly within the boundaries of the municipality under whose auspices the public corporation is created or unless the industrial development facility comprises energy facilities or solid waste disposal facilities which provide energy for or dispose of solid waste from the municipality or the residents thereof.

[1981 c 300 § 8.]

RCW 39.84.090 Reporting to the department of community, trade, and economic development.

(1) Prior to issuance of any revenue bonds, each public corporation shall submit a copy of its enabling ordinance and charter, a description of any industrial development facility proposed to be undertaken, and the basis for its qualification as an industrial development facility to the department of community, trade, and economic development.

(2) If the industrial development facility is not eligible under this chapter, the department of community, trade, and economic development shall give notice to the public corporation, in writing and by certified mail, within twelve working days of receipt of the description.

(3) The department of community, trade, and economic development shall provide such advice and assistance to public corporations and municipalities which have created or may wish to create public corporations as the public corporations or municipalities request and the department of community, trade, and economic development considers appropriate.

[1998 c 245 § 34; 1995 c 399 § 56; 1987 c 505 § 22; 1985 c 466 § 46; 1981 c 300 § 9.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.
Department of community, trade, and economic development: Chapter 43.330 RCW.

RCW 39.84.100 Revenue bonds--Provisions.

(1) The principal of and the interest on any revenue bonds issued by a public corporation shall be payable solely from the funds provided for this payment from the revenues of the industrial development facilities funded by the revenue bonds. Each issue of revenue bonds shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times as may be determined by the board of directors, and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be fixed by the board of directors prior to the issuance of the revenue bonds or other revenue obligations.

(2) The board of directors shall determine the form and the manner of execution of the revenue bonds and shall fix the denomination or denominations of the revenue bonds and the

place or places of payment of principal and interest. If any officer whose signature or a facsimile of whose signature appears on any revenue bonds or any coupons ceases to be an officer before the delivery of the revenue bonds, the signature shall for all purposes have the same effect as if he had remained in office until delivery. The revenue bonds may be issued in coupon or in registered form, as provided in RCW 39.46.030, or both as the board of directors may determine, and provisions may be made for the registration of any coupon revenue bonds as to the principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. A public corporation may sell revenue bonds at public or private sale for such price and bearing interest at such fixed or variable rate as may be determined by the board of directors.

(3) The proceeds of the revenue bonds of each issue shall be used solely for the payment of all or part of the project cost of or for the making of a loan in the amount of all or part of the project cost of the industrial development facility for which authorized and shall be disbursed in such manner and under such restrictions, if any, provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing the bonds. If the proceeds of the revenue bonds of any series issued with respect to the cost of any industrial development facility exceeds the cost of the industrial development facility for which issued, the surplus shall be deposited to the credit of the debt service fund for the revenue bonds or used to purchase revenue bonds in the open market.

(4) A public corporation may issue interim notes in the manner provided for the issuance of revenue bonds to fund industrial development facilities prior to issuing other revenue bonds to fund such facilities. A public corporation may issue revenue bonds to fund industrial development facilities that are exchangeable for other revenue bonds when these other revenue bonds are executed and available for delivery.

(5) The principal of and interest on any revenue bonds issued by a public corporation shall be secured by a pledge of unexpended bond proceeds and the revenues and receipts received by the public corporation from the industrial development facilities funded by the revenue bonds pursuant to financing documents. The resolution under which the revenue bonds are authorized to be issued and any financing document may contain agreements and provisions respecting the maintenance or use of the industrial development facility covered thereby, the fixing and collection of rents, purchase price payments or loan payments, the creation and maintenance of special funds from such revenues or from revenue bond proceeds, the rights and remedies available in the event of default, and other provisions relating to the security for the bonds, all as the board of directors consider advisable which are not in conflict with this chapter.

(6) The governing body of the municipality under whose auspices the public corporation is created shall approve by resolution any agreement to issue revenue bonds adopted by a public corporation, which agreement and resolution shall set out the amount and purpose of the revenue bonds. Additionally, no issue of revenue bonds, including refunding bonds, may be sold and delivered by a public corporation without a resolution of the governing body of the municipality under whose auspices the public corporation is created, adopted no more than sixty days before the date of sale of the revenue bonds specifically, approving the resolution of the public corporation providing for the issuance of the revenue bonds.

(7) All revenue bonds issued under this chapter and any interest coupons applicable thereto are negotiable instruments within the meaning of Article 8 of the Uniform Commercial Code, Title 62A RCW, regardless of form or character.

(8) Notwithstanding subsections (1) and (2) of this section, such bonds and interim notes may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 115; 1981 c 300 § 10.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 39.84.110 Revenue bonds--Refunding.

Each public corporation may provide by resolution for the issuance of revenue refunding bonds for the purpose of refunding any revenue bonds issued for an industrial development facility under this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption or maturity of the revenue bonds and, if considered advisable by the public corporation, for the additional purpose of financing improvements, extensions, or enlargements to the industrial development facility for another industrial development facility. The issuance of the revenue bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the public corporation in respect to the same shall be governed by this chapter insofar as applicable.

[1981 c 300 § 11.]

RCW 39.84.120 Trust agreements.

Any bonds issued under this chapter may be secured by a trust agreement between the public corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement may evidence a pledge or assignment of the financing documents and lease, sale, or loan revenues to be received from a lessee or purchaser of or borrower with respect to an industrial development facility for the payment of principal of and interest and any premium on the bonds as the same shall become due and payable and may provide for creation and maintenance of reserves for these purposes. A trust agreement or resolution providing for the issuance of the revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties in relation to the acquisition of property and the construction, improvement, maintenance, use, repair, operation, and insurance of the industrial development facility for which the bonds are authorized, and the custody, safeguarding, and application of all money. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of revenue bonds or of revenues may furnish such indemnifying bonds or pledge such securities as may be required by the corporation. A trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of private

corporations. In addition, a trust agreement may contain such provisions as the public corporation considers reasonable and proper for the security of the bondholders which are not in conflict with this chapter.

[1981 c 300 § 12.]

RCW 39.84.130 Commingling of bond proceeds or revenues with municipal funds prohibited--Exception.

No part of the proceeds received from the sale of any revenue bonds under this chapter, of any revenues derived from any industrial development facility acquired or held under this chapter, or of any interest realized on moneys received under this chapter may be commingled by the public corporation with funds of the municipality creating the public corporation. However, those funds of the public corporation, other than proceeds received from the sale of revenue bonds, that are not otherwise encumbered for the payment of revenue bonds and are not reasonably anticipated by the board of directors to be necessary for administrative expenses of the public corporation may be transferred to the creating municipality and used for growth management, planning, or other economic development purposes.

[1993 c 139 § 1; 1981 c 300 § 13.]

RCW 39.84.140 Subleases and assignments.

A lessee or contracting party under a sale contract or loan agreement shall not be required to be the eventual user of an industrial development facility if any sublessee or assignee assumes all of the obligations of the lessee or contracting party under the lease, sale contract, or loan agreement, but the lessee or contracting party or their successors shall remain primarily liable for all of its obligations under the lease, sale contract, or loan agreement and the use of the industrial development facility shall be consistent with the purposes of this chapter.

[1981 c 300 § 14.]

RCW 39.84.150 Determination of rent.

Before entering into a lease, sale contract, or loan agreement with respect to any industrial development facility, the public corporation shall determine that there are sufficient revenues to pay (1) the principal of and the interest on the revenue bonds proposed to be issued to finance the industrial development facility; (2) the amount necessary to be paid each year into any reserve funds which the public corporation considers advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the industrial development facility; and (3) unless the terms of the lease, sale contract, or loan agreement provide that the lessee or contracting party shall maintain the industrial development facility and carry all proper insurance with respect thereto, the estimated cost of maintaining the industrial development facility in good repair and keeping it properly insured.

[1981 c 300 § 15.]

RCW 39.84.160 Proceedings in the event of default.

The proceedings authorizing any revenue bonds under this chapter or any financing document securing the revenue bonds may provide that if there is a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or financing document, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan repayments, and to apply the revenues from the industrial development facility in accordance with the proceedings or provisions of the financing document. Any financing document entered into under this chapter to secure revenue bonds issued under this chapter may also provide that if there is a default in the payment thereof or a violation of any agreement contained in the financing document, the industrial development facility may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Any financing document may also provide that any trustee under the financing document or the holder of any revenue bonds secured thereby may become the purchaser at any foreclosure sale if it is the highest bidder.

[1981 c 300 § 16.]

RCW 39.84.170 Implementation of economic development programs by port district--Use of nonprofit corporations--Transfer of funds.

Funds received by a port district under RCW 39.84.130 may be transferred to a nonprofit corporation created or re-created for the exclusive purpose of providing training, education, and general improvement to the public sector management skills necessary to implement the economic development programs of the port district. The nonprofit corporation selected for that purpose may be, without limitation, a corporation formed by the Washington public ports association.

Any nonprofit corporation selected for the purposes of this section must have tax exempt status under 26 U.S.C. Sec. 501(c)(3).

Transfers and expenditures of funds shall be deemed to be for industrial development and trade promotion as provided in Article VIII, section 8 of the Washington state Constitution.

Nothing in this chapter shall be construed to prohibit the receipt of additional public or private funds by a nonprofit corporation for the purposes described in this section.

[2000 c 198 § 2.]

RCW 39.84.200 Authority of community economic revitalization board under this chapter.

The community economic revitalization board under chapter 43.160 RCW shall have all

the powers of a public corporation under this chapter. To the extent applicable, all duties of a public corporation apply to the community economic revitalization board in exercising its powers under this chapter.

[1984 c 257 § 11.]

RCW 39.84.900 Construction--Supplemental nature of chapter.

This chapter supplements and neither restricts nor limits any powers which a municipality or presently authorized public corporation might otherwise have under any laws of this state.

[1981 c 300 § 17.]

RCW 39.84.910 Captions not part of law.

As used in this chapter, captions constitute no part of the law.

[1981 c 300 § 19.]

RCW 39.84.920 Severability--1981 c 300.

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

[1981 c 300 § 20.]

**Chapter 39.86 RCW
PRIVATE ACTIVITY BOND ALLOCATION**

Sections

39.86.100	Legislative findings and policy.
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39.86.120	Initial allocation.
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39.86.150	Reallocation process and carryforwards.
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39.86.906	Severability--1987 c 297.

RCW 39.86.100 Legislative findings and policy.

The federal tax reform act of 1986 imposes an annual ceiling on the aggregate amount of federally tax-exempt private activity bonds, including bonds for housing, student loans, exempt facilities, small issue industrial, redevelopment, and certain public utility projects, that may be issued during any calendar year by or on behalf of states and their political subdivisions. In 2001, the ceiling will be increased to sixty-two dollars and fifty cents per capita and in 2002 the ceiling will be increased to seventy-five dollars per capita, to be indexed annually, for 2003 and every year thereafter. However, a study by the *department of community development indicates that the dollar amount of the state ceiling is considerably less than the anticipated dollar amount for which issuers would need an allocation from the state ceiling. The tax reform act of 1986 provides a formula for allocating the annual ceiling among various issuers of private activity bonds within a state, but permits each state to enact a different allocation method that is appropriate to that state's needs. The purpose of this chapter is to provide a flexible and efficient method of allocating the annual state ceiling in Washington in a manner that recognizes the need of the state and its political subdivisions to finance activities or projects that satisfy a substantial public purpose.

[2001 c 330 § 1; 1987 c 297 § 1.]

NOTES:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

RCW 39.86.110 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Agency" means the department of community, trade, and economic development.
- (2) "Board" means the community economic revitalization board established under chapter 43.160 RCW.
- (3) "Bonds" means bonds, notes, or other obligations of an issuer.
- (4) "Bond use category" means any of the following categories of bonds which are subject to the state ceiling: (a) Housing, (b) student loans, (c) small issue, (d) exempt facility, (e) redevelopment, (f) public utility; and (g) remainder.
- (5) "Carryforward" is an allocation or reallocation of the state ceiling which is carried from one calendar year to a later year, in accordance with the code.
- (6) "Code" means the federal internal revenue code of 1986 as it exists on May 8, 1987. It also means the code as amended after May 8, 1987, but only if the amendments are approved by the agency under RCW 39.86.180.
- (7) "Director" means the director of the agency or the director's designee.
- (8) "Exempt facility" means the bond use category which includes all bonds which are

exempt facility bonds as described in the code, except those for qualified residential rental projects.

(9) "Firm and convincing evidence" means documentation that satisfies the director that the issuer is committed to the prompt financing of, and will issue tax exempt bonds for, the project or program for which it requests an allocation from the state ceiling.

(10) "Housing" means the bond use category which includes: (a) Mortgage revenue bonds and mortgage credit certificates as described in the code; and (b) exempt facility bonds for qualified residential rental projects as described in the code.

(11) "Initial allocation" means the portion or dollar value of the state ceiling which initially in each calendar year is allocated to a bond use category for the issuance of private activity bonds, in accordance with RCW 39.86.120.

(12) "Issuer" means the state, any agency or instrumentality of the state, any political subdivision, or any other entity authorized to issue private activity bonds under state law.

(13) "Private activity bonds" means obligations that are private activity bonds as defined in the code or bonds for purposes described in section 1317(25) of the tax reform act of 1986.

(14) "Program" means the activities for which housing bonds or student loan bonds may be issued.

(15) "Public utility" means the bond use category which includes those bonds described in section 1317(25) of the tax reform act of 1986.

(16) "Redevelopment" means the bond use category which includes qualified redevelopment bonds as described in the code.

(17) "Remainder" means that portion of the state ceiling remaining after initial allocations are made under RCW 39.86.120 for any other bond use category.

(18) "Small issue" means the bond use category which includes all industrial development bonds that constitute qualified small issue bonds, as described in the code.

(19) "State" means the state of Washington.

(20) "State ceiling" means the volume limitation for each calendar year on tax-exempt private activity bonds, as imposed by the code.

(21) "Student loans" means the bond use category which includes qualified student loan bonds as described in the code.

[1995 c 399 § 57; 1987 c 297 § 2.]

RCW 39.86.120 Initial allocation.

(1) Except as provided in subsections (2) and (4) of this section, the initial allocation of the state ceiling shall be for each year as follows:

BOND USE CATEGORY	2001	2002 and THEREAFTER	ALTERNATIVE ALLOCATION
Housing	27.5%	30.0%	32.0%
Small Issue	24.5%	24.0%	25.0%

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Exempt Facility	19.5%	19.0%	20.0%
Student Loans	14.5%	14.0%	15.0%
Public Utility	10.0%	10.0%	0.0%
Remainder and redevelopment	4.0%	3.0%	8.0%

(2) Initial allocations may be modified by the agency only to reflect an issuer's carryforward amount. Any reduction of the initial allocation shall be added to the remainder and be available for allocation or reallocation.

(3) The remainder shall be allocated by the agency among one or more issuers from any bond use category with regard to the criteria specified in RCW 39.86.130.

(4) Should any bond use category no longer be subject to the state ceiling due to federal or state provisions of law, the agency shall divide the amount of that initial allocation among the remaining categories as necessary or appropriate with regard to the criteria specified in RCW 39.86.130. Upon the earlier of: (a) Exhaustion of the seven hundred fifty million dollar authority under I.R.C. 1317(25), or any new federal legislation increasing the amount of authority, or creating additional authority; or (b) waiver of the authority described under (a) of this subsection due to alternative federal authority that does not use a state volume cap, then the alternative allocation schedule in subsection (1) of this section will be used.

(5)(a) Prior to September 1 of each calendar year, any available portion of an initial allocation may be allocated or reallocated only to an issuer within the same bond use category, except that the remainder category, or portions thereof, may be allocated at any time to any bond use category.

(b) Beginning September 1 of each calendar year, the agency may allocate or reallocate any available portion of the state ceiling to any bond use category with regard to the criteria specified in RCW 39.86.130.

[2001 c 330 § 2; 1990 c 50 § 1; 1987 c 297 § 3.]

RCW 39.86.130 Criteria.

(1) In granting an allocation, reallocation, or carryforward of the state ceiling as provided in this chapter, the agency shall consider existing state priorities and other such criteria, including but not limited to, the following criteria:

- (a) Need of issuers to issue private activity bonds within a bond use category;
 - (b) Amount of the state ceiling available;
 - (c) Public benefit and purpose to be satisfied, including economic development, educational opportunity, and public health, safety, or welfare;
 - (d) Cost or availability of alternative methods of financing for the project or program;
- and
- (e) Certainty of using the allocation which is being requested.

(2) In determining whether to allocate an amount of the state ceiling to an issuer within any bond use category, the agency shall consider, but is not limited to, the following criteria for

each of the bond use categories:

- (a) Housing: Criteria which comply with RCW 43.180.200.
- (b) Student loans: Criteria which comply with the applicable provisions of Title 28B RCW and rules adopted by the higher education coordinating board or applicable state agency dealing with student financial aid.
- (c) Small issue: Recommendation by the board regarding how the amount of the state ceiling set aside for the small issue bond use category shall be allocated among issuers. Factors may include:
 - (i) The number of employment opportunities the project is likely to create or retain in relation to the amount of the bond issuance;
 - (ii) The level of unemployment existing in the geographic area likely to be affected by the project;
 - (iii) A commitment to providing employment opportunities to low-income persons in cooperation with the employment security department;
 - (iv) Geographic distribution of projects;
 - (v) The number of persons who will benefit from the project;
 - (vi) Consistency with criteria identified in subsection (1) of this section;
 - (vii) Order in which requests were received; and
 - (viii) Requirements of the board's umbrella bond program.
- (d) Exempt facility or redevelopment: Factors which may include:
 - (i) State issuance needs;
 - (ii) Consistency with criteria identified in subsection (1) of this section;
 - (iii) Order in which requests were received;
 - (iv) The proportionate number of persons in relationship to the size of the community who will benefit from the project; and
 - (v) The unique timing and issuance needs of large scale projects that may require allocations in more than one year.
- (e) Public utility: Factors which may include:
 - (i) Consistency with criteria identified in subsection (1) of this section; and
 - (ii) Timing needs for issuance of bonds over a multi-year period.

[1987 c 297 § 4.]

RCW 39.86.140 Procedure for obtaining state ceiling allocation.

(1) No issuer may receive an allocation of the state ceiling without a certificate of approval from the agency.

(2)(a) For each state ceiling allocation request, an issuer shall submit to the agency, no sooner than ninety days prior to the beginning of a calendar year for which an allocation of the state ceiling is being requested, a form identifying:

- (i) The amount of the allocation sought;
- (ii) The bond use category from which the allocation sought would be made;
- (iii) The project or program for which the allocation is requested;

(iv) The financing schedule for which the allocation is needed; and

(v) Any other such information required by the agency, including information which corresponds to the allocation criteria of RCW 39.86.130.

(b) Nothing in (a) of this subsection precludes a public utility issuer from filing and the agency from considering a request at such times as may be appropriate in order to meet the criteria set forth in RCW 39.86.130(2)(e)(ii).

(3) The agency may approve or deny an allocation for all or a portion of the issuer's request. Any denied request, however, shall remain on file with the agency for the remainder of the calendar year and shall be considered for receiving any allocation, reallocation, or carryforward of unused portions of the state ceiling during that period.

(4) After receiving an allocation request, the agency shall mail to the requesting issuer a written certificate of approval or notice of denial for an allocation amount, by a date no later than the latest of the following:

(a) Forty-five days from May 8, 1987;

(b) February 1 of the calendar year, other than 1987, for which the request is made;

(c) Fifteen days from the date the agency receives an allocation request; or

(d) Fifteen days from the date the agency receives a recommendation by the board with regard to a small issue allocation request, should the board choose to review individual requests.

(5)(a) For requests of the state ceiling of any calendar year, the following applies to all bond use categories except housing and student loans:

(i) Except for housing and student loans, any allocations granted prior to April 1, for which bonds have not been issued by September 1 of the same calendar year, shall revert to the agency on September 1 of the same calendar year for reallocation unless an extension or carryforward is granted;

(ii) Except for housing and student loans, any allocations granted on or after April 1, for which bonds have not been issued by December 15 of the same calendar year, shall revert to the agency on December 15 of the same calendar year for reallocation unless an extension or carryforward is granted.

(b) For each calendar year, any housing or student loan allocations, for which bonds have not been issued by December 15 of the same calendar year, shall revert to the agency on December 15 of the same calendar year for reallocation unless an extension or carryforward is granted.

(6) An extension of the deadlines provided by subsection (5) of this section may be granted by the agency for the approved allocation amount or a portion thereof, based on:

(a) Firm and convincing evidence that the bonds will be issued before the end of the calendar year if the extension is granted; and

(b) Any other criteria the agency deems appropriate.

(7) If an issuer determines that bonds subject to the state ceiling will not be issued for the project or program for which an allocation was granted, the issuer shall promptly notify the agency in writing so that the allocation may be canceled and the amount may be available for reallocation.

(8) Bonds subject to the state ceiling may be issued only to finance the project or

program for which a certificate of approval is granted.

(9) Within three business days of the date that bonds for which an allocation of the state ceiling is granted have been delivered to the original purchasers, the issuer shall mail to the agency a written notification of the bond issuance. In accordance with chapter 39.44 RCW, the issuer shall also complete bond issuance information on the form provided by the agency.

(10) If the total amount of tax-exempt bonds issued for a project or program is less than the amount allocated, the remaining portion of the allocation shall revert to the agency for reallocation in accordance with the criteria in RCW 39.86.130. If the amount of tax-exempt bonds actually issued under the state ceiling is greater than the amount allocated, the entire allocation shall be disallowed.

[1987 c 297 § 5.]

RCW 39.86.150 Reallocation process and carryforwards.

(1) Beginning September 1 of each calendar year, the agency may allocate or reallocate any portions of the state ceiling for which no certificate of approval is in effect. Reallocations may also be made from the remainder category at any time during the year.

(2) Prior to the end of each calendar year, the agency shall allocate or reallocate any unused portions of the state ceiling among one or more issuers as carryforward, to be used within three years, in accordance with the code and relevant criteria described in RCW 39.86.130.

[1987 c 297 § 6.]

RCW 39.86.160 Executive orders.

If federal legislation is enacted or federal regulations are promulgated which affect the state ceiling, when the legislature is not in session or is less than forty-five days from the constitutional end of session, the governor may establish by executive order an alternative system for the allocation of tax-exempt bonds under the state ceiling, effective until the legislature acts. In allocating or reallocating under this section, the governor shall take into account the requirements of federal law, the policy choices expressed in state law, and the projected needs of issuers.

[1987 c 297 § 7.]

RCW 39.86.170 Fees.

A fee schedule shall be established by rule by the agency to assist in support of bond allocation activities. Fees shall reflect costs actually incurred or expected to be incurred by the agency in its bond allocation activities.

[1987 c 297 § 8.]

RCW 39.86.180 Code amendments.

In order to permit the full use of the authorized state ceiling under federal law, the agency may adopt rules approving any amendments made to the code after May 8, 1987.

[1987 c 297 § 9.]

RCW 39.86.190 Annual and biennial reports.

By February 1 of each year, the agency shall summarize for the legislature each previous year's bond allocation requests and issuance. Beginning in June of 1988 and thereafter in June of each even-numbered year, the agency shall also submit a biennial report summarizing usage of the bond allocation proceeds and any policy concerns for future bond allocations.

[1987 c 297 § 10.]

RCW 39.86.200 Ratification.

Any state ceiling allocations taken prior to May 8, 1987, in conformance with the code and an applicable executive order of the governor are ratified and confirmed and shall remain in full force and effect notwithstanding any other provision of this chapter.

[1987 c 297 § 11.]

RCW 39.86.905 Captions.

As used in this chapter, captions constitute no part of the law.

[1987 c 297 § 15.]

RCW 39.86.906 Severability--1987 c 297.

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

[1987 c 297 § 14.]

**Chapter 39.88 RCW
COMMUNITY REDEVELOPMENT FINANCING ACT**

Sections	
39.88.010	Declaration.
39.88.020	Definitions.
39.88.030	Authority--Limitations.
39.88.040	Procedure for adoption of public improvement.

39.88.050	Notice of public improvement.
39.88.060	Disagreements between taxing districts.
39.88.070	Apportionment of taxes.
39.88.080	Application of tax allocation revenues.
39.88.090	General obligation bonds.
39.88.100	Tax allocation bonds.
39.88.110	Legal investments.
39.88.120	Notice to state.
39.88.130	Conclusive presumption of validity.
39.88.900	Supplemental nature of chapter.
39.88.905	Short title.
39.88.910	Captions not part of law--1982 1st ex.s. c 42.
39.88.915	Severability--1982 1st ex.s. c 42.

Notes:

Reviser's note: Senate Joint Resolution No. 143, amending the state Constitution to authorize the use of increased property tax revenues resulting from a public improvement for the purpose of paying obligations incurred for the improvement, was enacted during the 1982 first extraordinary session of the legislature and was submitted to the voters at the November 1982 state general election. It was defeated by a vote of 393,030 in favor and 882,194 against. A similar constitutional amendment, House Joint Resolution No. 23, was defeated at the November 1985 state general election.

RCW 39.88.010 Declaration.

It is declared to be the public policy of the state of Washington to promote and facilitate the orderly development and economic stability of its urban areas. The provision of adequate government services and the creation of employment opportunities for the citizens within urban areas depends upon the economic growth and the strength of their tax base. The construction of necessary public improvements in accordance with local community planning will encourage investment in job-producing private development and will expand the public tax base.

It is the purpose of this chapter to allocate a portion of regular property taxes for limited periods of time to assist in the financing of public improvements which are needed to encourage private development of urban areas; to prevent or arrest the decay of urban areas due to the inability of existing financing methods to provide needed public improvements; to encourage local taxing districts to cooperate in the allocation of future tax revenues arising in urban areas in order to facilitate the long-term growth of their common tax base; and to encourage private investment within urban areas.

[1982 1st ex.s. c 42 § 2.]

RCW 39.88.020 Definitions.

As used in this chapter the following terms have the following meanings unless a different meaning is clearly indicated by the context:

(1) "Apportionment district" means the geographic area, within an urban area, from which regular property taxes are to be apportioned to finance a public improvement contained therein.

(2) "Assessed value of real property" means the valuation of real property as placed on

the last completed assessment roll of the county.

(3) "City" means any city or town.

(4) "Ordinance" means any appropriate method of taking a legislative action by a county or city, whether known as a statute, resolution, ordinance, or otherwise.

(5) "Public improvement" means an undertaking to provide public facilities in an urban area which the sponsor has authority to provide.

(6) "Public improvement costs" means the costs of design, planning, acquisition, site preparation, construction, reconstruction, rehabilitation, improvement, and installation of the public improvement; costs of relocation, maintenance, and operation of property pending construction of the public improvement; costs of utilities relocated as a result of the public improvement; costs of financing, including interest during construction, legal and other professional services, taxes, and insurance; costs incurred by the assessor to revalue real property for the purpose of determining the tax allocation base value that are in excess of costs incurred by the assessor in accordance with his revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; and administrative costs reasonably necessary and related to these costs. These costs may include costs incurred prior to the adoption of the public improvement ordinance, but subsequent to July 10, 1982.

(7) "Public improvement ordinance" means the ordinance passed under RCW 39.88.040(4).

(8) "Regular property taxes" means regular property taxes as now or hereafter defined in RCW 84.04.140, except regular property taxes levied by port districts or public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness.

(9) "Sponsor" means any county or city initiating and undertaking a public improvement.

(10) "Tax allocation base value of real property" means the true and fair value of real property within an apportionment district for the year in which the apportionment district was established.

(11) "Tax allocation bonds" means any bonds, notes, or other obligations issued by a sponsor pursuant to *section 10 of this act.

(12) "Tax allocation revenues" means those tax revenues allocated to a sponsor under RCW 39.88.070(1)(b).

(13) "Taxing districts" means any governmental entity which levies or has levied for it regular property taxes upon real property located within a proposed or approved apportionment district.

(14) "Value of taxable property" means value of taxable property as defined in RCW 39.36.015.

(15) "Urban area" means an area in a city or located outside of a city that is characterized by intensive use of the land for the location of structures and receiving such urban services as sewers, water, and other public utilities and services normally associated with urbanized areas. Not more than twenty-five percent of the area within the urban area proposed apportionment district may be vacant land.

[1982 1st ex.s. c 42 § 3.]

Notes:

***Reviser's note:** "section 10 of this act," codified as RCW 39.88.090, deals with general obligation bonds. Tax allocation bonds are the subject of section 11 (RCW 39.88.100), which was apparently intended. The error arose in the renumbering of sections in the engrossing of amendments to Second Substitute Senate Bill No. 4603 [1982 1st ex.s. c 42].

RCW 39.88.030 Authority--Limitations.

(1) Only public improvements which are determined by the legislative authority of the sponsor to meet the following criteria are eligible to be financed under this chapter:

- (a) The public improvement is located within an urban area;
- (b) The public improvement will encourage private development within the apportionment district;
- (c) The public improvement will increase the fair market value of the real property located within the apportionment district;
- (d) The private development which is anticipated to occur within the apportionment district as a result of the public improvement is consistent with an existing comprehensive land use plan and approved growth policies of the jurisdiction within which it is located;
- (e) A public improvement located within a city has been approved by the legislative authority of such city; and
- (f) A public improvement located within an urban area in an unincorporated area has been approved by the legislative authority of the county within whose boundaries the area lies.

(2) Apportionment of regular property tax revenues to finance the public improvements is subject to the following limitations:

- (a) No apportionment of regular property tax revenues may take place within a previously established apportionment district where regular property taxes are still apportioned to finance public improvements without the concurrence of the sponsor which established the district;
- (b) No apportionment district may be established which includes any geographic area included within a previously established apportionment district which has outstanding bonds payable in whole or in part from tax allocation revenues;
- (c) The total amount of outstanding bonds payable in whole or in part from tax allocation revenues arising from property located within a city shall not exceed two percent of the value of taxable property within the city, and the total amount of outstanding bonds payable in whole or in part from tax allocation revenues arising from property located within the unincorporated areas of a county shall not exceed two percent of the value of taxable property within the entire unincorporated area of the county; and
- (d) No taxes other than regular property taxes may be apportioned under this chapter.

(3) Public improvements may be undertaken and coordinated with other programs or efforts undertaken by the sponsor or others and may be funded in whole or in part from sources other than those provided by this chapter.

[1982 1st ex.s. c 42 § 4.]

RCW 39.88.040 Procedure for adoption of public improvement.

Public improvements funded by tax allocation revenues may only be located within an urban area. In order to secure an allocation of regular property taxes to finance a public improvement, a sponsor shall:

(1) Propose by ordinance a plan for the public improvement which includes a description of the contemplated public improvement, the estimated cost thereof, the boundaries of the apportionment district, the estimated period during which tax revenue apportionment is contemplated, and the ways in which the sponsor plans to use tax allocation revenues to finance the public improvement, and which sets at least three public hearings thereon before the legislative authority of the sponsor or a committee thereof: PROVIDED, That public hearings for the public improvement that is undertaken in combination or coordination by two or more sponsors may be held jointly; and public hearings, held before the legislative authority or a committee of a majority thereof may be combined with public hearings held for other purposes;

(2) At least fifteen days in advance of the hearing:

(a) Deliver notice of the hearing to all taxing districts, the county treasurer, and the county assessor, which notice includes a map or drawing showing the location of the contemplated public improvement and the boundaries of the proposed apportionment district, a brief description of the public improvement, the estimated cost thereof, the anticipated increase in property values within the apportionment district, the location of the sponsor's principal business office where it will maintain information concerning the public improvement for public inspection, and the date and place of hearing; and

(b) Post notice in at least six public places located in the proposed apportionment district and publish notice in a legal newspaper of general circulation within the sponsor's jurisdiction briefly describing the public improvement, the proposed apportionment, the boundaries of the proposed apportionment district, the location where additional information concerning the public improvement may be inspected, and the date and place of hearing;

(3) At the time and place fixed for the hearing under subsection (1) of this section, and at such times to which the hearing may be adjourned, receive and consider all statements and materials as may be submitted, and objections and letters filed before or within ten days thereafter;

(4) Within one hundred twenty days after completion of the public hearings, pass an ordinance establishing the apportionment district and authorizing the proposed public improvement, including any modifications which in the sponsor's opinion the hearings indicated should be made, which includes the boundaries of the apportionment district, a description of the public improvement, the estimated cost thereof, the portion of the estimated cost thereof to be reimbursed from tax allocation revenues, the estimated time during which regular property taxes are to be apportioned, the date upon which apportionment of the regular property taxes will commence, and a finding that the public improvement meets the conditions of RCW 39.88.030.

[1982 1st ex.s. c 42 § 5.]

RCW 39.88.050 Notice of public improvement.

Within fifteen days after enactment of the public improvement ordinance, the sponsor shall publish notice in a legal newspaper circulated within the designated apportionment district summarizing the final public improvement, including a brief description of the public improvement, the boundaries of the apportionment district, and the location where the public improvement ordinance and any other information concerning the public improvement may be inspected.

Within fifteen days after enactment of the public improvement ordinance, the sponsor shall deliver a certified copy thereof to each taxing district, the county treasurer, and the county assessor.

[1982 1st ex.s. c 42 § 6.]

RCW 39.88.060 Disagreements between taxing districts.

(1) Any taxing district that objects to the apportionment district, the duration of the apportionment, the manner of apportionment, or the propriety of cost items established by the public improvement ordinance of the sponsor may, within thirty days after mailing of the ordinance, petition for review thereof by the state board of tax appeals. The state board of tax appeals shall meet within a reasonable time, hear all the evidence presented by the parties on matters in dispute, and determine the issues upon the evidence as may be presented to it at the hearing. The board may approve or deny the public improvement ordinance as enacted or may grant approval conditioned upon modification of the ordinance by the sponsor. The decision by the state board of tax appeals shall be final and conclusive but shall not preclude modification or discontinuation of the public improvement.

(2) If the sponsor modifies the public improvement ordinance as directed by the board, the public improvement ordinance shall be effective without further hearings or findings and shall not be subject to any further appeal. If the sponsor modifies the public improvement ordinance in a manner other than as directed by the board, the public improvement ordinance shall be subject to the procedures established pursuant to RCW 39.88.040 and 39.88.050.

[1989 c 378 § 1; 1982 1st ex.s. c 42 § 7.]

RCW 39.88.070 Apportionment of taxes.

(1) Upon the date established in the public improvement ordinance, but not sooner than the first day of the calendar year following the passage of the ordinance, the regular property taxes levied upon the assessed value of real property within the apportionment district shall be divided as follows:

(a) That portion of the regular property taxes produced by the rate of tax levied each year

by or for each of the taxing districts upon the tax allocation base value of real property, or upon the assessed value of real property in each year, whichever is smaller, shall be allocated to and paid to the respective taxing districts; and

(b) That portion of the regular property taxes levied each year by or for each of the taxing districts upon the assessed value of real property within an apportionment district which is in excess of the tax allocation base value of real property shall be allocated and paid to the sponsor, or the sponsor's designated agent, until all public improvement costs to be paid from the tax allocation revenues have been paid, except that the sponsor may agree to receive less than the full amount of such portion as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of the taxes shall be allocated to the respective taxing districts as the sponsor and the taxing districts may agree.

(2) The county assessor shall revalue the real property within the apportionment district for the purpose of determining the tax allocation base value for the apportionment district and shall certify to the sponsor the tax allocation base value as soon as practicable after the assessor receives notice of the public improvement ordinance and shall certify to the sponsor the total assessed value of real property within thirty days after the property values for each succeeding year have been established, except that the assessed value of state-assessed real property within the apportionment district shall be certified as soon as the values are provided to the assessor by the department of revenue. Nothing in this section authorizes revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW.

(3) The date upon which the apportionment district was established shall be considered the date upon which the public improvement ordinance was enacted by the sponsor.

(4) The apportionment of regular property taxes under this section shall cease when tax allocation revenues are no longer necessary or obligated to pay public improvement costs or to pay principal of and interest on bonds issued to finance public improvement costs and payable in whole or in part from tax allocation revenues. At the time of termination of the apportionment, any excess money and any earnings thereon held by the sponsor shall be returned to the county treasurer and distributed to the taxing districts which were subject to the allocation in proportion to their regular property tax levies due for the year in which the funds are returned.

[1982 1st ex.s. c 42 § 8.]

RCW 39.88.080 Application of tax allocation revenues.

Tax allocation revenues may be applied as follows:

- (1) To pay public improvement costs;
- (2) To pay principal of and interest on, and to fund any necessary reserves for, tax allocation bonds;
- (3) To pay into bond funds established to pay the principal of and interest on general obligation bonds issued pursuant to law to finance public facilities that are specified in the public improvement ordinance and constructed following the establishment of and within the apportionment district; or

- (4) To pay any combination of the foregoing.

[1982 1st ex.s. c 42 § 9.]

RCW 39.88.090 General obligation bonds.

General obligation bonds which are issued to finance public facilities that are specified in the public improvement ordinance, and for which part or all of the principal or interest is paid by tax allocation revenues, shall be subject to the following requirements:

- (1) The intent to issue such bonds and the maximum amount which the sponsor contemplates issuing are specified in the public improvement ordinance; and

- (2) A statement of the intent of the sponsor to issue such bonds is included in all notices required by RCW 39.88.040 and 39.88.050.

In addition, the ordinance or resolution authorizing the issuance of such general obligation bonds shall be subject to potential referendum approval by the voters of the issuing entity when the bonds are part of the non-voter approved indebtedness limitation established pursuant to RCW 39.36.020. If the voters of the county or city issuing such bonds otherwise possess the general power of referendum on county or city matters, the ordinance or resolution shall be subject to that procedure. If the voters of the county or city issuing such bonds do not otherwise possess the general power of referendum on county or city matters, the referendum shall conform to the requirements and procedures for referendum petitions provided for code cities in RCW 35A.11.100.

[1982 1st ex.s. c 42 § 10.]

RCW 39.88.100 Tax allocation bonds.

- (1) A sponsor may issue such tax allocation bonds as it may deem appropriate for the financing of public improvement costs and a reasonable bond reserve and for the refunding of any outstanding tax allocation bonds.

- (2) The principal and interest of tax allocation bonds may be made payable from:

- (a) Tax allocation revenues;

- (b) Project revenues which may include (i) nontax income, revenues, fees, and rents from the public improvement financed with the proceeds of the bonds, or portions thereof, and (ii) contributions, grants, and nontax money available to the sponsor for payment of costs of the public improvement or the debt service of the bonds issued therefor;

- (c) Any combination of the foregoing.

- (3) Tax allocation bonds shall not be the general obligation of or guaranteed by all or any part of the full faith and credit of the sponsor or any other state or local government, or any tax revenues other than tax allocation revenues, and shall not be considered a debt of the sponsor or other state or local government for general indebtedness limitation purposes.

- (4) The terms and conditions of tax allocation bonds may include provisions for the following matters, among others:

- (a) The date of issuance, maturity date or dates, denominations, form, series,

negotiability, registration, rank or priority, place of payment, interest rate or rates which may be fixed or may vary over the life of the tax allocation bonds, bond reserve, coverage, and such other terms related to repayment of the tax allocation bonds;

(b) The application of tax allocation bond proceeds; the use, sale, or disposition of property acquired; consideration or rents and fees to be charged in the sale or lease of property acquired; consideration or rents and fees to be charged in the sale or lease of property within a public improvement; the application of rents, fees, and revenues within a public improvement; the maintenance, insurance, and replacement of property within a public improvement; other encumbrances, if any, upon all or part of property within a public improvement, then existing or thereafter acquired; and the type of debts that may be incurred;

(c) The creation of special funds; the money to be so applied; and the use and disposition of the money;

(d) The securing of the tax allocation bonds by a pledge of property and property rights, by assignment of income generated by the public improvement, or by pledging such additional specifically described resources other than tax revenues as are available to the sponsor;

(e) The terms and conditions for redemption;

(f) The replacement of lost and destroyed bond instruments;

(g) Procedures for amendment of the terms and conditions of the tax allocation bonds;

(h) The powers of a trustee to enforce covenants and take other actions in event of default; the rights, liabilities, powers, and duties arising upon the breach of any covenant, condition, or obligation; and

(i) When consistent with the terms of this chapter, such other terms, conditions, and provisions which may make the tax allocation bonds more marketable and further the purposes of this chapter.

(5) Tax allocation bonds may be issued and sold in such manner as the legislative authority of the sponsor shall determine.

(6) The sponsor may also issue or incur obligations in anticipation of the receipt of tax allocation bond proceeds or other money available to pay public improvement costs.

[1982 1st ex.s. c 42 § 11.]

RCW 39.88.110 Legal investments.

Tax allocation bonds authorized in this chapter shall be legal investments for any of the funds of the state and of municipal corporations, for trustees, and for other fiduciaries.

[1982 1st ex.s. c 42 § 13.]

RCW 39.88.120 Notice to state.

Whenever notice is required to be given to the state, notice shall be given to the director of revenue.

[1982 1st ex.s. c 42 § 14.]

RCW 39.88.130 Conclusive presumption of validity.

No direct or collateral attack on any public improvement, public improvement ordinance, or apportionment district purported to be authorized or created in conformance with applicable legal requirements, including the requirements of this chapter, may be commenced more than thirty days after publication of notice as required by RCW 39.88.050.

[1982 1st ex.s. c 42 § 15.]

RCW 39.88.900 Supplemental nature of chapter.

This chapter supplements and neither restricts nor limits any powers which the state or any municipal corporation might otherwise have under any laws of this state.

[1982 1st ex.s. c 42 § 16.]

RCW 39.88.905 Short title.

This chapter may be known and cited as the Community Redevelopment Financing Act of 1982.

[1982 1st ex.s. c 42 § 1.]

RCW 39.88.910 Captions not part of law--1982 1st ex.s. c 42.

As used in this act, captions constitute no part of the law.

[1982 1st ex.s. c 42 § 17.]

RCW 39.88.915 Severability--1982 1st ex.s. c 42.

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

[1982 1st ex.s. c 42 § 18.]

**Chapter 39.89 RCW
COMMUNITY REVITALIZATION FINANCING**

Sections

39.89.010	Declaration--Purpose.
39.89.020	Definitions.
39.89.030	Authority--Conditions.
39.89.040	Coordination with other programs.

39.89.050	Procedure for creating increment area.
39.89.060	Public notice--Notice to officials.
39.89.070	Apportionment of taxes.
39.89.080	General indebtedness--Security.
39.89.090	Conclusive presumption of validity.
39.89.900	Supplemental nature of chapter.
39.89.901	Expiration of chapter.
39.89.902	Severability--2001 c 212.

RCW 39.89.010 Declaration--Purpose. (Expires July 1, 2010.)

(1) It is declared to be the public policy of the state of Washington to promote and facilitate the orderly development and economic stability of its communities. Local governments need the ability to raise revenue to finance public improvements that are designed to encourage economic growth and development in geographic areas characterized by high levels of unemployment and stagnate employment and income growth. The construction of necessary public improvements in accordance with local economic development plans will encourage investment in job-producing private development and expand the public tax base.

(2) It is the purpose of this chapter:

(a) To encourage taxing districts to cooperate in the allocation of future tax revenues that are used to finance public improvements designed to encourage private development in selected areas, in particular in those local governments that are located adjacent to another state or international border;

(b) To assist those local governments that have a competitive disadvantage in its ability to attract business, private investment, or commercial development due to its location near a state or international border; and

(c) To prevent or arrest the decay of selected areas due to the inability of existing financial methods to provide needed public improvements, and to encourage private investment designed to promote and facilitate the orderly redevelopment of selected areas.

[2001 c 212 § 1.]

RCW 39.89.020 Definitions. (Expires July 1, 2010.)

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assessed value of real property" means the valuation of real property as placed on the last completed assessment roll.

(2) "Local government" means any city, town, county, port district, or any combination thereof.

(3) "Ordinance" means any appropriate method of taking legislative action by a local government.

(4) "Public improvements" means:

(a) Infrastructure improvements within the increment area that include:

(i) Street and road construction and maintenance;

(ii) Water and sewer system construction and improvements;

- (iii) Sidewalks and streetlights;
 - (iv) Parking, terminal, and dock facilities;
 - (v) Park and ride facilities of a transit authority;
 - (vi) Park facilities and recreational areas; and
 - (vii) Storm water and drainage management systems; and
- (b) Expenditures for any of the following purposes:
- (i) Providing environmental analysis, professional management, planning, and promotion within the increment area, including the management and promotion of retail trade activities in the increment area;
 - (ii) Providing maintenance and security for common or public areas in the increment area; or
 - (iii) Historic preservation activities authorized under RCW 35.21.395.

(5) "Public improvement costs" means the costs of: (a) Design, planning, acquisition, site preparation, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) relocating, maintaining, and operating property pending construction of public improvements; (c) relocating utilities as a result of public improvements; (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; (e) assessments incurred in revaluing real property for the purpose of determining the tax allocation base value that are in excess of costs incurred by the assessor in accordance with the revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; and (f) administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of community revitalization financing to fund the costs of the public improvements.

(6) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by port districts or public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; and (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065. Regular property taxes do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(7) "Tax allocation base value" means the true and fair value of real property located within an increment area for taxes imposed in the year in which the increment area is created, plus twenty-five percent of any increase in the true and fair value of real property located within an increment area that is placed on the assessment rolls after the increment area is created.

(8) "Tax allocation revenues" means those tax revenues derived from the imposition of regular property taxes on the increment value and distributed to finance public improvements.

(9) "Increment area" means the geographic area from which taxes are to be appropriated to finance public improvements authorized under this chapter.

(10) "Increment value" means seventy-five percent of any increase in the true and fair

value of real property in an increment area that is placed on the tax rolls after the increment area is created.

(11) "Taxing districts" means a governmental entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved increment area.

(12) "Value of taxable property" means the value of the taxable property as defined in RCW 39.36.015.

[2001 c 212 § 2.]

RCW 39.89.030 Authority--Conditions. (Expires July 1, 2010.)

A local government may finance public improvements using community revitalization financing subject to the following conditions:

(1) The local government adopts an ordinance designating an increment area within its boundaries and specifying the public improvements proposed to be financed in whole or in part with the use of community revitalization financing;

(2) The public improvements proposed to be financed in whole or in part using community revitalization financing are expected to encourage private development within the increment area and to increase the fair market value of real property within the increment area;

(3) Private development that is anticipated to occur within the increment area, as a result of the public improvements, will be consistent with the countywide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW;

(4) Taxing districts, in the aggregate, that levy at least seventy-five percent of the regular property tax within which the increment area is located approves the community revitalization financing of the project under RCW 39.89.050(1); and

(5) In an increment area that includes any portion of a fire protection district as defined in Title 52 RCW, the fire protection district must approve their participation in the community revitalization financing of the project under chapter 212, Laws of 2001. Approval by the fire protection district shall be considered as part of the required participation by taxing districts under subsection (4) of this section.

[2001 c 212 § 3.]

RCW 39.89.040 Coordination with other programs. (Expires July 1, 2010.)

Public improvements that are financed with community revitalization financing may be undertaken and coordinated with other programs or efforts undertaken by the local government and other taxing districts and may be funded in part from revenue sources other than community revitalization financing.

[2001 c 212 § 4.]

RCW 39.89.050 Procedure for creating increment area. (Expires July 1, 2010.)

Before adopting an ordinance creating the increment area, a local government must:

(1) Obtain written agreement for the use of community revitalization financing to finance

all or a portion of the costs of the designated public improvements from taxing districts that, in the aggregate, levy at least seventy-five percent of the regular property tax on property within the increment area. A signed, written agreement from taxing districts that in the aggregate levy at least seventy-five percent of the regular property tax within the increment area, constitutes concurrence by all taxing districts in the increment area in the public improvement and participation in the public improvement to the extent of providing limited funding under community revitalization financing authorized under this chapter. The agreement must be authorized by the governing body of taxing districts that in the aggregate levy at least seventy-five percent of the regular property tax on property within the increment area;

(2) Hold a public hearing on the proposed financing of the public improvement in whole or in part with community revitalization financing. Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed increment area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed increment area. Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by community revitalization financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed increment area, and estimate the period during which community revitalization financing is contemplated to be used. The public hearing may be held by either the governing body of the local government, or a committee of the governing body that includes at least a majority of the whole governing body; and

(3) Adopt an ordinance establishing the increment area that describes the public improvements, describes the boundaries of the increment area, estimates the cost of the public improvements and the portion of these costs to be financed by community revitalization financing, estimates the time during which regular property taxes are to be apportioned, provides the date when the apportionment of the regular property taxes will commence, and finds that the conditions of RCW 39.89.030 are met.

[2001 c 212 § 5.]

RCW 39.89.060 Public notice--Notice to officials. (Expires July 1, 2010.)

The local government shall:

(1) Publish notice in a legal newspaper of general circulation within the increment area that describes the public improvement, describes the boundaries of the increment area, and identifies the location and times where the ordinance and other public information concerning the public improvement may be inspected; and

(2) Deliver a certified copy of the ordinance to the county treasurer, the county assessor, and the governing body of each taxing district within which the increment area is located.

[2001 c 212 § 6.]

RCW 39.89.070 Apportionment of taxes. (Expires July 1, 2010.)

(1) Commencing in the calendar year following the passage of the ordinance, the county

treasurer shall distribute receipts from regular taxes imposed on real property located in the increment area as follows:

(a) Each taxing district shall receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the tax allocation base value for that community revitalization financing project in the taxing district, or upon the total assessed value of real property in the taxing district, whichever is smaller; and

(b) The local government that created the increment area shall receive an additional portion of the regular property taxes levied by or for each taxing district upon the increment value within the increment area. However, the local government that created the increment area may agree to receive less than the full amount of this portion as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the taxing districts that imposed regular property taxes, or have regular property taxes imposed for them, in the increment area for collection that year in proportion to their regular tax levy rates for collection that year. The local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by community revitalization financing.

(2) The county assessor shall allocate twenty-five percent of any increased real property value occurring in the increment area to the tax allocation base value and seventy-five percent to the increment value. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3) The apportionment of increases in assessed valuation in an increment area, and the associated distribution to the local government of receipts from regular property taxes that are imposed on the increment value, must cease when tax allocation revenues are no longer necessary or obligated to pay the costs of the public improvements. Any excess tax allocation revenues and earnings on the tax allocation revenues remaining at the time the apportionment of tax receipts terminates must be returned to the county treasurer and distributed to the taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the increment area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

[2001 c 212 § 7.]

RCW 39.89.080 General indebtedness--Security. (*Expires July 1, 2010.*)

(1) A local government designating an increment area and authorizing the use of community revitalization financing may incur general indebtedness, and issue general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from tax allocation revenues it receives, subject to the following requirements:

(a) The ordinance adopted by the local government creating the increment area and authorizing the use of community revitalization financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The local government includes this statement of the intent in all notices required by RCW 39.89.050.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a local government designating an increment area and authorizing the use of community revitalization financing may require the nonpublic participant to provide adequate security to protect the public investment in the public improvement within the increment area.

[2001 c 212 § 8.]

RCW 39.89.090 **Conclusive presumption of validity. (*Expires July 1, 2010.*)**

A direct or collateral attack on a public improvement, public improvement ordinance, or increment area purported to be authorized or created in conformance with applicable legal requirements, including this chapter, may not be commenced more than thirty days after publication of notice as required by RCW 39.89.060.

[2001 c 212 § 9.]

RCW 39.89.900 **Supplemental nature of chapter. (*Expires July 1, 2010.*)**

This chapter supplements and neither restricts nor limits any powers which the state or any local government might otherwise have under any laws of this state.

[2001 c 212 § 10.]

RCW 39.89.901 **Expiration of chapter.**

Sections 1 through 10 of this act expire July 1, 2010.

[2001 c 212 § 29.]

RCW 39.89.902 **Severability--2001 c 212.**

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

[2001 c 212 § 31.]

Chapter 39.90 RCW
VALIDATION OF BONDS AND FINANCING PROCEEDINGS

Sections

39.90.010	Definition.
39.90.020	Validation of bonds, proceedings for issuance, sales, etc.
39.90.030	Validation of proceedings to finance or aid in financing.

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- 39.90.050 Revenue bonds--Sale or issuance with greater interest rate than that specified authorized.
39.90.060 Validation of debts, contracts and obligations regardless of interest rates.

Notes:

Cities and towns

sewerage system bonds validated: RCW 35.67.194.

validating indebtedness: Chapter 35.40 RCW.

City and county armory sites: Chapter 36.64 RCW.

Counties: Chapter 36.67 RCW.

County road bonds: RCW 36.76.080.

Funding bonds, validation: RCW 39.52.015.

Irrigation district bonds, validating: See note following RCW 87.19.005.

Metropolitan park districts, validating bonds: See note following RCW 35.61.010.

Municipal utilities, validating bond proceedings: See notes following RCW 35.92.010.

School districts

validating bonds proceedings: RCW 28A.530.010, 28A.530.020, and note following RCW 39.36.020.

validating indebtedness: Chapter 28A.535 RCW.

Second class cities, validating bonds and proceedings: See note following RCW 35.23.545.

RCW 39.90.010 Definition.

As used in this chapter, the term "public body" means any city, town, district or other governmental agency created by or under the laws of this state.

[1947 c 242 § 1; Rem. Supp. 1947 § 5616-20.]

RCW 39.90.020 Validation of bonds, proceedings for issuance, sales, etc.

All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking, or project by any public body, including all proceedings for the authorization and issuance of such bonds, and the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing body or commission or officers thereof, to authorize and issue such bonds, or to sell, execute, or deliver the same, and notwithstanding any defects or irregularities (other than constitutional), including the failure to publish notices of elections, in such proceedings, or in such sale, execution or delivery, and notwithstanding that such governing body or commission or officers may not have been elected, appointed or qualified for the offices they purported to hold; and such bonds are and shall be binding, legal, valid, and enforceable obligations of such public body.

[1947 c 242 § 2; Rem. Supp. 1947 § 5616-21.]

RCW 39.90.030 Validation of proceedings to finance or aid in financing.

All proceedings which have been taken prior to March 19, 1947, for the purpose of financing or aiding in the financing of any work, undertaking, or project by any public body,

including all proceedings for the authorization and issuance of bonds and for the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing body or commission or officers thereof, to authorize and issue such bonds, or to sell, execute, or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings.

[1947 c 242 § 3; Rem. Supp. 1947 § 5616-22.]

RCW 39.90.050 Revenue bonds--Sale or issuance with greater interest rate than that specified authorized.

All revenue bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to July 1, 1970 or the proposition for the issuance of which will be submitted at such an election pursuant to action of the legislative authority of the issuer taken prior to July 1, 1970, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification.

[1970 ex.s. c 66 § 6.]

RCW 39.90.060 Validation of debts, contracts and obligations regardless of interest rates.

All debts, contracts and obligations heretofore made or incurred by or in favor of the state, state agencies, The Evergreen State College, community colleges, and regional and state universities, and the political subdivisions, municipal corporations and quasi municipal corporations of this state, are hereby declared to be legal and valid and of full force and effect from the date thereof, regardless of the interest rate borne by any such debts, contracts and obligations.

[1977 ex.s. c 169 § 93; 1970 ex.s. c 66 § 7.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

**Chapter 39.92 RCW
LOCAL TRANSPORTATION ACT**

Sections

39.92.010	Purpose.
39.92.020	Definitions.
39.92.030	Local programs authorized.
39.92.040	Transportation impact fee.
39.92.050	Interlocal cooperation--Consistency and assistance.

39.92.900 Severability--Prospective application--1988 c 179.
39.92.901 Section captions--1988 c 179.

RCW 39.92.010 Purpose.

The legislature finds that there is an increasing need for local and regional transportation improvements as the result of both existing demands and the foreseeable future demands from economic growth and development within the state, including residential, commercial, and industrial development.

The legislature intends with this chapter to enable local governments to develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. The programs should provide a fair and predictable method for allocating the cost of necessary transportation improvements between the public and private sectors. The programs should include consideration of public transportation as a method of reducing off-site transportation impacts from development. The legislature finds that the private funds authorized to be collected pursuant to this chapter are for the purpose of mitigating the impacts of development and are not taxes. The state shall encourage and give priority to the state funding of local and regional transportation improvements that are funded in part by local, public, and private funds.

The authority provided by this chapter, RCW 35.43.182 through 35.43.188, and 36.88.072 through 36.88.078 for local governments to create and implement local transportation programs is intended to be supplemental, except as expressly provided in RCW 39.92.030(9), 82.02.020, and 36.73.120, to the existing authorities and responsibilities of local governments to regulate development and provide public facilities.

[1988 c 179 § 1.]

RCW 39.92.020 Definitions.

The definitions set forth in this section apply throughout this chapter.

(1) "Developer" means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development and their successors and assigns.

(2) "Development" means the subdivision or short platting of land or the construction or reconstruction of residential, commercial, industrial, public, or any other building, building space, or land.

(3) "Direct result of the proposed development" means those quantifiable transportation impacts that are caused by vehicles or pedestrians whose trip origin or destination is the proposed development.

(4) "Local government" means all counties, cities, and towns in the state of Washington and transportation benefit districts created pursuant to chapter 36.73 RCW.

(5) "Off-site transportation improvements" means those transportation capital improvements designated in the local plan adopted under this chapter that are authorized to be undertaken by local government and that serve the transportation needs of more than one development.

(6) "Transportation impact fee" means a monetary charge imposed on new development for the purpose of mitigating off-site transportation impacts that are a direct result of the proposed development.

(7) "Fair market value" means the price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus, measured at the time of the dedication to local government of land or improved transportation facilities.

[1988 c 179 § 2.]

RCW 39.92.030 Local programs authorized.

Local governments may develop and adopt programs for the purpose of jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by economic development and growth within their respective jurisdictions. Local governments shall adopt the programs by ordinance after notice and public hearing. Each program shall contain the elements described in this section.

(1) The program shall identify the geographic boundaries of the entire area or areas generally benefited by the proposed off-site transportation improvements and within which transportation impact fees will be imposed under this chapter.

(2) The program shall be based on an adopted comprehensive, long-term transportation plan identifying the proposed off-site transportation improvements reasonable and necessary to meet the future growth needs of the designated plan area and intended to be covered by this joint funding program, including acquisition of right of way, construction and reconstruction of all major and minor arterials and intersection improvements, and identifying design standards, levels of service, capacities, and costs applicable to the program. The program shall also indicate how the transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions. The program shall also indicate how public transportation and ride-sharing improvements and services will be used to reduce off-site transportation impacts from development.

(3) The program shall include at least a six-year capital funding program, updated annually, identifying the specific public sources and amounts of revenue necessary to pay for that portion of the cost of all off-site transportation improvements contained in the transportation plan that will not foreseeably be funded by transportation impact fees. The program shall include a proposed schedule for construction and expenditures of funds. The funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a portion of the additional revenue is proposed to be earmarked as future appropriations for such off-site transportation improvements.

(4) The program shall authorize transportation impact fees to be imposed on new

development within the plan area for the purpose of providing a portion of the funding for reasonable and necessary off-site transportation improvements to solve the cumulative impacts of planned growth and development in the plan area. Off-site transportation impacts shall be measured as a pro rata share of the capacity of the off-site transportation improvements being funded under the program. The fees shall not exceed the amount that the local government can demonstrate is reasonably necessary as a direct result of the proposed development.

(5) The program shall provide that the funds collected as a result of a particular new development shall be used in substantial part to pay for improvements mitigating the impacts of the development or be refunded to the property owners of record. Fees paid toward more than one transportation improvement may be pooled and expended on any one of the improvements mitigating the impact of the development. The funds shall be expended in all cases within six years of collection by the local government or the unexpended funds shall be refunded.

(6) The program shall also describe the formula, timing, security, credits, and other terms and conditions affecting the amount and method of payment of the transportation impact fees as further provided for in RCW 39.92.040. In calculating the amount of the fee, local government shall consider and give credit for the developer's participation in public transportation and ride-sharing improvements and services.

(7) The administrative element of the program shall include: An opportunity for administrative appeal by the developer and hearing before an independent examiner of the amount of the transportation impact fee imposed; establishment of a designated account for the public and private funds appropriated or collected for the transportation improvements identified in the plan; methods to enforce collection of the public and private funds identified in the program; designation of the administrative departments or other entities responsible for administering the program, including determination of fee amounts, transportation planning, and construction; and provisions for future amendment of the program including the addition of other off-site transportation improvements. The program shall not be amended in a manner to relieve local government of any contractual obligations made to prior developers.

(8) The program shall provide that private transportation impact fees shall not be collected for any off-site transportation improvement that is incapable of being reasonably carried out because of lack of public funds or other foreseeable impediment.

(9) The program shall provide that no transportation impact fee may be imposed on a development by local government pursuant to this program when mitigation of the same off-site transportation impacts for the development is being required by any government agency pursuant to any other local, state, or federal law.

[1988 c 179 § 3.]

RCW 39.92.040 Transportation impact fee.

The program shall describe the formula or method for calculating the amount of the transportation impact fees to be imposed on new development within the plan area. The program may require developers to pay a transportation impact fee for off-site transportation improvements not yet constructed and for those jointly-funded improvements constructed since

the commencement of the program.

The program shall define the event in the development approval process that triggers a determination of the amount of the transportation impact fees and the event that triggers the obligation to make actual payment of the fees. However, the payment obligation shall not commence before the date the developer has obtained a building permit for the new development or, in the case of residential subdivisions or short plats, at the time of final plat approval, at the developer's option. If the developer of a residential subdivision or short plat elects to pay the fee at the date a building permit has been obtained, the option to pay the transportation impact fee by installments as authorized by this section is deemed to have been waived by the developer. The developer shall be given the option to pay the transportation impact fee in a lump sum, without interest, or by installment with reasonable interest over a period of five years or more as specified by the local government.

The local government shall require security for the obligation to pay the transportation impact fee, in the form of a recorded agreement, deed of trust, letter of credit, or other instrument determined satisfactory by the local government. The developer shall also be given credit against its obligations for the transportation impact fee, for the fair market value of off-site land and/or the cost of constructing off-site transportation improvements dedicated to the local government. If the value of the dedication exceeds the amount of transportation impact fee obligation, the developer is entitled to reimbursement from transportation impact fees attributable to the dedicated improvements and paid by subsequent developers within the plan area.

Payment of the transportation impact fee entitles the developer and its successors and assigns to credit against any other fee, local improvement district assessment, or other monetary imposition made specifically for the designated off-site transportation improvements intended to be covered by the transportation impact fee imposed pursuant to this program. The program shall also define the criteria for establishing periodic fee increases attributable to construction and related cost increases for the improvements designated in the program.

[1989 c 296 § 1; 1988 c 179 § 4.]

RCW 39.92.050 Interlocal cooperation--Consistency and assistance.

Local governments are authorized and encouraged to enter into interlocal agreements to jointly develop and adopt with other local governments the transportation programs authorized by this chapter for the purpose of accomplishing regional transportation planning and development. Local governments shall also seek, to the greatest degree practicable, consistency among jurisdictions in the terms and conditions of their programs for the purpose of increasing fairness and predictability on a regional basis. Local governments shall seek comment, in the development of their programs, from other affected local governments, state agencies, and governments authorized to perform public transportation functions. Local governments are also encouraged to enter into interlocal agreements to provide technical assistance to each other, in return for reasonable reimbursement, for the purpose of developing and implementing such transportation programs.

[1988 c 179 § 5.]

RCW 39.92.900 Severability--Prospective application--1988 c 179.

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

[1988 c 179 § 17.]

RCW 39.92.901 Section captions--1988 c 179.

Section captions used in this act do not constitute any part of the law.

[1988 c 179 § 18.]

**Chapter 39.94 RCW
FINANCING CONTRACTS**

Sections

39.94.010	Purposes--Construction.
39.94.020	Definitions.
39.94.030	Authority to enter into financing contracts--Terms--Intent--Obligation of state revenues.
39.94.040	State finance committee--Duties--Legislative approval required, when.
39.94.050	Financing program to be self-supporting--Payment of program expenses.
39.94.900	Application.

RCW 39.94.010 Purposes--Construction.

The purposes of this chapter are to confirm the authority of the state, its agencies, departments, and instrumentalities, the state board for community and technical colleges, and the state institutions of higher education to enter into contracts for the acquisition of real and personal property which provide for payments over a term of more than one year and to exclude such contracts from the computation of indebtedness under RCW 39.42.060 and Article VIII, section 1 of the state Constitution. It is further the purpose of this chapter to permit the state, its agencies, departments, and instrumentalities, the state board for community and technical colleges, and the state institutions of higher education to enter into financing contracts which make provision for the issuance of certificates of participation and other financing structures. Financing contracts of the state, whether or not entered into under this chapter, shall be subject to approval by the state finance committee except as provided in this chapter.

This chapter shall be liberally construed to effect its purposes.

[1998 c 291 § 2; 1989 c 356 § 1.]

Notes:

Application--1998 c 291: See note following RCW 39.94.050.

RCW 39.94.020 Definitions.

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

(1) "Credit enhancement" includes insurance, letters of credit, lines of credit, or other similar agreements which enhance the security for the payment of the state's or an other agency's obligations under financing contracts.

(2) "Financing contract" means any contract entered into by the state for itself or on behalf of an other agency which provides for the use and purchase of real or personal property by the state and provides for payment by the state over a term of more than one year, and which provides that title to the subject property may secure performance of the state or transfer to the state or an other agency by the end of the term, upon exercise of an option, for a nominal amount or for a price determined without reference to fair market value. Financing contracts shall include, but not be limited to, conditional sales contracts, financing leases, lease purchase contracts, or refinancing contracts, but shall not include operating or true leases. For purposes of this chapter, the term "financing contract" shall not include any nonrecourse financing contract or other obligation payable only from money or other property received from private sources and not payable from any public money or property. The term "financing contract" shall include a "master financing contract."

(3) "Master financing contract" means a financing contract which provides for the use and purchase of property by the state, and which may include more than one financing contract and appropriation.

(4) "Other agency" means any commission established under Title 15 RCW, a library or regional library, an educational service district, the superintendent of public instruction, the school directors' association, a health district, or any county, city, town, school district, or other municipal corporation or quasi-municipal corporation described as such by statute.

(5) "State" means the state, agency, department, or instrumentality of the state, the state board for community and technical colleges, and any state institution of higher education.

(6) "State finance committee" means the state finance committee under chapter 43.33 RCW.

(7) "Trustee" means a bank or trust company, within or without the state, authorized by law to exercise trust powers.

[1998 c 291 § 3; 1990 c 47 § 3; 1989 c 356 § 2.]

Notes:

Application--1998 c 291: See note following RCW 39.94.050.

RCW 39.94.030 Authority to enter into financing contracts--Terms--Intent--Obligation of state revenues.

(1) The state may enter into financing contracts for itself or on behalf of an other agency for the use and acquisition for public purposes of real and personal property. Payments under financing contracts of the state shall be made by the state from currently appropriated funds or funds not constituting "general state revenues" as defined in Article VIII, section 1 of the state Constitution. Except as provided in subsection (4)(b) of this section, payments under financing contracts of the state on behalf of any other agency shall be made solely from the sources identified in the financing contract, which may not obligate general state revenues as defined in Article VII, section 1 of the state Constitution. The treasurer of an other agency shall remit payments under financing contracts to the office of the state treasurer or to the state treasurer's designee. In the event of any deficiency of payments by an other agency under a financing contract, the treasurer of the other agency shall transfer any legally available funds of the other agency in satisfaction of the other agency's obligations under the financing contract if such funds have been obligated by the other agency under the financing contract and, if such deficiency is not thereby cured, the office of the state treasurer is directed to withdraw from that agency's share of state revenues for distribution or other money an amount sufficient to fulfill the terms and conditions of the financing contract. The term of any financing contract shall not exceed thirty years or the remaining useful life of the property, whichever is shorter. Financing contracts may include other terms and conditions agreed upon by the parties.

(2) The state for itself or on behalf of an other agency may enter into contracts for credit enhancement, which shall limit the recourse of the provider of credit enhancement solely to the security provided under the financing contract secured by the credit enhancement.

(3) The state or an other agency may grant a security interest in real or personal property acquired under financing contracts. The security interest may be perfected as provided by the uniform commercial code - secured transactions, or otherwise as provided by law for perfecting liens on real estate. Other terms and conditions may be included as agreed upon by the parties.

(4)(a) Except under (b) of this subsection, financing contracts and contracts for credit enhancement entered into under the limitations set forth in this chapter shall not constitute a debt or the contracting of indebtedness under RCW 39.42.060 or any other law limiting debt of the state. It is the intent of the legislature that such contracts also shall not constitute a debt or the contracting of indebtedness under Article VIII, section 1 of the state Constitution. Certificates of participation in payments to be made under financing contracts also shall not constitute a debt or the contracting of an indebtedness under RCW 39.42.060 if payment is conditioned upon payment by the state under the financing contract with respect to which the same relates. It is the intent of the legislature that such certificates also shall not constitute a debt or the contracting of indebtedness under Article VIII, section 1 of the state Constitution if payment of the certificates is conditioned upon payment by the state under the financing contract with respect to which those certificates relate.

(b) A financing contract made by the state on behalf of an other agency may be secured by the pledge of revenues of the other agency or other agency's full faith and credit or may, at the option of the state finance committee, include a contingent obligation by the state for payment under such financing contract.

[1998 c 291 § 4; 1989 c 356 § 3.]

Notes:

Application--1998 c 291: See note following RCW 39.94.050.

RCW 39.94.040 State finance committee--Duties--Legislative approval required, when.

(1) Except as provided in RCW 28B.10.022, the state may not enter into any financing contract for itself if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in RCW 28B.10.022, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the state board for community and technical colleges, or a state institution of higher learning; or to be acquired by an other agency;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts for the state or for other agencies;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the department of information services.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) The state may not enter into any financing contract for real property of the state without prior approval of the legislature.

(5) The state may not enter into any financing contract on behalf of an other agency without the approval of such a financing contract by the governing body of the other agency.

[1998 c 291 § 5; 1989 c 356 § 4.]

Notes:

Application--1998 c 291: See note following RCW 39.94.050.

RCW 39.94.050 Financing program to be self-supporting--Payment of program expenses.

(1) It is the intent of the legislature that the financing program authorized by this chapter be self-supporting.

(2) The state treasurer is authorized to levy fees and apply specified investment earnings from time to time in amounts not to exceed sums sufficient to pay program expenses including,

but not limited to, costs of issuance, and to create reserves to assure timely payment of financing contracts. The investment earnings available for this purpose represent the earnings on payments received from state and other agencies.

[1998 c 291 § 1.]

Notes:

Application--1998 c 291: "Chapter 291, Laws of 1998 is applicable to an other agency, as defined in RCW 39.94.020, for the financing of equipment on September 1, 1998, and for the financing of real estate on July 1, 2000." [1998 c 291 § 6.]

RCW 39.94.900 Application.

The provisions of this chapter shall apply to all financing contracts entered into following July 23, 1989.

[1989 c 356 § 5.]

**Chapter 39.96 RCW
PAYMENT AGREEMENTS**

Sections

39.96.010	Findings and declaration--Twelve-year expiration.
39.96.020	Definitions.
39.96.030	Payment agreements authorized--Conditions.
39.96.040	Terms and conditions.
39.96.050	Payments--Credit enhancements.
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39.96.901	Captions not law--1993 c 273.
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39.96.903	Effective date--1993 c 273.

RCW 39.96.010 Findings and declaration--Twelve-year expiration.

The legislature finds and declares that the issuance by state and local governments of bonds and other obligations involves exposure to changes in interest rates; that a number of financial instruments are available to lower the net cost of these borrowings, or to reduce the exposure of state and local governments to changes in interest rates; that these reduced costs for state and local governments will benefit taxpayers and ratepayers; and that the legislature desires to provide state and local governments with express statutory authority to take advantage of these instruments. In recognition of the complexity of these financial instruments, the legislature desires that this authority be subject to certain limitations, and be granted for a period of twelve

years.

[2000 c 184 § 1; 1995 c 192 § 1; 1993 c 273 § 1.]

Notes:

Effective date--2000 c 184: "This act takes effect July 1, 2000." [2000 c 184 § 7.]

Effective date--1995 c 192: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 192 § 3.]

RCW 39.96.020 Definitions.

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

(1) "Financial advisor" means a financial services or financial advisory firm:

(a) With recognized knowledge and experience in connection with the negotiation and execution of payment agreements;

(b) That is acting solely as financial advisor to the governmental entity in connection with the execution of the payment agreement and the issuance or incurring of any related obligations, and not as a principal, placement agent, purchaser, underwriter, or other similar party, and that does not control, nor is it controlled by or under common control with, any such party;

(c) That is compensated for its services in connection with the execution of payment agreements, either directly or indirectly, solely by the governmental entity; and

(d) Whose compensation is not based on a percentage of the notional amount of the payment agreement or of the principal amount of any related obligations.

(2) "Governmental entity" means state government or local government.

(3) "Local government" means any city, county, port district, or public utility district, or any joint operating agency formed under RCW 43.52.360, that has or will have outstanding obligations in an aggregate principal amount of at least one hundred million dollars as of the date a payment agreement is executed or is scheduled by its terms to commence or had at least one hundred million dollars in gross revenues during the preceding calendar year.

(4) "Obligations" means bonds, notes, bond anticipation notes, commercial paper, or other obligations for borrowed money, or lease, installment purchase, or other similar financing agreements or certificates of participation in such agreements.

(5) "Payment agreement" means a written agreement which provides for an exchange of payments based on interest rates, or for ceilings or floors on these payments, or an option on these payments, or any combination, entered into on either a current or forward basis.

(6) "State government" means (a) the state of Washington, acting by and through its state finance committee, (b) the Washington health care facilities authority, (c) the Washington higher education facilities authority, (d) the Washington state housing finance commission, or (e) the state finance committee upon adoption of a resolution approving a payment agreement on behalf of any state institution of higher education as defined under RCW 28B.10.016: PROVIDED, That such approval shall not constitute the pledge of the full faith and credit of the state, but a pledge of only those funds specified in the approved agreement.

[1993 c 273 § 2.]

RCW 39.96.030 Payment agreements authorized--Conditions.

(1) Subject to subsections (2) and (3) of this section, any governmental entity may enter into a payment agreement in connection with, or incidental to, the issuance, incurring, or carrying of specific obligations, for the purpose of managing or reducing the governmental entity's exposure to fluctuations or levels of interest rates. No governmental entity may carry on a business of acting as a dealer in payment agreements. Nothing in this chapter shall be construed to provide governmental entities with separate or additional authority to invest funds or moneys relating to or held in connection with any obligations.

(2) No governmental entity may enter into a payment agreement under this chapter unless it first:

(a) Finds and determines, by ordinance or resolution, that the payment agreement, if fully performed by all parties thereto, will (i) reduce the amount or duration of its exposure to changes in interest rates; or (ii) result in a lower net cost of borrowing with respect to the related obligations;

(b) Obtains, on or prior to the date of execution of the payment agreement, a written certification from a financial advisor that (i) the terms and conditions of the payment agreement and any ancillary agreements, including without limitation, the interest rate or rates and any other amounts payable thereunder, are commercially reasonable in light of then existing market conditions; and (ii) the finding and determination contained in the ordinance or resolution required by (a) of this subsection is reasonable.

(3) Prior to selecting the other party to a payment agreement, a governmental entity shall solicit and give due consideration to proposals from at least two entities that meet the criteria set forth in RCW 39.96.040(2). Such solicitation and consideration shall be conducted in such manner as the governmental entity shall determine is reasonable.

[2000 c 184 § 2; 1993 c 273 § 3.]

Notes:

Effective date--2000 c 184: See note following RCW 39.96.010.

RCW 39.96.040 Terms and conditions.

(1) Subject to subsections (2), (3), and (4) of this section, payment agreements entered into by any governmental entity may include those payment, term, security, default, remedy, termination, and other terms and conditions, and may be with those parties, as the governmental entity deems reasonably necessary or desirable.

(2) No governmental entity may enter into a payment agreement under this chapter unless:

(a) The other party to the agreement has a rating from at least two nationally recognized credit rating agencies, as of the date of execution of the agreement, that is within the two highest long-term investment grade rating categories, without regard to subcategories, or the payment

obligations of the party under the agreement are unconditionally guaranteed by an entity that then has the required ratings; or

(b)(i) The other party to the agreement has a rating from at least two nationally recognized credit rating agencies, as of the date of execution of the agreement, that is within the three highest long-term investment grade rating categories, without regard to subcategories, or the payment obligations of the party under the agreement are unconditionally guaranteed by an entity that has the required ratings; and

(ii) The payment obligations of the other party under the agreement are collateralized by direct obligations of, or obligations the principal and interest on which are guaranteed by, the United States of America, that (A) are deposited with the governmental entity or an agent of the governmental entity; and (B) maintain a market value of not less than one hundred two percent of the net market value of the payment agreement to the governmental entity, as such net market value may be defined and determined from time to time under the terms of the payment agreement.

(3) No governmental entity may enter into a payment agreement with a party who qualifies under subsection (2)(a) of this section unless the payment agreement provides that, in the event the credit rating of the other party or its guarantor falls below the level required by subsection (2)(a) of this section, such party will comply with the collateralization requirements contained in subsection (2)(b) of this section.

(4) No governmental entity may enter into a payment agreement unless:

(a) The notional amount of the payment agreement does not exceed the principal amount of the obligations with respect to which the payment agreement is made; and

(b) The term of the payment agreement does not exceed the final term of the obligations with respect to which the payment agreement is made.

[1993 c 273 § 4.]

RCW 39.96.050 Payments--Credit enhancements.

(1) Subject to any covenants or agreements applicable to the obligations issued or incurred by the governmental entity, any payments required to be made by the governmental entity under a payment agreement entered into in connection with the issuance, incurring, or carrying of those obligations may be made from money set aside or pledged to pay or secure the payment of those obligations or from any other legally available source.

(2) Any governmental entity may enter into credit enhancement, liquidity, line of credit, or other similar agreements in connection with, or incidental to, the execution of a payment agreement. The credit enhancement, liquidity, line of credit, or other similar agreement may include those payment, term, security, default, remedy, termination, and other terms and conditions, and may be with those parties, as the governmental entity deems reasonably necessary or desirable.

[1993 c 273 § 5.]

RCW 39.96.060 Calculations regarding payment of obligations--Status of payments.

(1) Subject to any covenants or agreements applicable to the obligations issued or incurred by the governmental entity, if the governmental entity enters into a payment agreement with respect to those obligations, then it may elect to treat the amounts payable from time to time with respect to those obligations as the amounts payable after giving effect to the payment agreement for the purposes of calculating:

(a) Rates and charges to be imposed by a revenue-producing enterprise if the revenues are pledged or used to pay those obligations;

(b) Any taxes to be levied and collected to pay those obligation[s]; and

(c) Payments or debt service on those obligations for any other purpose.

(2) A payment agreement and any obligation of the governmental entity to make payments under the agreement in future fiscal years shall not constitute debt or indebtedness of the governmental entity for purposes of state constitutional and statutory debt limitation provisions if the obligation to make any payments is contingent upon the performance of the other party or parties to the agreement, and no moneys are paid to the governmental entity under the payment agreement that must be repaid in future fiscal years.

[1993 c 273 § 6.]

RCW 39.96.070 Payment agreements not allowed after June 30, 2005--Exception.

(1) Except as provided in subsection (3) of this section, no governmental entity may enter a payment agreement under RCW 39.96.030 after June 30, 2005.

(2) The termination of authority to enter payment agreements after June 30, 2005, shall not affect the validity of any payment agreements or other contracts entered into under RCW 39.96.030 on or before that date.

(3) A governmental entity may enter into a payment agreement under and in accordance with this chapter after June 30, 2005, to replace a payment agreement that relates to specified obligations issued on or before that date and that has terminated before the final term of those obligations.

[2000 c 184 § 3; 1998 c 245 § 35; 1995 c 192 § 2; 1993 c 273 § 7.]

Notes:

Effective date--2000 c 184: See note following RCW 39.96.010.

Effective date--1995 c 192: See note following RCW 39.96.010.

RCW 39.96.080 Authority cumulative.

The powers conferred by this chapter are in addition to, and not in substitution for, the powers conferred by any existing law, and the limitations imposed by this chapter do not directly or indirectly modify, limit, or affect the powers conferred by any existing law.

[1993 c 273 § 8.]

RCW 39.96.900 Liberal construction--1993 c 273.

This chapter shall be liberally construed to effect its purposes.

[1993 c 273 § 9.]

RCW 39.96.901 Captions not law--1993 c 273.

Captions used in this chapter do not constitute any part of the law.

[1993 c 273 § 10.]

RCW 39.96.902 Severability--1993 c 273.

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

[1993 c 273 § 11.]

RCW 39.96.903 Effective date--1993 c 273.

This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 7, 1993].

[1993 c 273 § 13.]

**Chapter 39.98 RCW
SCHOOL DISTRICT CREDIT ENHANCEMENT PROGRAM**

Sections

39.98.010	Finding--School district debt obligation not removed.
39.98.020	Definitions.
39.98.030	Bonds guaranteed by full faith, credit, and taxing power of the state--Reference to chapter on face of bond conclusively establishes guaranty.
39.98.040	Certificate issued by state treasurer evidence of guaranty--Limitations on issuance of guaranteed bonds--Fees.
39.98.050	Debt service payments--Notifications upon nonpayment--Payments by state treasurer--Repayment.
39.98.060	Reimbursement of state-paid debt service payments--Interest and penalties--Legal actions--Revision of collection of taxes to meet obligations.
39.98.070	Appropriation required.
39.98.080	Adoption of rules.
39.98.900	Contingent effective date--1999 c 273.

RCW 39.98.010 Finding--School district debt obligation not removed.

The legislature finds that implementation of the credit enhancement program provided for in this chapter can provide substantial savings to the taxpayers of the state of Washington with minimal cost or risk to the state government. The guaranty provided by pledging the credit of the state to the payment of voter-approved school district general obligation bonds will encourage lower interest rates, and therefore lower taxes, for such bonds than school districts alone can command, despite the excellent credit history of such obligations. Any such guarantee does not remove the debt obligation of the school district and is not state debt.

[1999 c 273 § 1.]

RCW 39.98.020 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Bond" means any voted general obligation bond issued by a school district, holding a certificate issued pursuant to this chapter for such a bond.

(2) "Credit enhancement program" means the school district bond guaranty established by this chapter.

(3) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a district that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitations.

(4) "Paying agent" means the paying agent selected, from time to time, for a bond issue pursuant to state law.

(5) "Refunding bond" means any general obligation bond issued by a district for the purpose of refunding its outstanding general obligation bonds.

(6) "School district" or "district" means any school district existing now or later under the laws of the state.

[1999 c 273 § 2.]

RCW 39.98.030 Bonds guaranteed by full faith, credit, and taxing power of the state--Reference to chapter on face of bond conclusively establishes guaranty.

(1)(a) The full faith, credit, and taxing power of the state is pledged to guarantee full and timely payment of the principal of and interest on bonds as such payments become due. However, in the event of any acceleration of the due date of the principal by reason of mandatory redemption or acceleration resulting from default, the payments guaranteed shall be made in the amounts and at the times as payments of principal would have been due had there not been any acceleration.

(b) This guaranty does not extend to the payment of any redemption premium.

(c) Reference to this chapter by its title on the face of any bond conclusively establishes the guaranty provided to that bond under the provisions of this chapter.

(2)(a) The state pledges to and agrees with the owners of any bonds that the state will not alter, impair, or limit the rights vested by the credit enhancement program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged. However, this chapter does not preclude an alteration, impairment, or limitation if full provision is made by law for the payment of the bonds.

(b) Each district may refer to this pledge and undertaking by the state in its bonds.

(3) Only validly issued bonds issued after January 1, 2000, may be guaranteed under this chapter.

[1999 c 273 § 3.]

RCW 39.98.040 Certificate issued by state treasurer evidence of guaranty--Limitations on issuance of guaranteed bonds--Fees.

(1)(a) Any district, by resolution of its board of directors, may request that the state treasurer issue a certificate evidencing the state's guaranty, under this chapter, of its bonds.

(b) After reviewing the request, if the state treasurer determines that the district is eligible under rules adopted by the state finance committee, the state treasurer shall promptly issue the certificate as to specific bonds of the district and provide it to the requesting district.

(c)(i) The district receiving the certificate and all other persons may rely on the certificate as evidencing the guaranty for bonds issued within one year from and after the date of the certificate, without making further inquiry during that year.

(ii) The certificate of eligibility is valid for one year even if the state treasurer later determines that the school district is ineligible.

(2) Any district that chooses to forego the benefits of the guaranty provided by this chapter for a particular issue of bonds may do so by not referring to this chapter on the face of its bonds.

(3) Any district that has bonds, the principal of or interest on which has been paid, in whole or in part, by the state under this chapter, may not issue any additional bonds guaranteed by this chapter until:

(a) All payment obligations of the district to the state under the credit enhancement program are satisfied; and

(b) The state treasurer and the state superintendent of public instruction each certify in writing, to be kept on file by the state treasurer and the state superintendent of public instruction, that the district is fiscally solvent.

(4) The state finance committee may establish by rule fees sufficient to cover the costs of administering this chapter.

[1999 c 273 § 4.]

RCW 39.98.050 Debt service payments--Notifications upon nonpayment--Payments by state treasurer--Repayment.

(1)(a) The county treasurer for each district with outstanding, unpaid bonds shall transfer

money sufficient for each scheduled debt service payment to its paying agent on or before any principal or interest payment date for the bonds.

(b) A county treasurer who is unable to transfer a scheduled debt service payment to the paying agent on the transfer date shall immediately notify the paying agent and the state treasurer by:

- (i) Telephone;
- (ii) A writing sent by facsimile or electronic transmission; and
- (iii) A writing sent by first class United States mail.

(2) If sufficient funds are not transferred to the paying agent as required by subsection (1) of this section, the paying agent shall immediately notify the state treasurer of that failure by:

- (a) Telephone;
- (b) A writing sent by facsimile or electronic transmission; and
- (c) A writing sent by first class United States mail.

(3)(a) If sufficient money to pay the scheduled debt service payment have not been so transferred to the paying agent, the state treasurer shall, forthwith, transfer sufficient money to the paying agent to make the scheduled debt service payment.

(b) The payment by the state treasurer:

(i) Discharges the obligation of the issuing district to its bond owners for the payment, but does not retire any bond that has matured. The terms of that bond remain in effect until the state is repaid; and

(ii) Transfers the rights represented by the general obligation of the district from the bond owners to the state.

(c) The district shall repay to the state the money so transferred as provided in this chapter.

[1999 c 273 § 5.]

RCW 39.98.060 Reimbursement of state-paid debt service payments--Interest and penalties--Legal actions--Revision of collection of taxes to meet obligations.

(1) Any district that has issued bonds for which the state has made all or part of a debt service payment shall:

(a) Reimburse all money drawn by the state treasurer on its behalf;

(b) Pay interest to the state on all money paid by the state from the date that money was drawn to the date the state is repaid at a rate to be prescribed by rule by the state finance committee; and

(c) Pay all penalties required by this chapter.

(2)(a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the district on the state, market interest and penalty rates, and the cost of funds or opportunity cost of investments, if any, that were required to be borrowed or liquidated by the state to make payment on the bonds.

(b) The state treasurer may, after considering the circumstances giving rise to the failure of the district to make payment on its bonds in a timely manner, impose on the district a penalty

of not more than five percent of the amount paid by the state pursuant to its guaranty for each instance in which a payment by the state is made.

(3)(a)(i) If the state treasurer determines that amounts obtained under this chapter will not reimburse the state in full within one year from the state's payment of a district's scheduled debt service payment, the state treasurer may pursue any legal action, including mandamus, against the district to compel it to meet its repayment obligations to the state.

(ii) In pursuing its rights under (a)(i) of this subsection, the state shall have the same substantive and procedural rights as would a holder of the bonds of a district. If and to the extent that the state has made payments to the holders of bonds of a district under RCW 39.98.050 and has not been reimbursed by the district, the state shall be subrogated to the rights of those bond holders.

(iii) The state treasurer may also direct the district and the appropriate county officials to restructure and revise the collection of taxes for the payment of bonds on which the state treasurer has made payments under this chapter and, to the extent permitted by law, may require that the proceeds of such taxes be applied to the district's obligations to the state if all outstanding obligations of the school district payable from such taxes are fully paid or their payment is fully provided for.

(b) The district shall pay the fees, expenses, and costs incurred by the state in recovering amounts paid under the guaranty authorized by this chapter.

[1999 c 273 § 6.]

RCW 39.98.070 Appropriation required.

In order to effect the provisions of Article VIII, section 1(e) of the state Constitution, Senate Joint Resolution No. 8206, the legislature shall make provision for such amounts as may be required to make timely payments under the state school district credit enhancement program under this chapter in each and every biennial appropriations act.

[1999 c 273 § 7.]

RCW 39.98.080 Adoption of rules.

The state finance committee may adopt, under chapter 34.05 RCW, all rules necessary and appropriate for the implementation and administration of this chapter.

[1999 c 273 § 8.]

RCW 39.98.900 Contingent effective date--1999 c 273.

This act takes effect January 1, 2000, if the proposed amendment to Article VIII, section 1 of the state Constitution, guaranteeing the general obligation debt of school districts, is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, this act is void in its entirety.

[1999 c 273 § 10.]

Notes:

Reviser's note: 1999 Senate Joint Resolution No. 8206 was approved at the November 1999 general election. See Article VIII, section 1 and Amendment 78 of the state Constitution.

**Title 40 RCW
PUBLIC DOCUMENTS, RECORDS, AND PUBLICATIONS**

Chapters

- 40.04 Public documents.**
- 40.06 State publications distribution center.**
- 40.07 Management and control of state publications.**
- 40.10 Microfilming of records to provide continuity of civil government.**
- 40.14 Preservation and destruction of public records.**
- 40.16 Penal provisions.**
- 40.20 Reproduced records for governments and business.**
- 40.24 Address confidentiality for victims of domestic violence, sexual assault, and stalking.**

NOTES:

Disclosure of public records: Chapter 42.17 RCW.

Historical materials, preservation: Chapter 27.48 RCW.

Minutes of governmental agencies open to public inspection: RCW 42.32.030.

Newspapers: Chapter 19.56 RCW.

Public documents as evidence: Chapter 5.44 RCW.

Publication of legal notices: Chapter 65.16 RCW.

Recording, registration, and legal publication: Title 65 RCW.

Records and exhibits of superior court, destruction, reproduction: RCW 36.23.065, 36.23.067, 36.23.070.

State records

secretary of state as custodian: RCW 43.07.040.

to be kept at the seat of government: State Constitution Art. 3 § 24.

Uniform business records as evidence act: Chapter 5.45 RCW.

Uniform photographic copies of business and public records as evidence act: Chapter 5.46 RCW.

**Chapter 40.04 RCW
PUBLIC DOCUMENTS**

Sections

- 40.04.030 Session laws, legislative journals, supreme court and court of appeals reports--Duties of public printer, publisher.
- 40.04.035 Temporary edition of session laws--Distribution and sale.
- 40.04.040 Permanent edition of session laws--Distribution, sale, exchange--Sale of surplus copies.
- 40.04.090 Legislative journals--Distribution, sale, exchange.
- 40.04.100 Supreme court and court of appeals reports--Distribution, exchange--Duties of reporter of decisions.
- 40.04.110 Supreme court and court of appeals reports--Provision by publisher to reporter.

Notes:

Attorney general to give written opinions: RCW 43.10.030.

Revised Code of Washington, publication: Chapter 1.08 RCW.

Session laws, publication, etc.: Chapter 44.20 RCW.

Supreme court reports, publication: Chapter 2.32 RCW, RCW 43.78.070.

RCW 40.04.030 Session laws, legislative journals, supreme court and court of appeals reports--Duties of public printer, publisher.

The public printer shall deliver to the statute law committee all bound volumes of the session laws. The public printer shall deliver the house and senate journals as they are published to the chief clerk of the house of representatives and the secretary of the senate, as appropriate. The publisher of the supreme court reports and the court of appeals reports of the state of Washington shall deliver the copies that are purchased by the supreme court for the use of the state to the state law librarian.

[1995 c 24 § 1; 1971 c 42 § 2; 1941 c 150 § 3; Rem. Supp. 1941 § 8217-3.]

RCW 40.04.035 Temporary edition of session laws--Distribution and sale.

The statute law committee, after each legislative session, shall furnish one temporary bound copy of each act as published under chapter 44.20 RCW to each requesting member of the legislature at which such law was enacted, and to each requesting state department or division thereof, commission, committee, board, and council, and to community colleges. Copies shall be furnished to the senate and the house of representatives as may be requested. Two copies shall be furnished the administrator for the courts. One copy shall be furnished for each assistant attorney general; and one copy each to the Olympia representatives of the Associated Press and the United Press.

Each county auditor shall submit each year to the statute law committee a list of county officials requiring temporary session laws for official use only, and the auditor shall receive and distribute such copies to the county officials.

There shall be a charge established by the statute law committee for each of the complete sets of such temporary publications when delivered to any person, firm, corporation, or institution excepting the persons and institutions named in this section. All moneys received from the sale of such temporary sets shall be transmitted to the state treasurer, who shall deposit them in the state treasury to the credit of the general fund.

[1995 c 24 § 2; 1982 1st ex.s. c 32 § 5.]

Notes:

Publication of temporary edition of session laws: RCW 44.20.030.

RCW 40.04.040 Permanent edition of session laws--Distribution, sale, exchange--Sale

of surplus copies.

Permanent session laws shall be distributed, sold, and exchanged by the statute law committee as follows:

(1) Copies shall be given as follows: One to each requesting United States senator and representative in congress from this state; two to the Library of Congress; one to the United States supreme court library; three to the library of the circuit court of appeals of the ninth circuit; two to each United States district court room within this state; two to each office and branch office of the United States district attorneys in this state; one to each requesting state official whose office is created by the Constitution; one each to the secretary of the senate and the chief clerk of the house of representatives and such additional copies as they may request; fourteen copies to the code reviser; two copies to the state library; two copies each to the law libraries of any accredited law schools established in this state; one copy to each state adult correctional institution; and one copy to each state mental institution.

(2) Copies, for official use only, shall be distributed as follows: Two copies to the governor; one each to the state historical society and the state bar association; and one copy to each prosecuting attorney.

Sufficient copies shall be furnished for the use of the supreme court, the court of appeals, the superior courts, and the state law library as from time to time are requested. One copy to the University of Washington library; one copy to the library of each of the regional universities and to The Evergreen State College; and one copy to the Washington State University library. Six copies shall be sent to the King county law library, and one copy to each of the county law libraries organized pursuant to law; one copy to each public library in cities of the first class, and one copy to the municipal reference branch of the Seattle public library.

(3) Surplus copies of the session laws shall be sold and delivered by the statute law committee, in which case the price of the bound volumes shall be sufficient to cover costs. All moneys received from the sale of such bound volumes of session laws shall be paid into the state treasury for the general fund.

(4) The statute law committee may exchange bound copies of the session laws for similar laws or legal materials of other states, territories, and governments, and make such other and further distribution of the bound volumes as in its judgment seems proper.

[1995 c 24 § 3; 1982 1st ex.s. c 32 § 1; 1981 c 162 § 1; 1977 ex.s. c 169 § 94; 1973 c 33 § 1; 1969 c 6 § 8; 1941 c 150 § 4; Rem. Supp. 1941 § 8217-4. Formerly RCW 40.04.040 through 40.04.080.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.
Publication of permanent edition of session laws: RCW 44.20.050.

RCW 40.04.090 Legislative journals--Distribution, sale, exchange.

The house and senate journals shall be distributed and sold by the chief clerk of the house of representatives and the secretary of the senate as follows:

(1) Subject to subsection (5) of this section, sets shall be distributed as follows: One to each requesting official whose office is created by the Constitution, and one to each requesting

state department director; two copies to the state library; ten copies to the state law library; two copies to the University of Washington library; one to the King county law library; one to the Washington State University library; one to the library of each of the regional universities and to The Evergreen State College; one each to the law library of any accredited law school in this state; and one to each free public library in the state that requests it.

(2) House and senate journals of the preceding regular session during an odd- or even-numbered year, and of any intervening special session, shall be provided for use of legislators and legislative staff in such numbers as directed by the chief clerk of the house of representatives and secretary of the senate.

(3) Surplus sets of the house and senate journals shall be sold and delivered by the chief clerk of the house of representatives and the secretary of the senate at a price set by them after consulting with the state printer to determine reasonable costs associated with the production of the journals, and the proceeds therefrom shall be paid to the state treasurer for the general fund.

(4) The chief clerk of the house of representatives and the secretary of the senate may exchange copies of the house and senate journals for similar journals of other states, territories, and governments, or for other legal materials, and make such other and further distribution of them as in their judgment seems proper.

(5) Periodically the chief clerk of the house of representatives and the secretary of the senate may canvas those entitled to receive copies under this section, and may reduce or eliminate the number of copies distributed to anyone who so concurs.

[1995 c 24 § 4; 1993 c 169 § 1; 1982 1st ex.s. c 32 § 2; 1980 c 87 § 13; 1977 ex.s. c 169 § 95; 1973 c 33 § 2; 1941 c 150 § 5; Rem. Supp. 1941 § 8217-5.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 40.04.100 Supreme court and court of appeals reports--Distribution, exchange--Duties of reporter of decisions.

The supreme court reports and the court of appeals reports shall be distributed by the reporter of decisions as follows:

(1) Each supreme court justice and court of appeals judge is entitled to receive one copy of each volume containing an opinion signed by him or her.

(2) The state law library shall receive such copies as are necessary of each for the benefit of the state law library, the supreme court and its subsidiary offices; and the court of appeals and its subsidiary offices.

(3) The reporter shall provide one copy of each volume to each county for use in the county law library and one copy of the same to each accredited law school established in the state.

(4) The reporter shall likewise provide the state law library with such copies of volumes as necessary to exchange copies of the supreme court reports and the court of appeals reports for similar reports of other states, territories, and governments.

[1995 c 257 § 4; 1991 c 363 § 113; 1979 c 151 § 49; 1973 c 33 § 3; 1971 c 42 § 3; 1941 c 150 § 6; Rem. Supp. 1941 § 8217-6.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Commission on supreme court reports: RCW 2.32.160.

Publication of supreme court reports by public printer: RCW 43.78.070.

RCW 40.04.110 Supreme court and court of appeals reports--Provision by publisher to reporter.

On the publication of each volume of reports the publisher to whom the contract is awarded shall provide to the reporter the number of copies of each volume of supreme court and court of appeals reports necessary for the reporter and the state law library to comply with RCW 40.04.100.

[1995 c 257 § 5; 1971 c 42 § 4; 1941 c 150 § 7; Rem. Supp. 1941 § 8217-7.]

**Chapter 40.06 RCW
STATE PUBLICATIONS DISTRIBUTION CENTER**

Sections

40.06.010	Definitions.
40.06.020	Center created as division of state library--Depository library system--Rules and regulations.
40.06.030	Deposits by state agencies--Exemptions.
40.06.040	Inter-library depository contracts.
40.06.050	Center to publish list and other printed matter.
40.06.060	Agencies to furnish lists to center.
40.06.070	Exemptions.
40.06.900	Effective date--1963 c 233.

RCW 40.06.010 Definitions.

As used in this chapter:

(1) "Print" includes all forms of reproducing multiple copies, with the exception of typewritten correspondence and interoffice memoranda.

(2) "State agency" includes every state office, officer, department, division, bureau, board, commission and agency of the state, and, where applicable, all subdivisions of each.

(3) "State publication" includes annual, biennial, and special reports, state periodicals and magazines, books, pamphlets, leaflets, and all other materials, other than news releases sent exclusively to the news media, typewritten correspondence and interoffice memoranda, issued in print by the state, the legislature, constitutional officers, or any state department, committee, or other state agency supported wholly or in part by state funds.

[1977 ex.s. c 232 § 8; 1963 c 233 § 1.]

RCW 40.06.020 Center created as division of state library--Depository library system--Rules and regulations.

There is hereby created as a division of the state library, and under the direction of the state librarian, a state publications distribution center. The center shall utilize the depository library system to permit citizens economical and convenient access to state publications. To this end the state library commission shall make such rules and regulations as may be deemed necessary to carry out the provisions of this chapter.

[1977 ex.s. c 232 § 9; 1963 c 233 § 2.]

RCW 40.06.030 Deposits by state agencies--Exemptions.

(1) Every state agency shall promptly deposit copies of each of its state publications with the state library in quantities as certified by the state librarian as required to meet the needs of the depository library system. Upon consent of the issuing state agency such state publications as are printed by the public printer shall be delivered directly to the center.

(2) In the interest of economy and efficiency, the state librarian may specifically or by general rule exempt a given state publication or class of publications from the requirements of this section in full or in part.

[1977 ex.s. c 232 § 10; 1963 c 233 § 3.]

RCW 40.06.040 Inter-library depository contracts.

To provide economical public access to state publications, the center may enter into depository contracts with any free public library, The Evergreen State College, regional university, or state university library, or, if needed, the library of any privately incorporated college or university in this state. The requirements for eligibility to contract as a depository library shall be established by the state library commission upon recommendations of the state librarian. The standards shall include and take into consideration the type of library, available housing and space for the publications, the number and qualifications of personnel, and availability for public use. The center may also contract with public, out-of-state libraries for the exchange of state and other publications on a reciprocal basis. Any state publication to be distributed to the public and the legislature shall be mailed at the lowest available postal rate.

[1981 c 260 § 8. Prior: 1977 ex.s. c 232 § 11; 1977 ex.s. c 169 § 96; 1963 c 233 § 4.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 40.06.050 Center to publish list and other printed matter.

The center shall publish and distribute regularly a list of available state publications, and may publish and distribute such other descriptive printed matter as will facilitate the distribution of state publications.

[1963 c 233 § 5.]

RCW 40.06.060 Agencies to furnish lists to center.

Upon request by the center, issuing state agencies shall furnish the center with a complete list of its current state publications and a copy of its mailing and/or exchange lists.

[1963 c 233 § 6.]

RCW 40.06.070 Exemptions.

This chapter shall not apply to nor affect the duties concerning publications distributed by, or officers of:

- (1) The state law library; and
- (2) The statute law committee and the code reviser.

[1983 c 3 § 83; 1963 c 233 § 7.]

RCW 40.06.900 Effective date--1963 c 233.

The effective date of this chapter shall be July 1, 1963.

[1963 c 233 § 8.]

**Chapter 40.07 RCW
MANAGEMENT AND CONTROL OF STATE PUBLICATIONS**

Sections

40.07.010	Legislative declaration.
40.07.020	Definitions.
40.07.030	Reports--Where filed--Review of state publications--Duties of agency head with respect to publications--Guidelines for publications--Director's duties.
40.07.040	Duties of the governor.
40.07.050	Prohibition of state publications not in accordance with RCW 40.07.030--Exceptions.
40.07.060	Notification--Removal from mailing lists, exceptions--Mailing rates.
40.07.070	Advertising in state publications--Prerequisites for advertisers.

RCW 40.07.010 Legislative declaration.

It is the intent of this legislation to improve executive management and control of state publications and reduce state expenditures through: (1) Elimination of reports and publications

which are economically or otherwise unjustified; and (2) the simplification and consolidation of other reports and publications.

[1977 ex.s. c 232 § 1.]

RCW 40.07.020 Definitions.

The terms defined in this section shall have the meanings indicated when used in this chapter.

(1) "Director" means the director of financial management.

(2) "State agency" includes every state office, department, division, bureau, board, commission, committee, higher education institution, community college, and agency of the state and all subordinate subdivisions of such agencies in the executive branch financed in whole or in part from funds held in the state treasury, but does not include the offices of executive officials elected on a state-wide basis, agricultural commodity commissions, the legislature, the judiciary, or agencies of the legislative or judicial branches of state government.

(3)(a) "State publication" means publications of state agencies and shall include any annual and biennial reports, any special report required by law, state agency newsletters, periodicals and magazines, and other printed informational material intended for general dissemination to the public or to the legislature.

(b) "State publication" may include such other state agency printed informational material as the director may prescribe by rule or regulation, in the interest of economy and efficiency, after consultation with the governor, the state librarian, and any state agencies affected.

(c) "State publication" does not include:

(i) Business forms, preliminary draft reports, working papers, or copies of testimony and related exhibit material prepared solely for purposes of a presentation to a committee of the state legislature;

(ii) Typewritten correspondence and interoffice memoranda, and staff memoranda and similar material prepared exclusively as testimony or exhibits in any proceeding in the courts of this state, the United States, or before any administrative entity;

(iii) Any notices of intention to adopt rules under RCW 34.05.320;

(iv) Publications relating to a multistate program financed by more than one state or by federal funds or private subscriptions; or

(v) News releases sent exclusively to the news media.

(4) "Print" includes all forms of reproducing multiple copies with the exception of typewritten correspondence and interoffice memoranda.

[1989 c 175 § 86; 1979 c 151 § 50; 1977 ex.s. c 232 § 2.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 40.07.030 Reports--Where filed--Review of state publications--Duties of agency

head with respect to publications--Guidelines for publications--Director's duties.

(1) Any annual, biennial, or special report required to be made by any state officer, board, agency, department, commissioner, regents, trustees, or institution to the governor or to the legislature may be typewritten and a copy shall be filed with the governor, or the governor's designee, and the legislature as the law may require. An additional copy shall be filed with the state library as a public record.

(2) The director or the director's designee may selectively review state publications in order to determine if specific state publications are economically and effectively contributing to the accomplishment of state agency program objectives. The director or the director's designee shall provide general guidelines as to the number of copies to be printed for use or distribution by the issuing agency and any public or other distribution under chapter 40.06 RCW as now or hereafter amended, or other applicable directives.

(3) No agency head shall recommend a state publication for printing and distribution, other than those required by law, unless the benefits from the publication and distribution thereof to the citizens and taxpayers of this state clearly exceed the costs of preparation, printing, and distribution.

(4) The director, after consultation with affected agencies, shall prepare and publish guidelines for use by state agencies in determining and evaluating the benefits and costs of current and proposed state publications. All state agencies shall evaluate each new state publication they propose and shall annually evaluate each continuing state publication they produce in accordance with the guidelines published by the director.

(5) The director shall, after consultation with affected state agencies, also provide by general rules and regulations for overall control of the quality of the printing of state publications. Necessary publications are to be prepared and printed in the most economic manner consistent with effectiveness and achievement of program objectives.

[1977 ex.s. c 232 § 3.]

RCW 40.07.040 Duties of the governor.

(1) The governor or the governor's designee shall take such other action as may be necessary to maximize the economy, efficiency, and effectiveness of state publications and to do so may eliminate, consolidate, or simplify state agency publications.

(2) Nothing in this chapter shall be construed in any way as restricting public access to public records or the public right to copy such records as provided by RCW 42.17.250 through 42.17.340 as now existing or hereafter amended.

[1977 ex.s. c 232 § 4.]

RCW 40.07.050 Prohibition of state publications not in accordance with RCW 40.07.030--Exceptions.

Neither the public printer nor any state agency shall print or authorize for printing any state publication that has been determined by the director to be inconsistent with RCW 40.07.030

except to the extent this requirement may conflict with the laws of the United States or any rules or regulations lawfully promulgated under those laws. A copy of any state publication printed without the approval of the director under the exceptions authorized in this section shall be filed with the director with a letter of transmittal citing the federal statute, rule, or regulation requiring the publication.

[1986 c 158 § 5; 1977 ex.s. c 232 § 5.]

RCW 40.07.060 Notification--Removal from mailing lists, exceptions--Mailing rates.

Each state agency shall at least once each biennium notify the addressees of each state publication in or with that publication that they may be removed from the mailing list by notifying the originating agency. Mailings required by a state or federal statute, rule, or regulation, those maintained by an institution of higher education for official fund raising or curriculum offerings, bulk mailings addressed to "occupant" or a similar designation, and paid subscriptions are excluded from the provisions of this paragraph.

All publications shall be distributed or mailed at the lowest available rate.

[1977 ex.s. c 232 § 6.]

RCW 40.07.070 Advertising in state publications--Prerequisites for advertisers.

A state agency may not accept advertising for placement in a state publication unless the advertiser: (1) Has obtained a certificate of registration from the department of revenue under chapter 82.32 RCW; and (2) if the advertiser is not otherwise obligated to collect and remit Washington retail sales tax or use tax, the advertiser either (a) agrees to voluntarily collect and remit the Washington use tax upon all sales to Washington consumers, or (b) agrees to provide to the department of revenue, no less frequently than quarterly, a listing of the names and addresses of Washington customers to whom sales were made. This section does not apply to advertising that does not offer items for sale or to advertising that does not solicit orders for sales.

[1993 c 74 § 1.]

Notes:

Effective date--1993 c 74: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 74 § 2.]

**Chapter 40.10 RCW
MICROFILMING OF RECORDS TO PROVIDE CONTINUITY OF CIVIL
GOVERNMENT**

Sections

40.10.010 Essential records--Designation--List--Security and protection--Reproduction.
40.10.020 Essential records--Reproduction and storage--Coordination of protection program--Fees.

RCW 40.10.010 Essential records--Designation--List--Security and protection--Reproduction.

In order to provide for the continuity and preservation of civil government, each elected and appointed officer of the state shall designate those public documents which are essential records of his office and needed in an emergency and for the reestablishment of normal operations after any such emergency. A list of such records shall be forwarded to the state archivist on forms prescribed by the state archivist. This list shall be reviewed at least annually by the elected or appointed officer to insure its completeness. Any changes or revisions following this review shall be forwarded to the state archivist. Each such elected and appointed officer of state government shall insure that the security of essential records of his office is by the most economical means commensurate with adequate protection. Protection of essential records may be by vaulting, planned or natural dispersal of copies, or any other method approved by the state archivist. Reproductions of essential records may be by photo copy, magnetic tape, microfilm or other method approved by the state archivist. Local government offices may coordinate the protection of their essential records with the state archivist as necessary to provide continuity of local government under emergency conditions.

[1982 c 36 § 1; 1973 c 54 § 1; 1963 c 241 § 1.]

Notes:

Severability--1973 c 54: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 54 § 6.]

RCW 40.10.020 Essential records--Reproduction and storage--Coordination of protection program--Fees.

The state archivist is authorized to reproduce those documents designated as essential records by the several elected and appointed officials of the state and local government by microfilm or other miniature photographic process and to assist and cooperate in the storage and safeguarding of such reproductions in such place as is recommended by the state archivist with the advice of the director of community, trade, and economic development. The state archivist shall coordinate the essential records protection program and shall carry out the provisions of the state emergency plan as they relate to the preservation of essential records. The state archivist is authorized to charge the several departments of the state and local government the actual cost incurred in reproducing, storing and safeguarding such documents: PROVIDED, That nothing herein shall authorize the destruction of the originals of such documents after reproduction thereof.

[1995 c 399 § 58; 1986 c 266 § 45; 1985 c 7 § 106; 1982 c 36 § 2; 1973 c 54 § 2; 1963 c 241 § 2.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

Chapter 40.14 RCW
PRESERVATION AND DESTRUCTION OF PUBLIC RECORDS

Sections

- 40.14.010 Definition and classification of public records.
- 40.14.020 Division of archives and records management--State archivist--Powers and duties--Duties of public officials.
- 40.14.025 Division of archives and records management--Allocation of costs of services--Archives and records management account.
- 40.14.027 Public archives and records management services--Judgment debtor surcharge.
- 40.14.030 Transfer to state archives--Certified copies, cost.
- 40.14.040 Records officers--Designation--Powers and duties.
- 40.14.050 Records committee--Composition, travel expenses, meetings, powers and duties--Retention schedules.
- 40.14.060 Destruction, disposition of official public records or office files and memoranda--Record retention schedules.
- 40.14.070 Destruction, disposition of local government records--Preservation for historical interest--Local records committee, duties--Record retention schedules.
- 40.14.080 Chapter not to affect other laws.
- 40.14.100 Legislative records--Defined.
- 40.14.110 Legislative records--Contribution of papers by legislators and employees.
- 40.14.120 Legislative records--"Clerk," "secretary" defined.
- 40.14.130 Legislative records--Duties of legislative officials, employees and state archivist--Delivery of records--Custody--Availability.
- 40.14.140 Legislative records--Party caucuses to be advised--Information and instructions.
- 40.14.150 Legislative records--Use for research.
- 40.14.160 Legislative records--Rules for access to records.
- 40.14.170 Legislative records--Sound recordings.
- 40.14.180 Legislative records--Construction--Confidentiality of bill drafting records.

Notes:

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

RCW 40.14.010 Definition and classification of public records.

As used in this chapter, the term "public records" shall include any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, machine-readable material, compact disc meeting current industry ISO specifications, or other document, regardless of physical form or characteristics, and including such copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business, and legislative records as described in RCW 40.14.100.

For the purposes of this chapter, public records shall be classified as follows:

(1) Official public records shall include all original vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all fidelity, surety, and performance bonds; all claims filed against the state of Washington or any agency thereof; all records or documents required by law to be filed with or kept by any agency of the state of Washington; all legislative records as defined in RCW 40.14.100; and all other documents or records determined by the records committee, created in RCW 40.14.050, to be official public records.

(2) Office files and memoranda include such records as correspondence, exhibits, drawings, maps, completed forms, or documents not above defined and classified as official public records; duplicate copies of official public records filed with any agency of the state of Washington; documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and other documents or records as determined by the records committee to be office files and memoranda.

[1996 c 71 § 1; 1982 c 36 § 3; 1981 c 32 § 4; 1971 ex.s. c 102 § 1; 1957 c 246 § 1.]

**RCW 40.14.020 Division of archives and records management--State
archivist--Powers and duties--Duties of public officials.**

All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the division of archives and records management is established in the office of the secretary of state. The state archivist, who shall administer the division and have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

- (1) To manage the archives of the state of Washington;
- (2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;
- (3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;
- (4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;
- (5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;
- (6) To adopt rules under chapter 34.05 RCW:
 - (a) Setting standards for the durability and permanence of public records maintained by state and local agencies;

(b) Governing procedures for the creation, maintenance, transmission, cataloging, indexing, storage, or reproduction of photographic, optical, electronic, or other images of public documents or records in a manner consistent with current standards, policies, and procedures of the department of information services for the acquisition of information technology;

(c) Governing the accuracy and durability of, and facilitating access to, photographic, optical, electronic, or other images used as public records; or

(d) To carry out any other provision of this chapter;

(7) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;

(8) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work;

(9) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter; [and]

(10) To assist and train state and local agencies in the proper methods of creating, maintaining, cataloging, indexing, transmitting, storing, and reproducing photographic, optical, electronic, or other images used as public records.

[1995 c 326 § 1. Prior: 1991 c 237 § 4; 1991 c 184 § 1; 1986 c 275 § 1; 1983 c 84 § 1; 1981 c 115 § 1; 1957 c 246 § 2.]

Notes:

Effective date--1991 c 237: See note following RCW 43.07.220.

Effective date--1981 c 115: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 115 § 10.]

RCW 40.14.025 Division of archives and records management--Allocation of costs of services--Archives and records management account.

(1) The secretary of state and the director of financial management shall jointly establish a procedure and formula for allocating the costs of services provided by the division of archives and records management to state agencies. The total amount allotted for services to state agencies shall not exceed the appropriation to the archives and records management account during any allotment period.

[(2)] There is created the archives and records management account in the state treasury which shall consist of all fees and charges collected under this section, RCW *36.22.175, and 40.14.027. The account shall be appropriated exclusively for the payment of costs and expenses incurred in the operation of the division of archives and records management as specified by law.

[1996 c 245 § 3; 1991 sp.s. c 13 § 5; 1985 c 57 § 22; 1981 c 115 § 4.]

NOTES:

***Reviser's note:** RCW 36.22.175 expired June 30, 2001.

Effective date--1996 c 245: "This act takes effect on July 1, 1996." [1996 c 245 § 5.]

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1985 c 57: See note following RCW 18.04.105.

Effective date--1981 c 115: See note following RCW 40.14.020.

RCW 40.14.027 Public archives and records management services--Judgment debtor surcharge.

State agencies shall collect a surcharge of twenty dollars from the judgment debtor upon the satisfaction of a warrant filed in superior court for unpaid taxes or liabilities. The surcharge is imposed on the judgment debtor in the form of a penalty in addition to the filing fee provided in RCW 36.18.012(10). The surcharge revenue shall be transmitted to the state treasurer for deposit in the archives and records management account.

Surcharge revenue deposited in the archives and records management account shall be expended by the secretary of state exclusively for disaster recovery, essential records protection services, and records management training for local government agencies by the division of archives and records management. The secretary of state shall, with local government representatives, establish a committee to advise the state archivist on the local government archives and records management program.

[2001 c 146 § 4; 1996 c 245 § 4; 1995 c 292 § 17; 1994 c 193 § 2.]

NOTES:

Effective date--1996 c 245: See note following RCW 40.14.025.

Findings--1994 c 193: "The legislature finds that: (1) Accountability for and the efficient management of local government records are in the public interest and that compliance with public records management requirements significantly affects the cost of local government administration; (2) the secretary of state is responsible for insuring the preservation of local government archives and may assist local government compliance with public records statutes; (3) as provided in RCW 40.14.025, all archives and records management services provided by the secretary of state are funded exclusively by a schedule of fees and charges established jointly by the secretary of state and the director of financial management; (4) the secretary of state's costs for preserving and providing public access to local government archives and providing records management assistance to local government agencies have been funded by fees paid by state government agencies; (5) local government agencies are responsible for costs associated with managing, protecting, and providing public access to the records in their custody; (6) local government should help fund the secretary of state's local government archives and records management services; (7) the five-dollar fee collected by county clerks for processing warrants for unpaid taxes or liabilities filed by the state of Washington is not sufficient to cover processing costs and is far below filing fees commonly charged for similar types of minor civil actions; (8) a surcharge of twenty dollars would bring the filing fee for warrants for the collection of unpaid taxes and liabilities up to a level comparable to other minor civil filings and should be applied to the support of the secretary of state's local government archives and records services without placing an undue burden on local government; and (9) the process of collecting and transmitting surcharge revenue should not have an undue impact on the operations of the state agencies that file warrants for the collection of unpaid taxes and liabilities or the clerks of superior court who process them." [1994 c 193 § 1.]

Effective date--1994 c 193: "This act shall take effect July 1, 1994." [1994 c 193 § 3.]

RCW 40.14.030 Transfer to state archives--Certified copies, cost.

All public records, not required in the current operation of the office where they are made or kept, and all records of every agency, commission, committee, or any other activity of state

government which may be abolished or discontinued, shall be transferred to the state archives so that the valuable historical records of the state may be centralized, made more widely available, and insured permanent preservation: PROVIDED, That this section shall have no application to public records approved for destruction under the subsequent provisions of this chapter.

When so transferred, copies of the public records concerned shall be made and certified by the archivist, which certification shall have the same force and effect as though made by the officer originally in charge of them. Fees may be charged to cover the cost of reproduction. In turning over the archives of his office, the officer in charge thereof, or his successor, thereby loses none of his rights of access to them, without charge, whenever necessary.

[1957 c 246 § 3.]

Notes:

Columbia River boundary compact, transfer of records to division of archives: RCW 43.58.070.

RCW 40.14.040 Records officers--Designation--Powers and duties.

Each department or other agency of the state government shall designate a records officer to supervise its records program and to represent the office in all contacts with the records committee, hereinafter created, and the division of archives and records management. The records officer shall:

(1) Coordinate all aspects of the records management program.

(2) Inventory, or manage the inventory, of all public records at least once during a biennium for disposition scheduling and transfer action, in accordance with procedures prescribed by the state archivist and state records committee: PROVIDED, That essential records shall be inventoried and processed in accordance with chapter 40.10 RCW at least annually.

(3) Consult with any other personnel responsible for maintenance of specific records within his state organization regarding records retention and transfer recommendations.

(4) Analyze records inventory data, examine and compare divisional or unit inventories for duplication of records, and recommend to the state archivist and state records committee minimal retentions for all copies commensurate with legal, financial and administrative needs.

(5) Approve all records inventory and destruction requests which are submitted to the state records committee.

(6) Review established records retention schedules at least annually to insure that they are complete and current.

(7) Exercise internal control over the acquisition of filming and file equipment.

If a particular agency or department does not wish to transfer records at a time previously scheduled therefor, the records officer shall, within thirty days, notify the archivist and request a change in such previously set schedule, including his reasons therefor.

[1982 c 36 § 4; 1979 c 151 § 51; 1973 c 54 § 3; 1957 c 246 § 4.]

RCW 40.14.050 Records committee--Composition, travel expenses, meetings, powers and duties--Retention schedules.

There is created a committee, to be known as the records committee, composed of the archivist, an appointee of the state auditor, an appointee of the attorney general, and an appointee of the director of financial management. Committee members shall serve without additional salary, but shall be entitled to travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Such expenses shall be paid from the appropriations made for operation of their respective departments or offices.

The records committee shall meet at least once every quarter or oftener as business dictates. Action by the committee shall be by majority vote and records shall be kept of all committee business.

It shall be the duty of the records committee to approve, modify or disapprove the recommendations on retention schedules of all files of public records and to act upon requests to destroy any public records: PROVIDED, That any modification of a request or recommendation must be approved by the head of the agency originating the request or recommendation.

The division of archives and records management shall provide forms, approved by the records committee, upon which it shall prepare recommendations to the committee in cooperation with the records officer of the department or other agency whose records are involved.

[1985 c 192 § 1; 1975-'76 2nd ex.s. c 34 § 83; 1957 c 246 § 5.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 40.14.060 Destruction, disposition of official public records or office files and memoranda--Record retention schedules.

(1) Any destruction of official public records shall be pursuant to a schedule approved under RCW 40.14.050. Official public records shall not be destroyed unless:

(a) Except as provided under RCW 40.14.070(2)(b), the records are six or more years old;

(b) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly if lesser federal retention periods for records generated by the state under federal programs have been established; or

(c) The originals of official public records less than six years old have been copied or reproduced by any photographic or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

(2) Any lesser term of retention than six years must have the additional approval of the director of financial management, the state auditor and the attorney general, except when records have federal retention guidelines the state records committee may adjust the retention period accordingly. An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but

the same shall be reviewed individually by the state records committee for approval or disapproval of the change to a retention period of six years.

Recommendations for the destruction or disposition of office files and memoranda shall be submitted to the records committee upon approved forms prepared by the records officer of the agency concerned and the archivist. The committee shall determine the period of time that any office file or memorandum shall be preserved and may authorize the division of archives and records management to arrange for its destruction or disposition.

[1999 c 326 § 1; 1982 c 36 § 5; 1979 c 151 § 52; 1973 c 54 § 4; 1957 c 246 § 6.]

RCW 40.14.070 Destruction, disposition of local government records--Preservation for historical interest--Local records committee, duties--Record retention schedules.

(1)(a) County, municipal, and other local government agencies may request authority to destroy noncurrent public records having no further administrative or legal value by submitting to the division of archives and records management lists of such records on forms prepared by the division. The archivist, a representative appointed by the state auditor, and a representative appointed by the attorney general shall constitute a committee, known as the local records committee, which shall review such lists and which may veto the destruction of any or all items contained therein.

(b) A local government agency, as an alternative to submitting lists, may elect to establish a records control program based on recurring disposition schedules recommended by the agency to the local records committee. The schedules are to be submitted on forms provided by the division of archives and records management to the local records committee, which may either veto, approve, or amend the schedule. Approval of such schedule or amended schedule shall be by unanimous vote of the local records committee. Upon such approval, the schedule shall constitute authority for the local government agency to destroy the records listed thereon, after the required retention period, on a recurring basis until the schedule is either amended or revised by the committee.

(2)(a) Except as otherwise provided by law, no public records shall be destroyed until approved for destruction by the local records committee. Official public records shall not be destroyed unless:

(i) The records are six or more years old;

(ii) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs have been established; or

(iii) The originals of official public records less than six years old have been copied or reproduced by any photographic, photostatic, microfilm, miniature photographic, or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but the same

shall be reviewed individually by the local records committee for approval or disapproval of the change to a retention period of six years.

The state archivist may furnish appropriate information, suggestions, and guidelines to local government agencies for their assistance in the preparation of lists and schedules or any other matter relating to the retention, preservation, or destruction of records under this chapter. The local records committee may adopt appropriate regulations establishing procedures to be followed in such matters.

Records of county, municipal, or other local government agencies, designated by the archivist as of primarily historical interest, may be transferred to a recognized depository agency.

(b) Records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenders contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020 that are not required in the current operation of the law enforcement agency or for pending judicial proceedings shall, following the expiration of the applicable schedule of the law enforcement agency's retention of the records, be transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval. Upon electronic retention of any document, the association shall be permitted to destroy the paper copy of the document.

(c) Any record transferred to the Washington association of sheriffs and police chiefs pursuant to (b) of this subsection shall be deemed to no longer constitute a public record pursuant to RCW 42.17.020 and shall be exempt from public disclosure. Such records shall be disseminated only to criminal justice agencies as defined in RCW 10.97.030 for the purpose of determining if a sex offender met the criteria of a sexually violent predator as defined in chapter 71.09 RCW.

[1999 c 326 § 2; 1995 c 301 § 71; 1982 c 36 § 6; 1973 c 54 § 5; 1971 ex.s. c 10 § 1; 1957 c 246 § 7.]

Notes:

*Copying, preserving, and indexing of documents recorded by county auditor: RCW 36.22.160 through 36.22.190.
Destruction and reproduction of court records: RCW 36.23.065 through 36.23.070.*

RCW 40.14.080 Chapter not to affect other laws.

The provisions of this chapter shall not be construed as repealing or modifying any other acts or parts of acts authorizing the destruction of public records save for those specifically named in *section 9 of this act; nor shall this chapter affect the provisions of chapter 40.07 RCW requiring the deposit of all state publications in the state library.

[1983 c 3 § 84; 1957 c 246 § 8.]

Notes:

***Reviser's note:** "section 9 of this act" refers to 1957 c 246 § 9, which repealed RCW 40.08.010 through 40.08.050 and 40.12.010 through 40.12.110.

RCW 40.14.100 Legislative records--Defined.

As used in RCW 40.14.010 and 40.14.100 through 40.14.180, unless the context requires

otherwise, "legislative records" shall be defined as correspondence, amendments, reports, and minutes of meetings made by or submitted to legislative committees or subcommittees and transcripts or other records of hearings or supplementary written testimony or data thereof filed with committees or subcommittees in connection with the exercise of legislative or investigatory functions, but does not include the records of an official act of the legislature kept by the secretary of state, bills and their copies, published materials, digests, or multi-copied matter which are routinely retained and otherwise available at the state library or in a public repository, or reports or correspondence made or received by or in any way under the personal control of the individual members of the legislature.

[1971 ex.s. c 102 § 2.]

RCW 40.14.110 Legislative records--Contribution of papers by legislators and employees.

Nothing in RCW 40.14.010 and 40.14.100 through 40.14.180 shall prohibit a legislator or legislative employee from contributing his personal papers to any private library, public library, or the state archives. The state archivist is authorized to receive papers of legislators and legislative employees and is directed to encourage the donation of such personal records to the state. The state archivist is authorized to establish such guidelines and procedures for the collection of personal papers and correspondence relating to the legislature as he sees fit. Legislators and legislative employees are encouraged to contribute their personal papers to the state for preservation.

[1971 ex.s. c 102 § 3.]

RCW 40.14.120 Legislative records--"Clerk," "secretary" defined.

As used in RCW 40.14.010 and 40.14.100 through 40.14.180 "clerk" means clerk of the Washington state house of representatives and "secretary" means the secretary of the Washington state senate.

[1971 ex.s. c 102 § 4.]

RCW 40.14.130 Legislative records--Duties of legislative officials, employees and state archivist--Delivery of records--Custody--Availability.

The legislative committee chairman, subcommittee chairman, committee member, or employed personnel of the state legislature having possession of legislative records that are not required for the regular performance of official duties shall, within ten days after the adjournment sine die of a regular or special session, deliver all such legislative records to the clerk of the house or the secretary of the senate.

The clerk of the house and the secretary of the senate are charged to include requirements and responsibilities for keeping committee minutes and records as part of their instructions to

committee chairmen and employees.

The clerk or the secretary, with the assistance of the state archivist, shall classify and arrange the legislative records delivered to the clerk or secretary in a manner that he considers best suited to carry out the efficient and economical utilization, maintenance, preservation, and disposition of the records. The clerk or the secretary may deliver to the state archivist all legislative records in his possession when such records have been classified and arranged and are no longer needed by either house. The state archivist shall thereafter be custodian of the records so delivered, but shall deliver such records back to either the clerk or secretary upon his request.

The chairman, member, or employee of a legislative interim committee responsible for maintaining the legislative records of that committee shall, on a scheduled basis agreed upon by the chairman, member, or employee of the legislative interim committee, deliver to the clerk or secretary all legislative records in his possession, as long as such records are not required for the regular performance of official duties. He shall also deliver to the clerk or secretary all records of an interim committee within ten days after the committee ceases to function.

[1971 ex.s. c 102 § 5.]

RCW 40.14.140 Legislative records--Party caucuses to be advised--Information and instructions.

It shall be the duty of the clerk and the secretary to advise the party caucuses in each house concerning the necessity to keep public records. The state archivist or his representative shall work with the clerk and secretary to provide information and instructions on the best method for keeping legislative records.

[1971 ex.s. c 102 § 6.]

RCW 40.14.150 Legislative records--Use for research.

Committee records may be used by legislative employees for research at the discretion of the clerk or the secretary.

[1971 ex.s. c 102 § 7.]

RCW 40.14.160 Legislative records--Rules for access to records.

The clerk or the secretary shall, with advice of the state archivist, prescribe rules for access to records more than three years old when such records have been delivered to the state archives for preservation and maintenance.

[1971 ex.s. c 102 § 8.]

RCW 40.14.170 Legislative records--Sound recordings.

Any sound recording of debate in the house or senate made by legislative employees

shall be preserved by the chief clerk of the house and by the secretary of the senate, respectively, for two years from the end of the session at which made, and thereafter shall be transmitted to the state archivist. The chief clerk and the secretary shall catalogue or index the recordings in their custody according to a uniform system, in order to allow easy access to the debate on specific questions before either house, and shall make available to any court of record, at the cost of reproduction, such portions of the recordings as the court may request.

[1971 ex.s. c 102 § 9.]

RCW 40.14.180 Legislative records--Construction--Confidentiality of bill drafting records.

The provisions of RCW 40.14.010 and 40.14.100 through 40.14.180 shall not be construed as repealing or modifying any other acts or parts of acts authorizing the retention or destruction of public records nor shall RCW 40.14.010 and 40.14.100 through 40.14.180 affect the provisions of chapter 40.07 RCW requiring the deposit of all state publications in the state library nor shall it affect the confidentiality of the bill drafting records of the code reviser's office.

[1983 c 3 § 85; 1971 ex.s. c 102 § 10.]

**Chapter 40.16 RCW
PENAL PROVISIONS**

Sections

- | | |
|-----------|---|
| 40.16.010 | Injury to public record. |
| 40.16.020 | Injury to and misappropriation of record. |
| 40.16.030 | Offering false instrument for filing or record. |

Notes:

Fraud: Chapter 9A.60 RCW.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Misconduct of public officers: Chapter 42.20 RCW.

Public works accounts and records, penalty for falsifying: RCW 39.04.110.

RCW 40.16.010 Injury to public record.

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

[1992 c 7 § 34; 1909 c 249 § 95; RRS § 2347.]

RCW 40.16.020 Injury to and misappropriation of record.

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

[1992 c 7 § 35; 1909 c 249 § 96; RRS § 2348.]

RCW 40.16.030 Offering false instrument for filing or record.

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

[1992 c 7 § 36; 1909 c 249 § 97; RRS § 2349.]

Chapter 40.20 RCW

REPRODUCED RECORDS FOR GOVERNMENTS AND BUSINESS

Sections

40.20.010	"Business" defined.
40.20.020	Reproduction by film or photograph.
40.20.030	Use as original.

Notes:

Court records, destruction and reproduction: RCW 36.23.065 through 36.23.070.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Method for recordation of plats and documents: RCW 65.04.040.

Uniform business records as evidence act: Chapter 5.45 RCW.

Uniform photographic copies of business and public records as evidence act: Chapter 5.46 RCW.

RCW 40.20.010 "Business" defined.

For the purpose of this chapter, the term "business" shall mean and include business, industry, profession, occupation and calling of every kind.

[1949 c 223 § 3; Rem. Supp. 1949 § 1257-6.]

RCW 40.20.020 Reproduction by film or photograph.

The head of any business or the head of any state, county or municipal department, commission, bureau or board may cause any or all records required or authorized by law to be made or kept by such official, department, commission, bureau, board, or business to be photographed, microphotographed, reproduced on film, or photocopied for all purposes of recording documents, plats, files or papers, or copying or reproducing such records. Such film or reproducing material shall be of permanent material and the device used to reproduce such records on such film or material shall be such as to accurately reproduce and perpetuate the original records in all details, and shall be approved for the intended purpose: PROVIDED, That the state archivist shall approve such material for state records use: PROVIDED, FURTHER, That the state auditor shall approve such material for use by local governmental subdivisions.

[1981 c 32 § 5; 1973 c 95 § 1; 1949 c 223 § 1; Rem. Supp. 1949 § 1257-4.]

RCW 40.20.030 Use as original.

Such photostatic copy, photograph, microphotograph or photographic film record, or copy of the original records shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A facsimile, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification or certified copy of the original.

[1949 c 223 § 2; Rem. Supp. 1949 § 1257-5.]

Chapter 40.24 RCW

ADDRESS CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING

Sections

40.24.010	Findings--Purpose.
40.24.020	Definitions.
40.24.030	Address confidentiality program--Application--Certification.
40.24.040	Certification cancellation.
40.24.050	Agency use of designated address.
40.24.060	Voting by program participant--Use of designated address by county auditor.
40.24.070	Disclosure of records prohibited--Exceptions.
40.24.080	Assistance for program applicants.
40.24.090	Adoption of rules.

RCW 40.24.010 Findings--Purpose.

The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a

victim of domestic violence, sexual assault, or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address.

[2001 c 28 § 1; 1998 c 138 § 1; 1991 c 23 § 1.]

RCW 40.24.020 Definitions.

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

(1) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(2) "Program participant" means a person certified as a program participant under RCW 40.24.030.

(3) "Domestic violence" means an act as defined in RCW 10.99.020 and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

[1991 c 23 § 2.]

RCW 40.24.030 Address confidentiality program--Application--Certification.

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe (i) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, or stalking; and (ii) that the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(b) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(c) The mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, or stalking;

(e) The signature of the applicant and of any individual or representative of any office designated in writing under RCW 40.24.080 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under RCW 40.16.030 or other applicable statutes.

[2001 c 28 § 2; 1998 c 138 § 2; 1991 c 23 § 3.]

RCW 40.24.040 Certification cancellation.

(1) If the program participant obtains a name change, he or she loses certification as a program participant.

(2) The secretary of state may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the secretary of state with seven days' prior notice of the change of address.

(3) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(4) The secretary of state shall cancel certification of a program participant who applies using false information.

[1991 c 23 § 4.]

RCW 40.24.050 Agency use of designated address.

(1) A program participant may request that state and local agencies use the address designated by the secretary of state as his or her address. When creating a new public record, state and local agencies shall accept the address designated by the secretary of state as a program participant's substitute address, unless the secretary of state has determined that:

(a) The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this chapter; and

(b) This address will be used only for those statutory and administrative purposes.

(2) A program participant may use the address designated by the secretary of state as his or her work address.

(3) The office of the secretary of state shall forward all first class mail to the appropriate program participants.

[1991 c 23 § 5.]

RCW 40.24.060 Voting by program participant--Use of designated address by county

auditor.

(1) A program participant who is otherwise qualified to vote may apply as a service voter under RCW 29.01.155. The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual resides in the same manner as absentee voters who qualify under *RCW 29.36.013, except that the program participant shall not be required to reapply following January 1st of each odd-numbered year. The county auditor shall transmit the absentee ballot to the program participant at the address designated by the participant in his or her application as a service voter. Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public.

(2) The county auditor may not make the participant's address contained in voter registration records available for public inspection or copying except under the following circumstances:

- (a) If requested by a law enforcement agency, to the law enforcement agency; and
- (b) If directed by a court order, to a person identified in the order.

[1991 c 23 § 6.]

NOTES:

***Reviser's note:** RCW 29.36.013 was recodified as RCW 29.36.240 pursuant to 2001 c 241 § 25.

RCW 40.24.070 Disclosure of records prohibited--Exceptions.

The secretary of state may not make any records in a program participant's file available for inspection or copying, other than the address designated by the secretary of state, except under the following circumstances:

- (1) If requested by a law enforcement agency, to the law enforcement agency;
- (2) If directed by a court order, to a person identified in the order; or
- (3) To verify the participation of a specific program participant, in which case the secretary may only confirm information supplied by the requester.

[1999 c 53 § 1; 1998 c 138 § 3; 1991 c 23 § 7.]

Notes:

Effective date--1999 c 53: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 20, 1999]." [1999 c 53 § 2.]

RCW 40.24.080 Assistance for program applicants.

The secretary of state shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence, sexual assault, or stalking to assist persons applying to be program participants. Any assistance and counseling rendered by the office of the secretary of state or its designees to applicants shall in no way be construed as legal advice.

[2001 c 28 § 3; 1998 c 138 § 4; 1991 c 23 § 8.]

RCW 40.24.090 Adoption of rules.

The secretary of state may adopt rules to facilitate the administration of this chapter by state and local agencies.

[1991 c 23 § 9.]

**Title 41 RCW
PUBLIC EMPLOYMENT, CIVIL SERVICE, AND PENSIONS**

Chapters

- 41.04 General provisions.**
- 41.05 State health care authority.**
- 41.06 State civil service law.**
- 41.07 Central personnel-payroll system.**
- 41.08 Civil service for city firemen.**
- 41.12 Civil service for city police.**
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- 41.16 Firemen's relief and pensions--1947 act.**
- 41.18 Firemen's relief and pensions--1955 act.**
- 41.20 Police relief and pensions in first class cities.**
- 41.22 Law enforcement chaplains.**
- 41.24 Volunteer fire fighters' and reserve officers' relief and pensions.**
- 41.26 Law enforcement officers' and fire fighters' retirement system.**
- 41.28 Retirement of personnel in certain first class cities.**
- 41.31 Extraordinary investment gains--Plan 1.**
- 41.31A Extraordinary investment gains--Plan 3.**
- 41.32 Teachers' retirement.**
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- 41.34 Plan 3 retirement system contributions.**
- 41.35 Washington school employees' retirement system.**
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- 41.41 State employees' retirement--Federal social security.**
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- 41.45 Actuarial funding of state retirement systems.**
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- 41.54 Portability of public retirement benefits.**
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- 41.64 Personnel appeals board.**

41.68 Reparations to state employees terminated during World War II.
41.72 Law enforcement medal of honor.

Notes:

AIDS education and training: Chapter 70.24 RCW.

Application forms for public employment--Mention of race or religion prohibited: RCW 43.01.100, 43.01.110.

Assumption of obligations of private pension plan when

private utility acquired by public utility district: RCW 54.04.130 through 54.04.150.

urban transportation system acquired: RCW 54.04.160.

Cities and towns

group insurance for employees: RCW 35.23.460.

residence requirements for officers and employees: RCW 35.21.200.

utility employees in cities of first class, collective bargaining for wages, etc.: RCW 35.22.350.

County employees, payroll deductions for contributions, payments and dues, authorized: RCW 36.17.045.

County officers, salaries and expenses: Chapter 36.17 RCW.

Designation of agency to carry out federal social security disability program: RCW 43.17.120, 43.17.130.

Emergency management employees, compensation for injuries, etc., procedure: RCW 38.52.190 through 38.52.380.

Exemption from payment of college fees for children of law enforcement officer or fire fighter totally disabled or losing life: RCW 28B.15.380, 28B.15.385, and 28B.15.520.

Fire protection district personnel--Group life insurance: RCW 52.12.031.

Free transportation for public officers prohibited: State Constitution Art. 12 § 20.

Institutions' employees, hours and wages: RCW 72.01.042, 72.01.043.

Insurance for certain school employees: RCW 28A.400.350, 28B.10.660.

Labor regulations: Title 49 RCW.

Leaves for duty with emergency management agency: RCW 38.52.140.

Military leaves of absence for public employees: RCW 38.40.060.

Militia officers and enlisted persons

claims, pay, expenses: Chapter 38.24 RCW.

compensation for death or disability: RCW 38.40.030.

Public officers and employees in general: Title 42 RCW.

Public works, employees: Title 39 RCW.

State officers and employees

defense by attorney general: RCW 10.01.150.

salaries and expenses: Chapter 43.03 RCW.

vacations: RCW 43.01.040 through 43.01.044.

State patrol retirement: Chapter 43.43 RCW.

Subversive activities, public officers and employees: Chapter 9.81 RCW.

Tax deferred annuities for education employees: RCW 28A.400.250, 28B.10.480.

Unemployment compensation: Title 50 RCW.

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Chapter 41.04 RCW
GENERAL PROVISIONS

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- 41.04.005 "Veteran" defined for certain purposes.
- 41.04.010 Veterans' scoring criteria status in examinations.
- 41.04.015 Public employment--Evidence of educational competence.
- 41.04.020 Public employees--Payroll deductions authorized.
- 41.04.030 Payroll deductions--Duty of auditing officer.
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- 41.04.120 Civil service and retirement rights preserved when elective of fice assumed.
- 41.04.130 Extension of provisions of retirement and pension systems by cities of the first class to nonincluded personnel.
- 41.04.140 Interchange of personnel between federal and state agencies--"State agency" defined.
- 41.04.150 Interchange of personnel between federal and state agencies--Agreements--Provisions.
- 41.04.160 Interchange of personnel between federal and state agencies--Employment status of state employees participating--Retirement--Civil service.
- 41.04.170 Interchange of personnel between federal and state agencies--Employment status of federal employees participating--Retirement--Civil service.
- 41.04.180 Hospitalization and medical aid for county, municipal and other political subdivision employees--Governmental contributions authorized.
- 41.04.190 Hospitalization and medical aid for county, municipal and other political subdivision employees--Cost not additional compensation--Disbursement.
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- 41.04.235 Retirement allowance deductions for health care benefit plans.
- 41.04.240 Direct deposit of salaries into financial institutions authorized.
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- 41.04.270 Public retirement systems--Members or beneficiaries estopped from becoming a member or accruing rights in any other public retirement system.
- 41.04.273 Prohibition of retirement benefits passing to slayer beneficiary--Determination by department of retirement systems--Duties upon notice--Payment upon verdicts--Admissibility of evidence--Immunity.
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- 41.04.300 Travel expenses of state officials and employees.
- 41.04.340 State employee attendance incentive program--Sick leave records to be kept--Remuneration or benefits for unused sick leave.
- 41.04.350 Mandatory retirement prior to seventy years of age prohibited--Exceptions--Waiver of mandatory retirement.
- 41.04.360 State-employed chaplains--Housing allowance.
- 41.04.362 State employee wellness program.
- 41.04.364 State employee wellness program--Confidentiality of individually identifiable information.
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- 41.04.375 Child care--Rental of suitable space.
- 41.04.380 Child care--Contracts--Provision of suitable space at reduced cost authorized.

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- 41.04.382 Child care organizations--Qualifications for services.
- 41.04.385 Child care--Legislative findings--State policy--Responsibilities of director of personnel.
- 41.04.390 Flexible-time work schedules.
- 41.04.395 Disability accommodation revolving fund--Disbursements.
- 41.04.400 Consolidation of local governmental unit and first class city retirement system--Intent.
- 41.04.405 Consolidation of local governmental unit and first class city retirement system--Definitions.
- 41.04.410 Consolidation of local governmental unit and first class city retirement system--Membership in public employees' retirement system.
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Notes:

Payroll deductions authorized for school district employees: RCW 28A.405.400 and 28A.405.410.

RCW 41.04.005 "Veteran" defined for certain purposes.

(1) As used in RCW 41.04.005, 41.16.220, and 41.20.050 "veteran" includes every person, who at the time he or she seeks the benefits of RCW 41.04.005, 41.04.010, 41.16.220, 41.20.050, 41.40.170, 73.04.110, or 73.08.080 has received an honorable discharge or received a discharge for physical reasons with an honorable record and who meets at least one of the following criteria:

(a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either:

(i) A member in any branch of the armed forces of the United States;

(ii) A member of the women's air forces service pilots;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, from December 7, 1941, to December 31, 1946; or

(iv) A civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, to December 31, 1946; or

(b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service:

(i) In any branch of the armed forces of the United States; or

- (ii) As a member of the women's air forces service pilots.
- (2) A "period of war" includes:
 - (a) World War I;
 - (b) World War II;
 - (c) The Korean conflict;
 - (d) The Vietnam era, which was the period beginning August 5, 1964, and ending on May 7, 1975;
 - (e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on the date prescribed by presidential proclamation or law;
 - (f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and
 - (g) The following armed conflicts, if the participant was awarded the respective campaign badge or medal: The crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor.

[1999 c 65 § 1; 1996 c 300 § 1; 1991 c 240 § 1; 1984 c 36 § 1; 1983 c 230 § 1; 1982 1st ex.s. c 37 § 20; 1969 ex.s. c 269 § 1.]

Notes:

Effective date--1983 c 230: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983." [1983 c 230 § 3.]

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

RCW 41.04.010 Veterans' scoring criteria status in examinations.

In all competitive examinations, unless otherwise provided in this section, to determine the qualifications of applicants for public offices, positions or employment, the state, and all of its political subdivisions and all municipal corporations, shall give a scoring criteria status to all veterans as defined in RCW 41.04.005, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance with the following:

(1) Ten percent to a veteran who served during a period of war or in an armed conflict as defined in RCW 41.04.005 and does not receive military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(2) Five percent to a veteran who did not serve during a period of war or in an armed conflict as defined in RCW 41.04.005 or is receiving military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(3) Five percent to a veteran who was called to active military service for one or more years from employment with the state or any of its political subdivisions or municipal corporations. The percentage shall be added to the first promotional examination only;

(4) All veterans' scoring criteria specified in subsections (1), (2), and (3) of this section must be claimed within fifteen years of the date of release from active military service. This period may be extended for valid and extenuating reasons to include but not be limited to:

(a) Documented medical reasons beyond control of the veteran;

(b) United States department of veterans' affairs documented disabled veteran; or

(c) Any veteran who has his or her employment terminated through no fault or action of his or her own and whose livelihood is adversely affected may seek scoring criteria employment consideration under this section.

[2000 c 140 § 1; 1974 ex.s. c 170 § 1; 1969 ex.s. c 269 § 2; 1953 ex.s. c 9 § 1; 1949 c 134 § 1; 1947 c 119 § 1; 1945 c 189 § 1; Rem. Supp. 1949 § 9963-5.]

Notes:

Veterans and veterans' affairs: Title 73 RCW.

RCW 41.04.015 Public employment--Evidence of educational competence.

A Washington certificate of educational competence as awarded by the Washington state superintendent of public instruction or an official report of equivalent acceptable scores of the general educational development test shall be accepted in lieu of a high school diploma by the state and any local political subdivision when considering applicants for employment or promotion.

[1971 c 43 § 1.]

RCW 41.04.020 Public employees--Payroll deductions authorized.

Any employee or group of employees of the state of Washington or any of its political subdivisions, or of any institution supported, in whole or in part, by the state or any of its political subdivisions, may authorize the deduction from his or her salaries or wages and payment to another, the amount or amounts of his or her subscription payments or contributions to any person, firm, or corporation administering, furnishing, or providing (1) medical, surgical, and hospital care or either of them, or (2) life insurance or accident and health disability insurance, or (3) any individual retirement account selected by the employee or the employee's spouse established under applicable state or federal law: PROVIDED, That such authorization by said employee or group of employees, shall be first approved by the head of the department, division office or institution of the state or any political subdivision thereof, employing such person or group of persons, and filed with the department of personnel; or in the case of political subdivisions of the state of Washington, with the auditor of such political subdivision or the person authorized by law to draw warrants against the funds of said political subdivision.

[1998 c 116 § 1; 1982 c 107 § 1; 1973 c 106 § 15; 1947 c 70 § 1; Rem. Supp. 1947 § 9963-10.]

Notes:

Group insurance

disability: Chapter 48.21 RCW.

*for employees of
cities and towns: RCW 35.23.460.
counties: RCW 36.32.400.
life: Chapter 48.24 RCW.*

RCW 41.04.030 Payroll deductions--Duty of auditing officer.

Upon being authorized by any employee or group of employees so to do under the provisions of RCW 41.04.020, the auditor or other person authorized to draw warrants against the funds involved is authorized, and if such medical, surgical, and hospital care or either of them, or life insurance or accident and health disability insurance is to be provided on a group basis for groups each of not less than twenty-five individuals such auditor or other person is hereby required, to draw and issue a proper warrant or warrants directly to and in favor of the person, firm, or corporation, or organization named in the authorization for the total amount authorized to be deducted from the payroll of any such office, department, division, or institution.

[1953 c 260 § 1; 1947 c 70 § 2; Rem. Supp. 1947 § 9963-11.]

RCW 41.04.035 Salary and wage deductions for contributions to charitable agencies--"United Fund" defined.

For the purpose of RCW 41.04.035 and 41.04.036 "United Fund" means the organization conducting the single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable and public health, welfare and service purposes, which is commonly known as the United Fund, or the organization which serves in place of the United Fund organizations in communities where an organization known as the United Fund is not organized.

[1957 c 208 § 1.]

RCW 41.04.036 Salary and wage deductions for contributions to charitable agencies--Deduction and payment to United Fund--Regulations, procedures.

Any official of the state or of any of its political subdivisions authorized to disburse funds in payment of salaries or wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salary or wages of the officer or employee the amount of money designated by the officer or employee for payment to the United Fund.

The moneys so deducted shall be paid over promptly to the United Fund designated by the officer or employee. Subject to any regulations prescribed by the office of financial management, the official authorized to disburse the funds in payment of salaries or wages may prescribe any procedures necessary to carry out RCW 41.04.035 and 41.04.036.

[1983 1st ex.s. c 28 § 2; 1979 c 151 § 53; 1973 c 106 § 16; 1957 c 208 § 2.]

Notes:

Application--1983 1st ex.s. c 28: See note following RCW 42.16.010.

RCW 41.04.110 Persons employed by more than one agency--Joint operation--May provide membership in single system.

When there exists a joint operation of a public service, the authorities may make provision for membership of all new employees in one designated retirement system by agreement with the proper authorities.

[1951 c 98 § 5.]

RCW 41.04.120 Civil service and retirement rights preserved when elective office assumed.

Any civil service employee of the state of Washington or of any political subdivision thereof who is on leave of absence by reason of having been elected or appointed to an elective office shall be preserved in his civil service status, his seniority, rank and retirement rights so long as he regularly continues to make the usual contribution incident to the retention of such beneficial rights as if he were not on leave of absence: PROVIDED, That such contributions being made shall be based on the rank at the time of taking such leave of absence.

[1957 c 164 § 1.]

RCW 41.04.130 Extension of provisions of retirement and pension systems by cities of the first class to nonincluded personnel.

Any city of the first class may, by ordinance, extend, upon conditions deemed proper, the provisions of retirement and pension systems for superannuated and disabled officers and employees to officers and employees with five years of continuous service and acting in capacities in which they would otherwise not be entitled to participation in such systems: PROVIDED, That the following shall be specifically exempted from the provisions of this section.

(1) Members of the police departments who are entitled to the benefits of the police relief and pension fund as established by state law.

(2) Members of the fire department who are entitled to the benefits of the firemen's relief and pension fund as established by state law.

[1945 c 52 § 1; 1941 c 192 § 1; Rem. Supp. 1945 § 9592-129. Formerly codified as RCW 41.28.250.]

RCW 41.04.140 Interchange of personnel between federal and state agencies--"State agency" defined.

"State agency" means a board, department, commission or institution of the state or its political subdivisions.

[1959 c 102 § 1.]

RCW 41.04.150 Interchange of personnel between federal and state agencies--Agreements--Provisions.

A state agency may enter into agreements with departments or other subdivisions of the federal government for the interchange of personnel on projects which are of mutual benefit to the state and federal government.

An interchange agreement shall specify the fiscal arrangements to be made, including compensations, rights, benefits and obligations of the employees concerned, travel and transportation of employees, their immediate families and household goods, and the duties and supervision of employees while on assignment.

[1959 c 102 § 2.]

RCW 41.04.160 Interchange of personnel between federal and state agencies--Employment status of state employees participating--Retirement--Civil service.

State agency employees participating in an interchange may be carried on detail or in a leave of absence status.

(1) Wherever practicable, employees should be carried on detail. While on detail under an interchange agreement, employees shall remain employees of the state agency for all fiscal purposes, but shall receive no reimbursement for travel or other expenses except as provided in RCW 41.04.150.

(2) State agency employees who receive temporary appointments with federal agencies shall be carried by the state agency in a leave of absence status. Participation in an interchange shall be considered as service under any retirement system of which the employees are members. Arrangements for payment of employees' contributions to a retirement system may be by the interchange agreement or otherwise. Employees participating in an interchange shall be entitled to credit the full period toward promotion or salary increase as provided by any applicable civil service laws or regulations.

[1959 c 102 § 3.]

RCW 41.04.170 Interchange of personnel between federal and state agencies--Employment status of federal employees participating--Retirement--Civil service.

Federal employees participating in an interchange may receive appointment by the state agency, or may be considered to be on detail with the state agency.

(1) Appointments of federal employees shall be made without regard to civil service laws or regulations. Compensation shall be in accordance with the usual rates paid by the state agency for similar positions.

An appropriate percentage of compensation shall be deducted and transmitted to the federal agency for retirement and insurance where the interchange agreement so provides.

(2) Federal employees on detail with a state agency remain employees of and shall continue to receive their compensation from the federal agency, subject to the terms of the

interchange agreement.

[1959 c 102 § 4.]

RCW 41.04.180 Hospitalization and medical aid for county, municipal and other political subdivision employees--Governmental contributions authorized.

Any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body may, whenever funds shall be available for that purpose provide for all or a part of hospitalization and medical aid for its employees and their dependents through contracts with regularly constituted insurance carriers or with health care service contractors as defined in chapter 48.44 RCW or self-insurers as provided for in chapter 48.62 RCW, for group hospitalization and medical aid policies or plans: PROVIDED, That any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body shall provide the employees thereof a choice of policies or plans through contracts with not less than two regularly constituted insurance carriers or health care service contractors or other health care plans, including but not limited to, trusts of self-insurance as provided for in chapter 48.62 RCW: AND PROVIDED FURTHER, That any county may provide such hospitalization and medical aid to county elected officials and their dependents on the same basis as such hospitalization and medical aid is provided to other county employees and their dependents: PROVIDED FURTHER, That provision for school district personnel shall not be made under this section but shall be as provided for in RCW 28A.400.350.

[1991 sp.s. c 30 § 18; 1974 ex.s. c 82 § 1; 1973 1st ex.s. c 147 § 6; 1970 ex.s. c 39 § 10; 1969 ex.s. c 237 § 1; 1967 c 135 § 1; 1965 c 57 § 1; 1963 c 75 § 1.]

Notes:

Effective date, implementation, application--Severability--1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

Effective date--Effect of veto--Savings--Severability--1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability--1970 ex.s. c 39: See note following RCW 41.05.050.

Effective date--1969 ex.s. c 237: "The effective date of this 1969 amendatory act shall be July 1, 1969: PROVIDED, That health benefit contracts awarded under the provisions of RCW 41.04.180 which expire after July 1, 1969 may be extended up to one year with the approval of the state employees' insurance and health care advisory committee as established under the provisions of section 8 of this act." [1969 ex.s. c 237 § 10.]

Retirement allowance deductions for health care benefit plans: RCW 41.04.235.

State health care authority: Chapter 41.05 RCW.

RCW 41.04.190 Hospitalization and medical aid for county, municipal and other political subdivision employees--Cost not additional compensation--Disbursement.

The cost of a policy or plan to a public agency or body is not additional compensation to the employees or elected officials covered thereby. The elected officials to whom this section applies include but are not limited to commissioners elected under chapters 28A.315, 52.14, 53.12, 54.12, 57.12, 70.44, and 87.03 RCW, as well as any county elected officials who are

provided insurance coverage under RCW 41.04.180. Any officer authorized to disburse such funds may pay in whole or in part to an insurance carrier or health care service contractor the amount of the premiums due under the contract.

[1996 c 230 § 1610; 1992 c 146 § 13; 1983 1st ex.s. c 37 § 1; 1965 c 57 § 2; 1963 c 75 § 2.]

Notes:

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

Action disqualifying legislators proscribed--Severability--1965 c 57: "No board of county commissioners shall take any action under this 1965 amendatory act which shall disqualify members of the present legislature, under Article II, section 13, of the Constitution, from being candidates for or being elected or appointed to county elected offices.

If any provision of the action of a board of county commissioners is held invalid under the preceding paragraph of this section, the remainder of the action or the application of the provision to other persons or circumstances shall not be affected." [1965 c 57 § 3.]

RCW 41.04.205 Participation of county, municipal, and other political subdivision employees in state employees' insurance or self-insurance and health care program--Transfer procedure.

(1) Notwithstanding the provisions of RCW 41.04.180, the employees, with their dependents, of any county, municipality, or other political subdivision of this state shall be eligible to participate in any insurance or self-insurance program for employees administered under chapter 41.05 RCW if the legislative authority of any such county, municipality, or other political subdivisions of this state determines, subject to collective bargaining under applicable statutes, a transfer to an insurance or self-insurance program administered under chapter 41.05 RCW should be made. In the event of a special district employee transfer pursuant to this section, members of the governing authority shall be eligible to be included in such transfer if such members are authorized by law as of June 25, 1976 to participate in the insurance program being transferred from and subject to payment by such members of all costs of insurance for members.

(2) When the legislative authority of a county, municipality, or other political subdivision determines to so transfer, the state health care authority shall:

- (a) Establish the conditions for participation; and
- (b) Have the sole right to reject the application.

Approval of the application by the state health care authority shall effect a transfer of the employees involved to the insurance, self-insurance, or health care program applied for.

(3) Any application of this section to members of the law enforcement officers' and fire fighters' retirement system under chapter 41.26 RCW is subject to chapter 41.56 RCW.

(4) School districts may voluntarily transfer, except that all eligible employees in a bargaining unit of a school district may transfer only as a unit and all nonrepresented employees in a district may transfer only as a unit.

[1995 1st sp.s. c 6 § 8; 1993 c 386 § 3; 1992 c 199 § 1; 1990 c 222 § 1; 1988 c 107 § 17; 1975-'76 2nd ex.s. c 106 § 1.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Effective date--1993 c 386 §§ 3, 7, and 11: "Sections 3, 7, and 11 of this act shall take effect October 1, 1993." [1993 c 386 § 17.]

Intent--1993 c 386: See note following RCW 28A.400.391.

Implementation--Effective dates--1988 c 107: See RCW 41.05.901.

RCW 41.04.220 Department of general administration to procure health benefit programs--Other governmental entities may use services.

Any governmental entity other than state agencies, may use the services of the department of general administration upon the approval of the director, in procuring health benefit programs as provided by RCW 41.04.180, 28A.400.350 and 28B.10.660: PROVIDED, That the department of general administration may charge for the administrative cost incurred in the procuring of such services.

[1983 c 3 § 88; 1969 ex.s. c 237 § 7.]

Notes:

Effective date--1969 ex.s. c 237: See note following RCW 41.04.180.

RCW 41.04.230 Payroll deductions authorized.

Any official of the state authorized to disburse funds in payment of salaries and wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salaries or wages of the officers or employees, the amount or amounts of subscription payments, premiums, contributions, or continuation thereof, for payment of the following:

(1) Credit union deductions: PROVIDED, That twenty-five or more employees of a single state agency or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same credit union. An agency may, in its own discretion, establish a minimum participation requirement of fewer than twenty-five employees.

(2) Parking fee deductions: PROVIDED, That payment is made for parking facilities furnished by the agency or by the department of general administration.

(3) U.S. savings bond deductions: PROVIDED, That a person within the particular agency shall be appointed to act as trustee. The trustee will receive all contributions; purchase and deliver all bond certificates; and keep such records and furnish such bond or security as will render full accountability for all bond contributions.

(4) Board, lodging or uniform deductions when such board, lodging and uniforms are furnished by the state, or deductions for academic tuitions or fees or scholarship contributions payable to the employing institution.

(5) Dues and other fees deductions: PROVIDED, That the deduction is for payment of membership dues to any professional organization formed primarily for public employees or college and university professors: AND PROVIDED, FURTHER, That twenty-five or more employees of a single state agency, or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same professional organization.

(6) Labor or employee organization dues may be deducted in the event that a payroll

deduction is not provided under a collective bargaining agreement under the provisions of RCW 41.06.150: PROVIDED, That twenty-five or more officers or employees of a single agency, or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same labor or employee organization: PROVIDED, FURTHER, That labor or employee organizations with five hundred or more members in state government may have payroll deduction for employee benefit programs.

(7) Insurance contributions to the authority for payment of premiums under contracts authorized by the state health care authority. However, enrollment or assignment by the state health care authority to participate in a health care benefit plan, as required by RCW 41.05.065(5), shall authorize a payroll deduction of premium contributions without a written consent under the terms and conditions established by the public employees' benefits board.

(8) Deductions to a bank, savings bank, or savings and loan association if (a) the bank, savings bank, or savings and loan association is authorized to do business in this state; and (b) twenty-five or more employees of a single agency, or fewer, if a lesser number is established by such agency, or a total of one hundred or more state employees of several agencies have authorized a deduction for payment to the same bank, savings bank, or savings and loan association.

Deductions from salaries and wages of public officers and employees other than those enumerated in this section or by other law, may be authorized by the director of financial management for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state health care authority.

The authority to make deductions from the salaries and wages of public officers and employees as provided for in this section shall be in addition to such other authority as may be provided by law: PROVIDED, That the state or any department, division, or separate agency of the state shall not be liable to any insurance carrier or contractor for the failure to make or transmit any such deduction.

[1995 1st sp.s. c 6 § 21. Prior: 1993 c 2 § 26 (Initiative Measure No. 134, approved November 3, 1992); 1992 c 192 § 1; 1988 c 107 § 19; 1985 c 271 § 1; 1983 1st ex.s. c 28 § 3; 1980 c 120 § 1; 1979 c 151 § 54; 1973 1st ex.s. c 147 § 5; 1970 ex.s. c 39 § 11; 1969 c 59 § 5.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Implementation--Effective dates--1988 c 107: See RCW 41.05.901.

Application--1983 1st ex.s. c 28: See note following RCW 42.16.010.

Effective date--Effect of veto--Savings--Severability--1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability--1970 ex.s. c 39: See note following RCW 41.05.050.

RCW 41.04.232 Transition to two payrolls per month--Guidelines on deductions and deferrals.

In order to facilitate the transition from one payroll per month to two payrolls per month, the following guidelines concerning payroll deductions and deferrals are established:

(1) All mandatory and voluntary deductions which are based upon a percentage of salary shall be deducted, after August 23, 1983, from the salaries payable for each pay period. This subsection shall apply regardless of when the deductions were authorized or required.

(2) The office of financial management shall adopt reasonable procedures providing for deductions, including deferrals, which are not based on a percentage of salary.

(3) Amounts which are deducted in accordance with subsections (1) and (2) of this section shall be paid to the designated recipient no later than the established paydates except when other agreements are reached with the designated recipient.

(4) Payment of deductions and deferrals to the designated recipient shall be made by warrant or check except when the designated recipient requests payment by electronic funds transfer. If recipients request electronic funds transfers, sufficient time shall be made available to establish the process. The elapsed time to establish the process shall not exceed three months from the time the recipient has requested in writing to the appropriate data processing payroll systems manager to receive payment by electronic funds transfer.

Documentation and itemization of deductions or deferrals paid shall be in printed form unless the designated recipient requests computer tapes. If recipients request computer tapes, sufficient time shall be made available to establish the process. Computer tapes shall be made available to the requesting designated recipient if at least one hundred employees paid from an automated payroll system have such deductions. The elapsed time to establish the process for providing computer tapes shall not exceed three months from the time the recipient has requested in writing to the appropriate data processing payroll systems manager to receive computer tapes. With the approval of the office of financial management, more advanced technology may be utilized to provide payment, documentation, and itemization of deductions to designated recipients.

[1983 1st ex.s. c 28 § 4.]

Notes:

Application--1983 1st ex.s. c 28: See note following RCW 42.16.010.

RCW 41.04.233 Payroll deductions for capitation payments to health maintenance organizations.

Any employee or retired employee of the state or its departments, agencies, or subdivisions and any employee or retired employee of a county, public or municipal corporation, school district, or tax supported institution may authorize the deduction from his salary or wages of the amount of his capitation payments to any health maintenance organization receiving a certificate of authority under this chapter. Upon the filing of an authorization with the auditor or fiscal officer of the employer, such auditor or fiscal officer shall make payments in favor of the health maintenance organizations referred to in the authorization for the amounts of the deductions authorized, *RCW 41.04.230(7) notwithstanding.

[1975 1st ex.s. c 290 § 20.]

Notes:

***Reviser's note:** RCW 41.04.230 was amended by 1993 c 2 § 26 (Initiative Measure No. 134), and subsection (7) was deleted.

Severability--1975 1st ex.s. c 290: See RCW 48.46.910.

RCW 41.04.235 Retirement allowance deductions for health care benefit plans.

Participants in a health care benefit plan approved pursuant to RCW 41.04.180, 41.05.065, or 28A.400.350, whichever is applicable, who are retired public employees, may authorize the deduction from their retirement allowances, of the amount or amounts of their subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance upon the approval by the retirement board of an application for such deduction on the prescribed form, and the treasurer of the state shall duly and timely draw and issue proper warrants directly to and in favor of the person, firm, or corporation, or organization named in the authorization for the amount authorized to be deducted.

[1993 c 386 § 4; 1983 c 3 § 89; 1975 1st ex.s. c 73 § 1.]

Notes:

Intent--1993 c 386: See note following RCW 28A.400.391.

Effective date--1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

RCW 41.04.240 Direct deposit of salaries into financial institutions authorized.

Any official of the state or of any political subdivision, municipal corporation, or quasi municipal corporation authorized to disburse funds in payment of salaries and wages of employees is authorized upon written request of at least twenty-five employees to pay all or part of such salaries or wages to any financial institution for either: (1) Credit to the employees' accounts in such financial institution; or (2) immediate transfer therefrom to the employees' accounts in any other financial institutions: PROVIDED, That nothing in this section shall be construed as authorizing any employer to require the employees to have an account in any particular financial institution or type of financial institution. A single warrant may be drawn in favor of such financial institution, for the total amount due the employees involved, and written directions provided to such financial institution of the amount to be credited to the account of an employee or to be transferred to an account in another financial institution for such employee. The issuance and delivery by the disbursing officer of a warrant in accordance with the procedure set forth herein and proper indorsement thereof by the financial institution shall have the same legal effect as payment directly to the employee.

For the purposes of this section "financial institution" means any bank or trust company established in this state pursuant to chapter 2, Title 12, United States Code, or Title 30 RCW, and any credit union established in this state pursuant to chapter 14, Title 12, United States Code, or chapter 31.12 RCW, and any mutual savings bank established in this state pursuant to Title 32 RCW, and any savings and loan association established in this state pursuant to chapter 12, Title 12, United States Code, or Title 33 RCW.

[1977 ex.s. c 269 § 1; 1969 c 59 § 6.]

RCW 41.04.245 Payroll deductions to a bank, savings bank, credit union, or savings and loan association.

Any official of any local political subdivision of the state, municipal corporation, or quasi-municipal corporation authorized to disburse funds in payment of salaries and wages of employees is authorized upon written request of any employee, to deduct all or part of such employee's salary or wages for payment to any bank, savings bank, credit union, or savings and loan association if (1) the bank, savings bank, credit union, or savings and loan association is authorized to do business in this state; and (2) twenty-five or more employees of a single local political subdivision, or fewer, if a lesser number is established by such local political subdivision, authorize such a deduction for payment to the same bank, savings bank, credit union, or savings and loan association.

[1992 c 192 § 2.]

RCW 41.04.270 Public retirement systems--Members or beneficiaries estopped from becoming a member or accruing rights in any other public retirement system.

(1) Notwithstanding any provision of chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.35, 41.40, or 43.43 RCW to the contrary, on and after March 19, 1976, any member or former member who (a) receives a retirement allowance earned by said former member as deferred compensation from any public retirement system authorized by the general laws of this state, or (b) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not apply to persons who have accumulated less than fifteen years service credit in any such system.

(2) Nothing in this section is intended to apply to any retirement system except those listed in RCW 41.50.030 and the city employee retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b) of this section does not apply to a dual member as defined in RCW 41.54.010.

[2001 c 180 § 4; 1988 c 195 § 5; 1987 c 192 § 9; 1980 c 29 § 1; 1975-'76 2nd ex.s. c 105 § 1.]

NOTES:

Effective date--1988 c 195: See RCW 41.54.901.

Effective dates--1987 c 192: See RCW 41.54.900.

Severability--1975-'76 2nd ex.s. c 105: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 105 § 28.]

RCW 41.04.273 Prohibition of retirement benefits passing to slayer beneficiary--Determination by department of retirement systems--Duties upon

notice--Payment upon verdicts--Admissibility of evidence--Immunity.

(1) For purposes of this section, the following definitions shall apply:

(a) "Slayer" means a slayer as defined in RCW 11.84.010.

(b) "Decedent" means any person whose life is taken by a slayer, and who is entitled to benefits from the Washington state department of retirement systems by written designation or by operation of law.

(2) Property that would have passed to or for the benefit of a beneficiary under one of the retirement systems listed in RCW 41.50.030 shall not pass to that beneficiary if the beneficiary was a slayer of the decedent and the property shall be distributed as if the slayer had predeceased the decedent.

(3) A slayer is deemed to have predeceased the decedent as to property which, by designation or by operation of law, would have passed from the decedent to the slayer because of the decedent's entitlement to benefits under one of the retirement systems listed in RCW 41.50.030.

(4)(a) The department of retirement systems has no affirmative duty to determine whether a beneficiary is, or is alleged to be, a slayer. However, upon receipt of written notice that a beneficiary is a defendant in a civil lawsuit that alleges the beneficiary is a slayer or is charged with a crime that, if committed, means the beneficiary is a slayer, the department of retirement systems shall determine whether the beneficiary is a defendant in such a civil suit or has been formally charged in court with the crime, or both. If so, the department shall withhold payment of any benefits until:

(i) The case or charges, or both if both are pending, are dismissed;

(ii) The beneficiary is found not guilty in the criminal case or prevails in the civil suit, or both if both are pending; or

(iii) The beneficiary is convicted or is found to be a slayer in the civil suit.

(b) If the case or charges, or both if both are pending, are dismissed or if a beneficiary is found not guilty or prevails in the civil suit, or both if both are pending, the department shall pay the beneficiary the benefits the beneficiary is entitled to receive. If the beneficiary is convicted or found to be a slayer in a civil suit, the department shall distribute the benefits according to subsection (2) of this section.

(5) The slayer's conviction for having participated in the willful and unlawful killing of the decedent shall be admissible in evidence against a claimant of property in any civil action arising under this section.

(6) This section shall not subject the department of retirement systems to liability for payment made to a slayer or alleged slayer prior to the department's receipt of written notice that the slayer has been convicted of, or the alleged slayer has been formally criminally or civilly charged in court with, the death of the decedent. If the conviction or civil judgment of a slayer is reversed on appeal, the department of retirement systems shall not be liable for payment made prior to the receipt of written notice of the reversal to a beneficiary other than the person whose conviction or civil judgment is reversed.

[1998 c 292 § 501.]

Notes:

Application--1998 c 292: "Sections 501 through 505 of this act apply to acts that result in unlawful killings of decedents by slayers on and after April 2, 1998." [1998 c 292 § 506.]

Conflict with federal requirements--1998 c 292: "If any part of sections 501 through 505 of this act is found to be in conflict with federal requirements, the conflicting part of sections 501 through 505 of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination does not affect the operation of the remainder of sections 501 through 505 of this act. Rules adopted under sections 501 through 505 of this act must meet federal requirements." [1998 c 292 § 507.]

Part headings and section captions not law--Effective dates--1998 c 292: See RCW 11.11.902 and 11.11.903.

RCW 41.04.275 Pension funding account created.

Notes:

Reviser's note: RCW 41.04.275 was amended by 1998 c 340 § 12 without reference to its repeal by 1998 c 340 § 13. It has been decodified for publication purposes under RCW 1.12.025.

RCW 41.04.300 Travel expenses of state officials and employees.

Except as otherwise provided by law the payment of travel expenses by the state to any appointive official or employee of any commission, agency, or other body of the executive, judicial, or legislative branches of state government shall be in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

[1975-'76 2nd ex.s. c 34 § 3.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 41.04.340 State employee attendance incentive program--Sick leave records to be kept--Remuneration or benefits for unused sick leave.

(1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than eligible employees of the community and technical colleges and the state board for community and technical colleges identified in RCW 28B.50.553, and teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave.

(4) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(5) Except as provided in subsections (7) through (9) of this section for employees not covered by chapter 41.06 RCW, this section shall be administered, and rules shall be adopted to carry out its purposes, by the Washington personnel resources board for persons subject to chapter 41.06 RCW: PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

(6) Should the legislature revoke any remuneration or benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

(7) In lieu of remuneration for unused sick leave at retirement as provided in subsection (3) of this section, an agency head or designee may with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses. This plan shall be implemented only after consultation with affected groups of employees. For eligible employees covered by chapter 41.06 RCW, procedures for the implementation of these plans shall be adopted by the Washington personnel resources board. For eligible employees exempt from chapter 41.06 RCW, and classified employees who have opted out of coverage of chapter 41.06 RCW as provided in RCW 41.56.201, implementation procedures shall be adopted by an agency head having jurisdiction over the employees.

(8) Implementing procedures adopted by the Washington personnel resources board or agency heads shall require that each medical expense plan authorized by subsection (7) of this section apply to all eligible employees in any one of the following groups: (a) Employees in an agency; (b) employees in a major organizational subdivision of an agency; (c) employees at a major operating location of an agency; (d) exempt employees under the jurisdiction of an elected or appointed Washington state executive; (e) employees of the Washington state senate; (f) employees of the Washington state house of representatives; (g) classified employees in a bargaining unit established by the Washington personnel resources board; or (h) other group of employees defined by an agency head that is not designed to provide an individual-employee choice regarding participation in a medical expense plan. However, medical expense plans for eligible employees in any of the groups under (a) through (h) of this subsection who are covered by a collective bargaining agreement shall be implemented only by written agreement with the bargaining unit's exclusive representative and a separate medical expense plan may be provided for unrepresented employees.

(9) Medical expense plans authorized by subsection (7) of this section must require as a condition of participation in the plan that employees in the group affected by the plan sign an agreement with the employer. The agreement must include a provision to hold the employer harmless should the United States government find that the employer or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the employer not withholding or deducting a tax,

assessment, or other payment on the funds as required by federal law. The agreement must also include a provision that requires an eligible employee to forfeit remuneration under subsection (3) of this section if the employee belongs to a group that has been designated to participate in the medical expense plan permitted under this section and the employee refuses to execute the required agreement.

[1998 c 254 § 1; 1998 c 116 § 2; 1997 c 232 § 2; 1993 c 281 § 17; 1991 c 249 § 1; 1990 c 162 § 1; 1980 c 182 § 1; 1979 ex.s. c 150 § 1.]

Notes:

Reviser's note: This section was amended by 1998 c 116 § 2 and by 1998 c 254 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1998 c 254 § 1: "If any part of RCW 41.04.340 (7) through (9) is found to be in conflict with federal tax laws or rulings or regulations of the federal internal revenue service, the conflicting part is inoperative solely to the extent of the conflict and such a finding shall not affect the remainder of section 1, chapter 254, Laws of 1998." [1998 c 254 § 2.]

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--1980 c 182: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 182 § 7.]

RCW 41.04.350 Mandatory retirement prior to seventy years of age prohibited--Exceptions--Waiver of mandatory retirement.

(1) Notwithstanding any other provisions of law, no employee of the state of Washington or any of its political subdivisions or any institution supported in total or in part by the state or any of its political subdivisions, other than employees covered by chapters 41.26 and 43.43 RCW, shall be compelled to retire solely on the basis of age prior to attaining seventy years of age.

(2) All compulsory retirement provisions relating to public employees, other than employees covered by chapters 41.26 and 43.43 RCW, may be waived for individuals attaining seventy years of age by the individual's employer.

[1979 ex.s. c 159 § 1.]

RCW 41.04.360 State-employed chaplains--Housing allowance.

In the case of a minister or other clergy person employed as a chaplain in a state institution or agency, there is designated in the salary or wage paid to the person an amount up to forty percent of the gross salary as either of the following:

(1) The rental value of a home furnished to the person as part of the person's compensation; or

(2) The housing/rental allowance paid to the person as part of the person's compensation, to the extent used by the person to rent or provide a home.

[1982 c 190 § 1.]

Notes:

Appointment and duties of institutional chaplains: RCW 72.01.210 through 72.01.260.

Volunteer law enforcement chaplains: Chapter 41.22 RCW.

RCW 41.04.362 State employee wellness program.

(1) The director of the department of personnel, in consultation with applicable state agencies and employee organizations, may develop and administer a voluntary state employee wellness program.

(2) The director may:

(a) Develop and implement state employee wellness policies, procedures, and activities;

(b) Disseminate wellness educational materials to state agencies and employees;

(c) Encourage the establishment of wellness activities in state agencies;

(d) Provide technical assistance and training to agencies conducting wellness activities for their employees;

(e) Develop standards by which agencies sponsoring specific wellness activities may impose a fee to participating employees to help defray the cost of those activities;

(f) Monitor and evaluate the effectiveness of this program, including the collection, analysis, and publication of relevant statistical information; and

(g) Perform other duties and responsibilities as necessary to carry out the purpose of this section.

(3) No wellness program or activity that involves or requires organized or systematic physical exercise may be implemented or conducted during normal working hours.

[1987 c 248 § 2.]

Notes:

Legislative findings--Purpose--1987 c 248: "The legislature finds that:

(1) Improved health among employees will result in a more productive workforce, better morale, reduced stress, lower injury rates and absenteeism, and improved recruitment and retention rates;

(2) A substantial amount of illness and injury in the work force is preventable because it results from lifestyle decisions;

(3) Illness and injury among state employees can be reduced if employees engage in healthier lifestyles.

The state, as an employer, desires to foster a working environment that promotes the health and well-being of its employees. Therefore, it is the purpose of this act to establish a state employee wellness program. "Wellness program" means those policies, procedures, and activities that promote the health and well-being of state employees and that contribute to a healthful work environment." [1987 c 248 § 1.]

RCW 41.04.364 State employee wellness program--Confidentiality of individually identifiable information.

Individual employees' participation in the wellness program and all individually identifiable information gathered in the process of conducting the program shall be held in strict confidence and shall not in any way jeopardize any employee's job security, promotional

opportunities, or other employment rights.

[1987 c 248 § 3.]

Notes:

Legislative findings--Purpose--1987 c 248: See note following RCW 41.04.362.

RCW 41.04.370 Child care--Legislative intent.

The legislature recognizes that supporting child care for employees of public and private organizations is a worthwhile pursuit. To further the goals of affordable, accessible, and quality child care for working parents, the legislature intends to provide for the development of self-supporting child care programs for employees of state government.

[1993 c 194 § 1; 1984 c 162 § 1.]

RCW 41.04.375 Child care--Rental of suitable space.

An agency may identify space they wish to use for child care facilities or they may request assistance from the department of general administration in identifying the availability of suitable space in state-owned or state-leased buildings for use as child care centers for the children of state employees.

When suitable space is identified in state-owned or state-leased buildings, the department of general administration shall establish a rental rate for organizations to pay for the space used by persons who are not state employees.

[1993 c 194 § 2; 1984 c 162 § 2.]

RCW 41.04.380 Child care--Contracts--Provision of suitable space at reduced cost authorized.

When suitable space is determined to be available, either agencies or organizations of state employees may contract with one or more providers to operate child care facilities.

Subject to the approval of the director of financial management, suitable space for child care centers may be provided to organizations of state employees without charge or at reduced charge for rent or services solely for the purpose of reducing employee child care costs.

[1993 c 194 § 3; 1984 c 162 § 3.]

RCW 41.04.382 Child care organizations--Qualifications for services.

In order to qualify for services under RCW 41.04.380, state employee child care organizations shall be organized as nonprofit under chapter 24.03 RCW.

[1993 c 194 § 4.]

RCW 41.04.385 Child care--Legislative findings--State policy--Responsibilities of

director of personnel.

The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of personnel in consultation with the child care coordinating committee, as provided in RCW 74.13.090 and state employee representatives as provided under RCW 41.06.140.

[1993 c 194 § 5; 1986 c 135 § 1.]

RCW 41.04.390 Flexible-time work schedules.

(1) The legislature finds that flexible-time work schedules, which provide varying times for employees to arrive at and depart from work, tend to alleviate traffic congestion during peak rush hour periods and thereby reduce hazardous traffic conditions; provide more efficient use of highways and other transit facilities; and decrease fuel consumption. In addition, the legislature finds that flexible-time work schedules provide families in which both parents work outside of the home with the flexibility necessary to provide for day care; provide employees with flexibility allowing them to spend more time with their families; improve employee morale and, in-so-doing, improve productivity. Therefore, due to the clear advantages to both agencies and employees, the legislature finds that flexible-time work schedules should be utilized by agencies to the maximum extent possible.

(2) As used in this section, "flexible-time work schedule" means a daily work schedule which contains a core time of required hours during which an employee subject to the schedule is required to be present for work and designated hours before or after the core time during which an employee, with the approval of his or her agency, may elect a time of arrival to work and departure from work.

(3) Each agency shall prepare a flexible-time work schedule or schedules and shall offer the schedule or schedules to employees as an option to the traditional eight o'clock a.m. to five o'clock p.m. working day. However, an agency shall not be required to prepare or offer a flexible-time work schedule or schedules if the agency head determines that the implementation of such a schedule would serve as an impediment to the provision of services to the public or would in any other way impede the agency in accomplishing its mission.

(4) Any employee wishing to use a flexible-time work schedule prepared under subsection (3) of this section must first obtain the permission of the agency head or the agency head's designee. However, if there is an employee organization certified as an exclusive bargaining representative for a bargaining unit affected by the flexible-time work schedule, the agency shall first negotiate with the certified employee organization.

(5) Nothing in this section affects official hours during which state offices are required to be open for the transaction of business, as prescribed in RCW 42.04.060.

[1985 c 411 § 1.]

RCW 41.04.395 Disability accommodation revolving fund--Disbursements.

(1) The disability accommodation revolving fund is created in the custody of the state treasurer. Disbursements from the fund shall be on authorization of the director of the department of personnel or the director's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The fund shall be used exclusively by state agencies to accommodate the unanticipated job site or equipment needs of persons of disability in state employ.

(2) The director of the department of personnel shall consult with the governor's committee on disability issues and employment regarding requests for disbursements from the disability accommodation revolving fund. The department shall establish application procedures, adopt criteria, and provide technical assistance to users of the fund.

(3) Agencies that receive moneys from the disability accommodation revolving fund shall return to the fund the amount received from the fund by no later than the end of the first month of the following fiscal biennium.

[1994 sp.s. c 9 § 801; 1987 c 9 § 2.]

Notes:

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

Intent--1987 c 9: "The legislature recognizes that persons of disability have faced unfair discrimination in employment. Equal opportunity for persons of disability often necessitate job site changes and equipment purchases. It is the intent of the legislature to remove a potential barrier to employment of persons of disability by giving state agencies, including institutions of higher education, the ability to accommodate the job site and equipment needs of persons of disability without the delay of waiting for an appropriation from the legislature." [1987 c 9 § 1.]

RCW 41.04.400 Consolidation of local governmental unit and first class city retirement system--Intent.

It is the purpose of RCW 41.04.405 through 41.04.430 to govern the retirement rights of persons whose employment status is altered when: (1) Two or more units of local government of this state, at least one of which is a first class city with its own retirement system, enter into an agreement for the consolidated performance of a governmental service, activity, or undertaking; (2) the service, activity, or undertaking is to be performed either by one of the participating local

governmental units or by a newly established separate legal entity; and (3) the employees of the participating local governmental units are not all members of the same Washington public retirement system.

RCW 41.04.405 through 41.04.430 are not intended to and do not govern retirement rights of any members of the retirement systems established by chapter 41.16, 41.18, 41.20, or 41.26 RCW, or of employees described in RCW 35.58.265, 35.58.390, or 70.08.070. To the extent there is any conflict between RCW 41.04.405 through 41.04.430 and RCW 41.04.110, the provisions of RCW 41.04.405 through 41.04.430 shall govern.

[1984 c 184 § 22.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.04.405 Consolidation of local governmental unit and first class city retirement system--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.400 through 41.04.430.

(1) "Legal entity" means any political subdivision or municipal corporation of the state, including but not limited to public agencies created under RCW 35.63.070, 36.70.060, or 39.34.030.

(2) "Consolidated employer" means the legal entity assigned by agreement to perform a governmental service, activity, or undertaking for two or more units of local government of the state, at least one of which is a first class city with its own retirement system.

(3) "Existing employee" means a person who both (a) becomes employed by the consolidated employer within one year after the consolidation and (b) was employed by one of the combining legal entities at the time of the consolidation.

(4) "New employee" means an employee of the consolidated employer who is not an existing employee.

(5) "Active member" means a member of a retirement system who was making contributions to that retirement system at the time of the consolidation.

[1984 c 184 § 23.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.04.410 Consolidation of local governmental unit and first class city retirement system--Membership in public employees' retirement system.

If a consolidated employer is a participating member in the public employees' retirement system under chapter 41.40 RCW prior to the consolidation:

(1) All existing employees of the consolidated employer who are active members of the public employees' retirement system immediately prior to the consolidation shall continue to be

members of that retirement system while employed by the consolidated employer.

(2) All existing employees of the consolidated employer who are active members of a first class city retirement system under chapter 41.28 RCW immediately prior to the consolidation shall cease to be members of that system at the time of the consolidation and, if eligible, shall immediately become members of the public employees' retirement system. However, any such active member may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue to be a member of the first class city retirement system, thereby forever waiving any rights under the public employees' retirement system based upon employment with the consolidated employer.

(3) Only prospective periods of qualifying service under the public employees' retirement system may be established under this section.

[1984 c 184 § 24.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.04.415 Consolidation of local governmental unit and first class city retirement system--Membership in first class city retirement system.

If a consolidated employer is a city operating a first class city retirement system under chapter 41.28 RCW prior to the consolidation:

(1) All existing employees of the consolidated employer who are active members of the first class city retirement system immediately prior to the consolidation shall continue to be members of that retirement system while employed by the consolidated employer.

(2) All existing employees of the consolidated employer who are active members of the public employees' retirement system under chapter 41.40 RCW immediately prior to the consolidation shall cease to be members of that system at the time of the consolidation and, if eligible, shall immediately become members of the first class city retirement system. However, any such active member may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue to be a member of the public employees' retirement system, thereby forever waiving any rights under the first class city retirement system based upon such employment with the consolidated employer.

(3) Only prospective periods of qualifying service under the first class city retirement system may be established under this section.

[1984 c 184 § 25.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.04.420 Consolidation of local governmental unit and first class city

retirement system--Newly created legal entity.

If a consolidated employer is a newly created legal entity and does not immediately join the public employees' retirement system pursuant to RCW 41.40.062:

(1) All existing employees of the consolidated employer who are active members of a first class city retirement system or the public employees' retirement system immediately prior to the consolidation shall cease to be members of these systems. However, any such active members may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue as members of the retirement system to which they belonged at the time of the consolidation for all periods of employment with the consolidated employer.

(2) If the consolidated employer later joins the public employees' retirement system, all existing employees still employed on that date shall, effective from that date, have the same retirement system rights and options, subject to the same conditions as employees governed by RCW 41.04.410, notwithstanding any previous election under subsection (1) of this section.

(3) No new employees of the consolidated employer may become members of an employer-sponsored retirement system until such time as the employer joins the public employees' retirement system pursuant to RCW 41.40.062.

[1984 c 184 § 26.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.04.425 Consolidation of local governmental unit and first class city retirement system--Limitations.

Notwithstanding any provision of RCW 41.04.410, 41.04.415, or 41.04.420:

(1) No person may simultaneously accrue any contractual rights whatsoever in more than one Washington public retirement system as a consequence of employment by a consolidated employer.

(2) No person who makes a written election permitted by RCW 41.04.410, 41.04.415, or 41.04.420 may receive a retirement allowance from such retirement system under any circumstances while employed or reemployed by the consolidated employer.

(3) No person may accrue any benefits or rights under any Washington public retirement system as a result of RCW 41.04.410, 41.04.415, or 41.04.420 except such rights of continuing membership that are specifically and explicitly granted by RCW 41.04.410, 41.04.415, or 41.04.420.

(4) Nothing in RCW 41.04.400 through 41.04.425 is intended to constitute an amendment or waiver of any law or rule of any Washington public retirement system, including but not limited to those governing eligibility for service credit, benefits, or membership, except to broaden the class of legal entities that are deemed to be participating employers in the retirement systems in the specific circumstances stated in RCW 41.04.410, 41.04.415, and 41.04.420.

[1984 c 184 § 27.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.04.430 Consolidation of local governmental unit and first class city retirement system--Compliance with laws and rules--Application of sections.

(1) Consolidated employers that employ persons governed by RCW 41.04.410, 41.04.415, or 41.04.420 shall comply with all laws and rules governing the retirement system in which the persons participate as members, including but not limited to the obligations to make employer contributions, to deduct and transmit employee contributions, and to submit required reports.

(2) RCW 41.04.410, 41.04.415, 41.04.420, and 41.04.425 govern any consolidation occurring on or after December 31, 1981.

[1984 c 184 § 28.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.04.440 Members' retirement contributions--Pick up by employer--Purpose--Benefits not contractual right. (Effective until March 1, 2002.)

(1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the members of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, and 43.43 RCW to enjoy the tax deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227, Laws of 1984 does not alter in any manner the provisions of RCW 41.26.450 and 41.40.650 which require that the member contribution rates shall be set so as to provide fifty percent of the cost of the respective retirement plans.

(2) Should the legislature revoke any benefit allowed under 26 U.S.C. 414(h), no affected employee shall be entitled thereafter to receive such benefit as a matter of contractual right.

[1995 c 239 § 322; 1984 c 227 § 1.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Effective date--1984 c 227: "This act shall take effect on September 1, 1984." [1984 c 227 § 4.]

Conflict with federal requirements--1984 c 227: "If any part of this act is found to be in conflict with federal requirements, the conflicting part of the act is hereby declared to be inoperative solely to the extent of the conflict and such finding or determination shall not affect the operation of the remainder of the act in its application: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner. The rules under this act shall meet federal requirements." [1984 c 227 § 6.]

Severability--1984 c 227: "If any provision of this act or its application to any person or circumstance is

held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner." [1984 c 227 § 7.]

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.04.440 Members' retirement contributions--Pick up by employer--Purpose--Benefits not contractual right. (Effective March 1, 2002.)

(1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the members of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, and 43.43 RCW to enjoy the tax deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227, Laws of 1984 does not alter in any manner the provisions of RCW 41.45.060, 41.45.061, and 41.45.067 which require that the member contribution rates shall be set so as to provide fifty percent of the cost of the respective retirement plans.

(2) Should the legislature revoke any benefit allowed under 26 U.S.C. 414(h), no affected employee shall be entitled thereafter to receive such benefit as a matter of contractual right.

[2000 c 247 § 1101; 1995 c 239 § 322; 1984 c 227 § 1.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Effective date--1984 c 227: "This act shall take effect on September 1, 1984." [1984 c 227 § 4.]

Conflict with federal requirements--1984 c 227: "If any part of this act is found to be in conflict with federal requirements, the conflicting part of the act is hereby declared to be inoperative solely to the extent of the conflict and such finding or determination shall not affect the operation of the remainder of the act in its application: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner. The rules under this act shall meet federal requirements." [1984 c 227 § 6.]

Severability--1984 c 227: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected: PROVIDED, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner." [1984 c 227 § 7.]

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.04.445 Members' retirement contributions--Pick up by employer--Implementation. (Effective until March 1, 2002.)

(1) This section applies to all members who are:

(a) Judges under the retirement system established under chapter 2.10, 2.12, or 2.14 RCW;

(b) Employees of the state under the retirement system established by chapter 41.32, 41.40, or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW, except for substitute teachers as defined by RCW 41.32.010;

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pick up only those member contributions as required under:

- (a) RCW 2.10.090(1);
- (b) RCW 2.12.060;
- (c) RCW 2.14.090;
- (d) RCW 41.32.263;
- (e) RCW 41.32.350;
- (f) RCW 41.40.330 (1) and (3);
- (g) RCW 41.40.650;
- (h) RCW 41.34.070;
- (i) *RCW 43.43.300; and
- (j) RCW 41.34.040.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system picked up by the employer.

(4) All member contributions to the respective retirement system picked up by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

- (a) A complete explanation of the effects of this section to all members; and
- (b) Notification of such implementation to the director of the department of retirement systems.

[1995 c 239 § 323; 1992 c 212 § 15; 1990 c 274 § 6; 1988 c 109 § 24; 1985 c 13 § 2; 1984 c 227 § 2.]

NOTES:

***Reviser's note:** RCW 43.43.300 was repealed by 2001 c 329 § 12.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Findings--Effective date--Construction--1990 c 274: See notes following RCW 41.32.010.

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

Purpose--Application--1985 c 13: "The sole purpose of this 1985 act is to clarify and more explicitly state the intent of the legislature in enacting chapter 227, Laws of 1984. This 1985 act makes no substantive changes in the meaning or impact of that chapter and the provisions of this 1985 act shall be deemed to have retrospective application to September 1, 1984." [1985 c 13 § 1.]

Retrospective application--1985 c 13: "This act shall have retrospective application to September 1, 1984." [1985 c 13 § 8.]

Effective date--Conflict with federal requirements--Severability--1984 c 227: See notes following RCW 41.04.440.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.04.445 Members' retirement contributions--Pick up by employer--Implementation. (Effective March 1, 2002.)

(1) This section applies to all members who are:

(a) Judges under the retirement system established under chapter 2.10, 2.12, or 2.14 RCW;

(b) Employees of the state under the retirement system established by chapter 41.32, 41.40, or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW, except for substitute teachers as defined by RCW 41.32.010;

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pick up only those member contributions as required under:

(a) RCW 2.10.090(1);

(b) RCW 2.12.060;

(c) RCW 2.14.090;

(d) RCW 41.32.263;

(e) RCW 41.32.350;

(f) RCW 41.40.330 (1) and (3);

(g) RCW 41.45.061 and 41.45.067;

(h) RCW 41.34.070;

(i) *RCW 43.43.300; and

(j) RCW 41.34.040.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system picked up by the employer.

(4) All member contributions to the respective retirement system picked up by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

(a) A complete explanation of the effects of this section to all members; and

(b) Notification of such implementation to the director of the department of retirement systems.

[2000 c 247 § 1102; 1995 c 239 § 323; 1992 c 212 § 15; 1990 c 274 § 6; 1988 c 109 § 24; 1985 c 13 § 2; 1984 c 227 § 2.]

NOTES:

***Reviser's note:** RCW 43.43.300 was repealed by 2001 c 329 § 12.

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Findings--Effective date--Construction--1990 c 274: See notes following RCW 41.32.010.

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

Purpose--Application--1985 c 13: "The sole purpose of this 1985 act is to clarify and more explicitly state the intent of the legislature in enacting chapter 227, Laws of 1984. This 1985 act makes no substantive changes in the meaning or impact of that chapter and the provisions of this 1985 act shall be deemed to have retrospective application to September 1, 1984." [1985 c 13 § 1.]

Retrospective application--1985 c 13: "This act shall have retrospective application to September 1, 1984." [1985 c 13 § 8.]

Effective date--Conflict with federal requirements--Severability--1984 c 227: See notes following RCW 41.04.440.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.04.450 Members' retirement contributions--Pick up by employer--Optional implementation and withdrawal. (Effective until March 1, 2002.)

(1) Employers of those members under chapters 41.26, 41.40, and 41.34 RCW who are not specified in RCW 41.04.445 may choose to implement the employer pick up of all member contributions without exception under RCW *41.26.080(1), 41.26.450, 41.40.330(1), 41.40.650, and chapter 41.34 RCW. If the employer does so choose, the employer and members shall be subject to the conditions and limitations of RCW 41.04.445 (3), (4), and (5) and RCW 41.04.455.

(2) An employer exercising the option under this section may later choose to withdraw from and/or reestablish the employer pick up of member contributions only once in a calendar year following forty-five days prior notice to the director of the department of retirement systems.

[1995 c 239 § 324; 1985 c 13 § 3; 1984 c 227 § 3.]

Notes:

***Reviser's note:** RCW 41.26.080 was amended by 2000 2nd sp.s. c 1 § 907, changing subsection (1) to subsection (1)(a).

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Purpose--Application--Retrospective application--1985 c 13: See notes following RCW 41.04.445.

Effective date--Conflict with federal requirements--Severability--1984 c 227: See notes following RCW 41.04.440.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.04.450 Members' retirement contributions--Pick up by employer--Optional implementation and withdrawal. (Effective March 1, 2002.)

(1) Employers of those members under chapters 41.26, 41.40, and 41.34 RCW who are not specified in RCW 41.04.445 may choose to implement the employer pick up of all member contributions without exception under RCW *41.26.080(1), 41.26.450, 41.40.330(1), 41.45.060, 41.45.061, and 41.45.067 and chapter 41.34 RCW. If the employer does so choose, the employer and members shall be subject to the conditions and limitations of RCW 41.04.445 (3), (4), and (5) and RCW 41.04.455.

(2) An employer exercising the option under this section may later choose to withdraw from and/or reestablish the employer pick up of member contributions only once in a calendar year following forty-five days prior notice to the director of the department of retirement systems.

[2000 c 247 § 1103; 1995 c 239 § 324; 1985 c 13 § 3; 1984 c 227 § 3.]

Notes:

***Reviser's note:** RCW 41.26.080 was amended by 2000 2nd sp.s. c 1 § 907, changing subsection (1) to subsection (1)(a).

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Purpose--Application--Retrospective application--1985 c 13: See notes following RCW 41.04.445.

Effective date--Conflict with federal requirements--Severability--1984 c 227: See notes following RCW 41.04.440.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.04.455 Members' retirement contributions--Pick up by employer--Conditions.

The following two conditions apply to the employer pick up of member contributions authorized under RCW 41.04.445 (section 2, chapter 227, Laws of 1984):

(1) The retirement contributions, although designated as member contributions, will be picked up by the employer, as provided in RCW 41.04.445 (section 2, chapter 227, Laws of 1984) in lieu of contributions by the member.

(2) No retirement system member will have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system.

[1985 c 13 § 4.]

Notes:

Purpose--Application--Retrospective application--1985 c 13: See notes following RCW 41.04.445.

RCW 41.04.460 Financial planning for retirement--Department of personnel to

provide information to retirement system members.

The department of personnel, through the combined benefits communication project, shall prepare information encouraging individual financial planning for retirement and describing the potential consequences of early retirement, including members' assumption of health insurance costs, members' receipt of reduced retirement benefits, and the increased period of time before members will become eligible for cost-of-living adjustments. The department of retirement systems shall distribute the information to members who are eligible to retire under the provisions of chapter 234, Laws of 1992. Prior to retiring, such members who elect to retire shall sign a statement acknowledging their receipt and understanding of the information.

[1992 c 234 § 10.]

RCW 41.04.500 Disability leave supplement for law enforcement officers and fire fighters.

County, municipal, and political subdivision employers of full-time, commissioned law enforcement officers and full-time, paid fire fighters shall provide a disability leave supplement to such employees who qualify for payments under RCW 51.32.090 due to a temporary total disability.

[1985 c 462 § 1.]

Notes:

Program and fiscal review--1985 c 462: "The legislative budget committee shall cause to be conducted a program and fiscal review of the program established by RCW 41.04.500 through 41.04.530. The review shall be conducted on or before June 30, 1987. In conducting the review, the legislative budget committee shall consider, but not be limited to, the following issues:

- (1) The fiscal impact of the program on local governmental entities;
- (2) The number of claims made and allowed, and duration of claims allowed, for disability leave supplement pursuant to RCW 41.04.500 through 41.04.530;
- (3) The number of claimants for disability leave supplement under RCW 41.04.500 through 41.04.530 who have not returned to active service within six months from the injury or illness causing disability;
- (4) The number of local governmental entities who have entered into agreements with law enforcement officers and fire fighters which establish benefits which are greater than those prescribed by RCW 41.04.500 through 41.04.530, and the number of employees covered by such agreements." [1985 c 462 § 10.]

RCW 41.04.505 Disability leave supplement for law enforcement officers and fire fighters--Amount.

The disability leave supplement shall be an amount which, when added to the amount payable under RCW 51.32.090 will result in the employee receiving the same pay he or she would have received for full time active service, taking into account that industrial insurance payments are not subject to federal income or social security taxes.

[1985 c 462 § 2.]

Notes:

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.510 Disability leave supplement for law enforcement officers and fire fighters--Payment.

The disability leave supplement shall be paid as follows:

(1) The disability leave supplement shall begin on the sixth calendar day from the date of the injury or illness which entitles the employee to benefits under RCW 51.32.090. For the purposes of this section, the day of injury shall constitute the first calendar day.

(2) One-half of the amount of the supplement as defined in RCW 41.04.505 shall be charged against the accrued paid leave of the employee. In computing such charge, the employer shall convert accumulated days, or other time units as the case may be, to a money equivalent based on the base monthly salary of the employee at the time of the injury or illness. "Base monthly salary" for the purposes of this section means the amount earned by the employee before any voluntary or involuntary payroll deductions, and not including overtime pay.

(3) One-half of the amount of the supplement as defined in RCW 41.04.505 shall be paid by the employer.

If an employee has no accrued paid leave at the time of an injury or illness which entitles him to benefits under RCW 51.32.090, or if accrued paid leave is exhausted during the period of disability, the employee shall receive only that portion of the disability leave supplement prescribed by subsection (3) of this section.

[1989 c 21 § 1; 1985 c 462 § 3.]

Notes:

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.515 Disability leave supplement for law enforcement officers and fire fighters--Time limitation.

The disability leave supplement provided by RCW 41.04.500 through 41.04.530 shall continue as long as the employee is receiving benefits under RCW 51.32.090, up to a maximum of six months from the date of the injury or illness.

[1985 c 462 § 4.]

Notes:

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.520 Disability leave supplement for law enforcement officers and fire fighters--Employee to perform light duty tasks.

While an employee is receiving disability leave supplement, the employee, subject to the approval of his or her treating physician, shall perform light duty tasks in the employee's previous department as the employer may require, with no reduction in the disability leave supplement.

[1985 c 462 § 5.]

Notes:

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.525 Disability leave supplement for law enforcement officers and fire fighters--Continuation of employee insurance benefits.

The disability leave supplement provided in RCW 41.04.510(3) shall not be considered salary or wages for personal services: PROVIDED, That the employee shall also continue to receive all insurance benefits provided in whole or in part by the employer, notwithstanding the fact that some portion of the cost of those benefits is paid by the employee: PROVIDED FURTHER, That the portion of the cost not paid by the employer continues to be paid by the employee.

[1989 c 11 § 10; 1985 c 462 § 7.]

Notes:

Severability--1989 c 11: See note following RCW 9A.56.220.

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.530 Disability leave supplement for law enforcement officers and fire fighters--Exhaustion of accrued sick leave.

If an employee's accrued sick leave is exhausted during the period of disability, the employee may, for a period of two months following return to active service, draw prospectively upon sick leave the employee is expected to accumulate up to a maximum of three days or three work shifts, whichever is greater. Any sick leave drawn prospectively as provided in this section shall be charged against earned sick leave until such time as the employee has accrued the amount needed to restore the amount used. In the event an employee terminates active service without having restored the sick leave drawn prospectively, the employer shall deduct the actual cost of any payments made under this section from compensation or other money payable to the employee, or otherwise recover such payments.

[1985 c 462 § 8.]

Notes:

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.535 Disability leave supplement for law enforcement officers and fire fighters--Greater benefits not precluded.

Nothing in RCW 41.04.500 through 41.04.530 shall preclude employers of law enforcement officers and fire fighters and such employees from entering into agreements which provide benefits to employees which are greater than those prescribed by RCW 41.04.500 through 41.04.530, nor is there any intent by the legislature to alter or in any way affect any such agreements which may now exist.

[1985 c 462 § 11.]

Notes:

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.540 Disability leave supplement for law enforcement officers and fire fighters--Supplement not required in smaller cities, towns, and counties.

Cities and towns with a population of less than twenty-five hundred and counties with a population of less than ten thousand shall not be required to provide a disability leave supplement to their commissioned law enforcement officers and full-time paid fire fighters who qualify for payments pursuant to RCW 51.32.090, due to temporary total disability.

[1985 c 462 § 12.]

Notes:

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.545 Disability leave supplement for law enforcement officers and fire fighters--Vested right not created.

Chapter 462, Laws of 1985 neither grants employees a vested right to receive a disability leave supplement nor creates a contractual obligation on behalf of the state or its political subdivisions to provide a disability leave supplement.

[1985 c 462 § 13.]

Notes:

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.550 Disability leave supplement for law enforcement officers and fire fighters--Not subject to interest arbitration.

Disability leave supplement payments for employees covered by chapter 462, Laws of 1985 shall not be subject to interest arbitration as defined in RCW 41.56.430 through 41.56.905.

[1985 c 462 § 14.]

Notes:

Program and fiscal review--1985 c 462: See note following RCW 41.04.500.

RCW 41.04.580 Dismissal of municipal employees during World War II--Redress authorized.

A municipality may by ordinance or resolution provide for redress to any municipal employee or the surviving spouse of a municipal employee who, due to the promulgation of federal Executive Order 9066, was dismissed, terminated from a temporary position, or rejected during the person's probationary period, or who voluntarily resigned in lieu of dismissal from municipal employment, and who incurred salary and other employment related losses as a result thereof during the years 1942 through 1947.

[1986 c 225 § 2.]

Notes:

Legislative findings--1986 c 225: "The dismissal or termination of various municipal employees during World War II resulted from the promulgation of federal Executive Order 9066 which was based mainly on fear and

suspicion rather than on factual justification. It is fair and just that redress be made to those employees who were terminated from municipal employment during the wartime years because of these circumstances. The legislature therefore finds that equity and fairness will be served by authorizing municipalities to accept claims for salary and other employment related losses suffered by the municipal employees directly affected and to pay the claims subject to the provisions of this chapter." [1986 c 225 § 1.]

Severability--1986 c 225: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 225 § 7.]

Reparations to state employees terminated during World War II: Chapter 41.68 RCW.

RCW 41.04.585 Dismissal of municipal employees during World War II--Redress not mandatory.

RCW 41.04.580 through 41.04.595 do not require a municipality to adopt an ordinance or resolution providing for redress of salary and other employment related losses.

[1986 c 225 § 3.]

Notes:

Legislative findings--Severability--1986 c 225: See notes following RCW 41.04.580.

RCW 41.04.590 Dismissal of municipal employees during World War II--Redress--Limitations.

Under the system of redress authorized under RCW 41.04.580 through 41.04.595:

(1) A municipality may determine in its sole discretion the monetary amount of redress for salary and other employment related losses, which may not exceed five thousand dollars for any undivided claim.

(2) If a municipality adopts an ordinance or resolution providing for redress of salary and other employment related losses, it has no obligation to notify directly any person of possible eligibility for redress of salary and other employment related losses.

[1986 c 225 § 4.]

Notes:

Legislative findings--Severability--1986 c 225: See notes following RCW 41.04.580.

RCW 41.04.595 Dismissal of municipal employees during World War II--Definitions.

For the purposes of this chapter, "municipality" means a city, town, county, special purpose district, municipal corporation, quasi-municipal corporation, or political subdivision of the state of Washington. For the purposes of this chapter, a "municipal employee" means an employee of a municipality.

[1986 c 225 § 5.]

Notes:

Legislative findings--Severability--1986 c 225: See notes following RCW 41.04.580.

RCW 41.04.600 Dependent care--Salary reduction plan--Purpose.

(1) The state of Washington may enter into salary reduction agreements with employees pursuant to the Internal Revenue Code, 26 U.S.C. Sec. 125 for the purpose of making it possible for employees to select on a "before-tax basis" certain taxable and nontaxable benefits pursuant to 26 U.S.C. Sec. 125. The purpose of the salary reduction plan established in this chapter is to attract and retain individuals in governmental service by permitting them to enter into agreements with the state to provide for benefits pursuant to 26 U.S.C. Sec. 129.

(2) Nothing in the salary reduction plan constitutes an employment agreement between the participant and the state, and nothing contained in the participant's salary reduction agreement, the plan, or RCW 41.04.605 through 41.04.645 gives a participant any right to be retained in state employment.

[1987 c 475 § 1.]

Notes:

Severability--1987 c 475: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 475 § 13.]

RCW 41.04.605 Dependent care--Salary reduction plan--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.610 through 41.04.635.

(1) "Salary reduction plan" means a plan whereby state employees and officers may agree to a reduction of salary which reduction will allow the employee to participate in benefits offered pursuant to 26 U.S.C. Sec. 125.

(2) "Department" means the department of retirement systems.

(3) "Salary" means a state employee's or officer's monthly salary or wages.

(4) "Dependent care program" means the program for the care of dependents pursuant to 26 U.S.C. Sec. 129 financed from funds deposited in the salary reduction account in the state treasury for the purpose of holding and disbursing the funds deposited under the auspices of the salary reduction plan.

(5) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(6) "Plan year" means the time period established by the department.

[1998 c 116 § 3; 1987 c 475 § 2.]

Notes:

Severability--1987 c 475: See note following RCW 41.04.600.

RCW 41.04.610 Dependent care--Salary reduction plan--Powers and duties of department.

The department shall have responsibility for the formulation and adoption of a plan and policies and procedures designed to guide, direct, and administer the salary reduction plan.

[1998 c 116 § 4; 1987 c 475 § 3.]

Notes:

Severability--1987 c 475: See note following RCW 41.04.600.

RCW 41.04.615 Dependent care--Salary reduction plan document--Funds, fees, and appropriations--Dependent care administrative account created--Presumptions.

(1) A plan document describing the salary reduction plan shall be adopted and administered by the department. The department shall represent the state in all matters concerning the administration of the plan. The state through the department, may engage the services of a professional consultant or administrator on a contractual basis to serve as an agent to assist the department in carrying out the purposes of RCW 41.04.600 through 41.04.645.

(2) The department shall formulate and establish policies and procedures for the administration of the salary reduction plan that are consistent with existing state law, the internal revenue code, and the regulations adopted by the internal revenue service as they may apply to the benefits offered to participants under the plan.

(3) The funds held by the state for the dependent care program shall be deposited in the salary reduction account in the state treasury. Any interest in excess of the amount used to defray the cost of administering the salary reduction plan shall become a part of the general fund. Unclaimed moneys remaining in the salary reduction account at the end of a plan year after all timely submitted claims for that plan year have been processed shall become a part of the dependent care administrative account. The department may assess each participant a fee for administering the salary reduction plan. In addition to moneys for initial costs, moneys may be appropriated from the general fund or dependent care administrative account for any expense relating to the administration of the salary reduction plan.

(4) The dependent care administrative account is created in the state treasury. The department may periodically bill agencies for employer savings experienced as the result of dependent care program participation by employees. All receipts from the following shall be deposited in the account: (a) Charges to agencies for all or a portion of the estimated savings due to reductions in employer contributions under the social security act; (b) charges for other similar savings; (c) unclaimed moneys in the salary reduction account at the end of the plan year after all timely submitted claims for that plan year have been processed; and (d) fees charged to participants. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for any expense related to the administration of the salary reduction plan.

(5) Every action taken by the department in administering RCW 41.04.600 through 41.04.645 shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The department shall be presumed to have exercised reasonable care, diligence, and prudence and to have acted impartially as to all persons interested unless the contrary be proved by clear and convincing affirmative evidence.

[1998 c 116 § 5; 1993 c 34 § 1; 1987 c 475 § 4.]

Notes:

Effective date--1993 c 34: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 34 § 3.]

Severability--1987 c 475: See note following RCW 41.04.600.

RCW 41.04.620 Dependent care--Salary reduction plan--Participation by eligible persons--Enrollment, termination, or modification.

(1) Elected officials and all permanent officers and employees of the state are eligible to participate in the salary reduction plan and reduce their salary by agreement with the department. The department may adopt rules to permit participation in the plan by temporary employees of the state.

(2) Persons eligible under subsection (1) of this section may enter into salary reduction agreements with the state.

(3)(a) In the initial year of the salary reduction plan, an eligible person may become a participant after the adoption of the plan and before its effective date by agreeing to have a portion of his or her gross salary reduced and deposited into a dependent care account to be used for reimbursement of expenses covered by the plan.

(b) After the initial year of the salary reduction plan, an eligible person may become a participant for a full plan year, with annual benefit selection for each new plan year made before the beginning of the plan year, as determined by the department, or upon becoming eligible.

(c) Once an eligible person elects to participate and determines the amount his or her salary shall be reduced and the benefit for which the funds are to be used during the plan year, the agreement shall be irrevocable and may not be amended during the plan year except as provided in (d) of this subsection. Prior to making an election to participate in the salary reduction plan, the eligible person shall be informed in writing of all the benefits and reductions that will occur as a result of such election.

(d) The department shall provide in the salary reduction plan that a participant may enroll, terminate, or change his or her election after the plan year has begun if there is a significant change in a participant's status, as provided by 26 U.S.C. Sec. 125 and the regulations adopted under that section.

(4) The department shall establish as part of the salary reduction plan the procedures for and effect of withdrawal from the plan by reason of retirement, death, leave of absence, or termination of employment. To the extent possible under federal law, the department shall protect participants from forfeiture of rights under the plan.

(5) Any salary reduced under the salary reduction plan shall continue to be included as regular compensation for the purpose of computing the state retirement and pension benefits earned by the employee.

[1998 c 116 § 6; 1987 c 475 § 5.]

Notes:

Severability--1987 c 475: See note following RCW 41.04.600.

RCW 41.04.625 Dependent care--Salary reduction account.

The salary reduction account is established in the state treasury. All fees paid to reimburse participants or service providers pursuant to the provisions of RCW 41.04.600 through 41.04.645 shall be paid from the salary reduction account.

[1987 c 475 § 6.]

Notes:

Severability--1987 c 475: See note following RCW 41.04.600.

RCW 41.04.630 Dependent care--Salary reduction plan--Records and reports.

(1) The department shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of a salary reduction plan created under RCW 41.04.615.

(2) The department shall file an annual report of the financial condition, transactions, and affairs of the salary reduction plan under the department's jurisdiction.

[1998 c 245 § 36; 1998 c 116 § 7; 1987 c 475 § 7.]

Notes:

Reviser's note: This section was amended by 1998 c 116 § 7 and by 1998 c 245 § 36, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1987 c 475: See note following RCW 41.04.600.

RCW 41.04.635 Dependent care--Salary reduction plan--Termination or amendment of plan.

(1) The state may terminate the salary reduction plan at the end of the plan year or upon notification of federal action affecting the status of the plan.

(2) The department may amend the salary reduction plan at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement from the participants' dependent care accounts.

[1998 c 116 § 8; 1987 c 475 § 8.]

Notes:

Severability--1987 c 475: See note following RCW 41.04.600.

RCW 41.04.640 Dependent care--Salary reduction plan--Adoption of rules.

The department shall adopt rules to implement RCW 41.04.610 through 41.04.635.

[1998 c 116 § 9; 1987 c 475 § 9.]

Notes:

Severability--1987 c 475: See note following RCW 41.04.600.

RCW 41.04.645 Dependent care--Salary reduction plan--Construction of statutes.

RCW 41.04.600 through 41.04.640 shall be construed to effectuate the purposes of 26 U.S.C. Sec. 125.

[1987 c 475 § 10.]

Notes:

Severability--1987 c 475: See note following RCW 41.04.600.

RCW 41.04.650 Leave sharing program--Intent.

The legislature finds that: (1) State employees historically have joined together to help their fellow employees who suffer from, or have relatives or household members suffering from, an extraordinary or severe illness, injury, impairment, or physical or mental condition which prevents the individual from working and causes great economic and emotional distress to the employee and his or her family; and (2) these circumstances may be exacerbated because the affected employees use all their accrued sick leave and annual leave and are forced to take leave without pay or terminate their employment. Therefore, the legislature intends to provide for the establishment of a leave sharing program.

[1989 c 93 § 1.]

Notes:

Severability--1989 c 93: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 93 § 8.]

RCW 41.04.655 Leave sharing program--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.650 through 41.04.670, 28A.400.380, and section 7, chapter 93, Laws of 1989.

(1) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or annual leave and for whom accurate leave records are maintained.

(2) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

(3) "Program" means the leave sharing program established in RCW 41.04.660.

[1990 c 33 § 569; 1989 c 93 § 2.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1989 c 93: See note following RCW 41.04.650.

RCW 41.04.660 Leave sharing program--Created.

The Washington state leave sharing program is hereby created. The purpose of the program is to permit state employees, at no significantly increased cost to the state of providing annual leave, sick leave, or personal holidays, to come to the aid of a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.

[1996 c 176 § 2; 1990 c 23 § 1; 1989 c 93 § 3.]

Notes:

Severability--1989 c 93: See note following RCW 41.04.650.

RCW 41.04.665 Leave sharing program--When employee may receive leave--When employee may transfer accrued leave--Transfer of leave between employees of different agencies.

(1) An agency head may permit an employee to receive leave under this section if:

(a) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(b) The employee's absence and the use of shared leave are justified;

(c) The employee has depleted or will shortly deplete his or her annual leave and sick leave reserves;

(d) The employee has abided by agency rules regarding sick leave use; and

(e) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than two hundred sixty-one days of leave.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result

in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of four hundred eighty hours of sick leave after the transfer. In no event may such an employee request a transfer of more than six days of sick leave during any twelve-month period.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than sixty days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer of more than six days of sick leave during any twelve month period, or request a transfer that would result in his or her sick leave account going below sixty days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory

restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

[1999 c 25 § 1; 1996 c 176 § 1; 1990 c 23 § 2; 1989 c 93 § 4.]

Notes:

Severability--1989 c 93: See note following RCW 41.04.650.

RCW 41.04.670 Leave sharing program--Adoption of rules.

The Washington personnel resources board and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with RCW 41.04.665(5); (3) establishing procedures to ensure that the program does not significantly increase the cost of providing leave; and (4) providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review.

[1993 c 281 § 18; 1990 c 23 § 3; 1989 c 93 § 5.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Temporary policies--1989 c 93: "School districts, the department of personnel, the higher education personnel board, and other personnel authorities may adopt temporary emergency policies and procedures to implement the program on April 20, 1989, so that donated leave may be used in lieu of leave without pay taken after April 20, 1989." [1989 c 93 § 7.]

Severability--1989 c 93: See note following RCW 41.04.650.

RCW 41.04.700 Employee assistance program--Intent.

The legislature finds that:

(1) Assisting employees in resolving personal problems that impair their performance will result in a more productive work force, better morale, reduced stress, reduced use of medical benefits, reduced absenteeism, lower turnover rates, and fewer accidents;

(2) A substantial number of employee problems can be identified and the employees referred to treatment by an employee assistance program;

(3) The state, as an employer, desires to foster a working environment that promotes safety and productivity as well as the health and well-being of its employees.

Therefore, it is the purpose of RCW 41.04.710 through 41.04.730 to assist state employees by establishing a state employee assistance program.

[1990 c 60 § 301.]

Notes:

Severability--Subheadings not law--1990 c 60: See notes following RCW 41.06.070.

RCW 41.04.710 Employee assistance program--Created.

The employee assistance program is hereby created to provide support and services to state employees who have personal problems that impair their performance in the work place. The goal of the program is to help promote a safe, productive, and healthy state work force by assisting state employees and their supervisors to identify and deal with such personal problems. However, nothing in this chapter relieves employees from the responsibility of performing their jobs in an acceptable manner.

[1990 c 60 § 302.]

Notes:

Severability--Subheadings not law--1990 c 60: See notes following RCW 41.06.070.

RCW 41.04.720 Employee assistance program--*Director of human resources--Duties.

The *director of human resources shall:

(1) Administer the state employee assistance program to assist employees who have personal problems that adversely affect their job performance or have the potential of doing so;

(2) Develop policies, procedures, and activities for the program;

(3) Encourage and promote the voluntary use of the employee assistance program by increasing employee awareness and disseminating educational materials;

(4) Provide technical assistance and training to agencies on how to use the employee assistance program;

(5) Assist and encourage supervisors to identify and refer employees with problems that impair their performance by incorporating proper use of the program in management training, management performance criteria, ongoing communication with agencies, and other appropriate

means;

(6) Offer substance abuse prevention and awareness activities to be provided through the employee assistance program and the state employee wellness program;

(7) Monitor and evaluate the effectiveness of the program, including the collection, analysis, and publication of relevant statistical information; and

(8) Consult with state agencies, institutions of higher education, and employee organizations in carrying out the purposes of RCW 41.04.700 through 41.04.730.

[1990 c 60 § 303.]

Notes:

***Reviser's note:** The reference to the "director of human resources" is erroneous. In the final version of House Bill No. 2567, all other references were changed to the "director of personnel."

Severability--Subheadings not law--1990 c 60: See notes following RCW 41.06.070.

RCW 41.04.730 Employee assistance program--Information confidential--Exceptions.

Individual employees' participation in the employee assistance program and all individually identifiable information gathered in the process of conducting the program shall be held in strict confidence; except that agency management may be provided with the following information about employees referred by that agency management due to poor job performance:

- (1) Whether or not the referred employee made an appointment;
- (2) The date and time the employee arrived and departed;
- (3) Whether the employee agreed to follow the advice of counselors; and
- (4) Whether further appointments were scheduled.

Participation or nonparticipation by any employee in the employee assistance program shall not be a factor in any decision affecting an employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights.

[1990 c 60 § 304.]

Notes:

Severability--Subheadings not law--1990 c 60: See notes following RCW 41.06.070.

RCW 41.04.750 Supported employment--Definitions.

Unless the context clearly requires otherwise the definitions in this section apply throughout RCW 41.04.760 through 41.04.780.

- (1) "Developmental disability" means a disability as defined in RCW 71A.10.020.
- (2) "Significant disability" means a disability as defined in 29 U.S.C. Sec. 705.
- (3) "Supported employment" means employment for individuals with developmental disabilities or other significant disabilities who require on-the-job training and long-term support in order to fulfill their job duties successfully. Supported employment offers the same wages and benefits as similar nonsupported employment positions.
- (4) "State agency" means any office, department, division, bureau, board, commission,

community college or institution of higher education, or agency of the state of Washington.

[1999 c 178 § 2; 1997 c 287 § 2.]

NOTES:

Finding--1997 c 287: "The legislature finds that the rate of unemployment among individuals with developmental disabilities or other significant disabilities is high due to the limited employment opportunities available to them. Given that individuals with developmental disabilities or other significant disabilities are capable of filling employment positions in the general work force population, supported employment is an effective way of integrating such individuals into the general work force population. The creation of supported employment programs can increase the types and availability of employment positions for individuals with developmental disabilities or other significant disabilities." [1999 c 178 § 1; 1997 c 287 § 1.]

RCW 41.04.760 Supported employment--State agency participation.

State agencies are encouraged to participate in supported employment activities. The department of social and health services, in conjunction with the department of personnel and the office of financial management, shall identify agencies that have positions and funding conducive to implementing supported employment. An agency may only participate in supported employment activities pursuant to this section if the agency is able to operate the program within its existing budget. These agencies shall:

(1) Designate a coordinator who will be responsible for information and resource referral regarding the agency's supported employment program. The coordinator shall serve as a liaison between the agency and the department of personnel regarding supported employment;

(2) Submit an annual update to the department of social and health services, the department of personnel, and the office of financial management. The annual update shall include: A description of the agency's supported employment efforts, the number of individuals placed in supported employment positions, and an overall evaluation of the effectiveness of supported employment for the agency.

[1999 c 178 § 3; 1997 c 287 § 3.]

Notes:

Finding--1997 c 287: See note following RCW 41.04.750.

RCW 41.04.770 Supported employment--Implementation.

The department of social and health services and the department of personnel shall, after consultation with supported employment provider associations and other interested parties, encourage, educate, and assist state agencies in implementing supported employment programs. The department of personnel shall provide human resources technical assistance to agencies implementing supported employment programs. The department of personnel shall make available, upon request of the legislature, an annual report that evaluates the overall progress of supported employment in state government.

[1997 c 287 § 4.]

Notes:

Finding--1997 c 287: See note following RCW 41.04.750.

RCW 41.04.780 Supported employment--Impact on other employment positions.

The creation of supported employment positions under RCW 41.04.760 and 41.04.770 shall not count against an agency's allotted full-time equivalent employee positions. Supported employment programs are not intended to displace employees or abrogate any reduction-in-force rights.

[1997 c 287 § 5.]

Notes:

Finding--1997 c 287: See note following RCW 41.04.750.

RCW 41.04.800 Chapter not applicable to officers and employees of state convention and trade center.

The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW.

[1984 c 210 § 5.]

Notes:

Savings--Severability--1984 c 210: See notes following RCW 67.40.020.

**Chapter 41.05 RCW
STATE HEALTH CARE AUTHORITY**

(Formerly: State employees' insurance and health care)

Sections

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NOTES:

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Prepaid chiropractic, pilot projects: RCW 18.25.200.

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RCW 41.05.006 Purpose.

(1) The legislature recognizes that (a) the state is a major purchaser of health care services, (b) the increasing costs of such health care services are posing and will continue to pose a great financial burden on the state, (c) it is the state's policy, consistent with the best interests of the state, to provide comprehensive health care as an employer, to state employees and officials and their dependents and to those who are dependent on the state for necessary medical care, and (d) it is imperative that the state begin to develop effective and efficient health care delivery systems and strategies for procuring health care services in order for the state to

continue to purchase the most comprehensive health care possible.

(2) It is therefore the purpose of this chapter to establish the Washington state health care authority whose purpose shall be to (a) develop health care benefit programs, funded to the fullest extent possible by the employer, that provide comprehensive health care for eligible state employees, officials, and their dependents, and (b) study all state-purchased health care, alternative health care delivery systems, and strategies for the procurement of health care services and make recommendations aimed at minimizing the financial burden which health care poses on the state, its employees, and its charges, while at the same time allowing the state to provide the most comprehensive health care possible.

[1988 c 107 § 2.]

RCW 41.05.011 Definitions. (*Effective until March 1, 2002.*)

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

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes: (a) Employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205; (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the

option of each such employee organization; and (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350.

(7) "Board" means the public employees' benefits board established under RCW 41.05.055.

(8) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(9) "Benefits contribution plan" means a premium only contribution plan, a medical flexible spending arrangement, or a cafeteria plan whereby state and public employees may agree to a contribution to benefit costs which will allow the employee to participate in benefits offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(10) "Salary" means a state employee's monthly salary or wages.

(11) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the benefits contribution plan.

(12) "Plan year" means the time period established by the authority.

(13) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(11) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(40) or the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010.

(14) "Emergency service personnel killed in the line of duty" means law enforcement officers and fire fighters as defined in RCW 41.26.030, and reserve officers and fire fighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

[2001 c 165 § 1; 2000 c 230 § 3; 1998 c 341 § 706; 1996 c 39 § 21; 1995 1st sp.s. c 6 § 2; 1994 c 153 § 2. Prior: 1993 c 492 § 214; 1993 c 386 § 5; 1990 c 222 § 2; 1988 c 107 § 3.]

NOTES:

Expiration date--2001 c 165 § 1: "Section 1 of this act expires March 1, 2002." [2001 c 165 § 4.]

Effective date--Application--2001 c 165: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and except for section 2 of this act takes effect immediately [May 7, 2001]. This act applies to surviving spouses and dependent children of emergency service personnel killed in the line of duty on or after January 1, 1998." [2001 c 165 § 6.]

Effective date--2000 c 230: See note following RCW 41.35.630.

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Intent--1994 c 153: "It is the intent of the legislature to increase access to health insurance for retired and disabled state and school district employees and to increase equity between state and school employees and between state and school retirees." [1994 c 153 § 1.]

Effective dates--1994 c 153: "This act shall take effect January 1, 1995, except section 15 of this act, which takes effect October 1, 1995." [1994 c 153 § 16.]

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent--1993 c 386: See note following RCW 28A.400.391.

Effective date--1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

RCW 41.05.011 Definitions. (Effective March 1, 2002.)

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

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes: (a) Employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205; (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently

pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; and (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350.

(7) "Board" means the public employees' benefits board established under RCW 41.05.055.

(8) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(9) "Benefits contribution plan" means a premium only contribution plan, a medical flexible spending arrangement, or a cafeteria plan whereby state and public employees may agree to a contribution to benefit costs which will allow the employee to participate in benefits offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(10) "Salary" means a state employee's monthly salary or wages.

(11) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the benefits contribution plan.

(12) "Plan year" means the time period established by the authority.

(13) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(11) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(40), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(14) "Emergency service personnel killed in the line of duty" means law enforcement officers and fire fighters as defined in RCW 41.26.030, and reserve officers and fire fighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

[2001 c 165 § 2. Prior: 2000 c 247 § 604; 2000 c 230 § 3; 1998 c 341 § 706; 1996 c 39 § 21; 1995 1st sp.s. c 6 § 2; 1994 c 153 § 2; prior: 1993 c 492 § 214; 1993 c 386 § 5; 1990 c 222 § 2; 1988 c 107 § 3.]

NOTES:

Effective date--2001 c 165 § 2: "Section 2 of this act takes effect March 1, 2002." [2001 c 165 § 5.]

Effective date--Application--2001 c 165: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and except for section 2 of this act takes effect immediately [May 7, 2001]. This act applies to surviving spouses and dependent children of emergency service personnel killed in the line of duty on or after January 1, 1998." [2001 c 165 § 6.]

Effective date--2000 c 230: See note following RCW 41.35.630.

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Intent--1994 c 153: "It is the intent of the legislature to increase access to health insurance for retired and disabled state and school district employees and to increase equity between state and school employees and between state and school retirees." [1994 c 153 § 1.]

Effective dates--1994 c 153: "This act shall take effect January 1, 1995, except section 15 of this act, which takes effect October 1, 1995." [1994 c 153 § 16.]

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent--1993 c 386: See note following RCW 28A.400.391.

Effective date--1993 c 386 § 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

RCW 41.05.015 Medical director.

The administrator shall designate a medical director who is licensed under chapter 18.57 or 18.71 RCW.

[2000 c 5 § 16.]

NOTES:

Intent--Purpose--2000 c 5: See RCW 48.43.005.

Application--Short title--Captions not law--Construction--Severability--Application to contracts--Effective dates--2000 c 5: See notes following RCW 48.43.500.

RCW 41.05.017 Provisions applicable to health plans offered under this chapter.

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, and 70.02.900.

[2000 c 5 § 20.]

Notes:

Intent--Purpose--2000 c 5: See RCW 48.43.005.

Application--Short title--Captions not law--Construction--Severability--Application to contracts--Effective dates--2000 c 5: See notes following RCW 48.43.500.

RCW 41.05.021 State health care authority--Administrator--Cost control and delivery strategies--Managed competition.

(1) The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any

additional staff members as are necessary to administer this chapter. The administrator may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer state employees' insurance benefits and retired or disabled school employees' insurance benefits; administer the basic health plan pursuant to chapter 70.47 RCW; study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; and implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

(v) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To appoint a health care policy technical advisory committee as required by RCW 41.05.150;

(g) To establish billing procedures and collect funds from school districts and educational service districts under *RCW 28A.400.400 in a way that minimizes the administrative burden on districts; and

(h) To promulgate and adopt rules consistent with this chapter as described in RCW

41.05.160.

(2) On and after January 1, 1996, the public employees' benefits board may implement strategies to promote managed competition among employee health benefit plans. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced qualified plan within a geographical area;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans state-wide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans.

[1999 c 372 § 4; 1997 c 274 § 1; 1995 1st sp.s. c 6 § 7; 1994 c 309 § 1. Prior: 1993 c 492 § 215; 1993 c 386 § 6; 1990 c 222 § 3; 1988 c 107 § 4.]

Notes:

***Reviser's note:** RCW 28A.400.400 was repealed by 1994 c 153 § 15, effective October 1, 1995.

Effective date--1997 c 274: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 274 § 10.]

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent--1993 c 386: See note following RCW 28A.400.391.

Effective date--1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

RCW 41.05.022 State agent for purchasing health services--Single community-rated risk pool.

(1) The health care authority is hereby designated as the single state agent for purchasing health services.

(2) On and after January 1, 1995, at least the following state-purchased health services programs shall be merged into a single, community-rated risk pool: Health benefits for groups of employees of school districts and educational service districts that voluntarily purchase health benefits as provided in RCW 41.05.011; health benefits for state employees; health benefits for eligible retired or disabled school employees not eligible for parts A and B of medicare; and health benefits for eligible state retirees not eligible for parts A and B of medicare.

(3) At a minimum, and regardless of other legislative enactments, the state health services purchasing agent shall:

(a) Require that a public agency that provides subsidies for a substantial portion of services now covered under the basic health plan use uniform eligibility processes, insofar as may be possible, and ensure that multiple eligibility determinations are not required;

(b) Require that a health care provider or a health care facility that receives funds from a

public program provide care to state residents receiving a state subsidy who may wish to receive care from them, and that an insuring entity that receives funds from a public program accept enrollment from state residents receiving a state subsidy who may wish to enroll with them;

(c) Strive to integrate purchasing for all publicly sponsored health services in order to maximize the cost control potential and promote the most efficient methods of financing and coordinating services;

(d) Consult regularly with the governor, the legislature, and state agency directors whose operations are affected by the implementation of this section; and

(e) Ensure the control of benefit costs under managed competition by adopting rules to prevent employers from entering into an agreement with employees or employee organizations when the agreement would result in increased utilization in public employees' benefits board plans or reduce the expected savings of managed competition.

[1995 1st sp.s. c 6 § 3; 1994 c 153 § 3; 1993 c 492 § 227.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Intent--Effective dates--1994 c 153: See notes following RCW 41.05.011.

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 41.05.026 Contracts--Proprietary data, trade secrets, actuarial formulas, statistics, cost and utilization data--Exemption from public inspection--Executive sessions.

(1) When soliciting proposals for the purpose of awarding contracts for goods or services, the administrator shall, upon written request by the bidder, exempt from public inspection and copying such proprietary data, trade secrets, or other information contained in the bidder's proposal that relate to the bidder's unique methods of conducting business or of determining prices or premium rates to be charged for services under terms of the proposal.

(2) Actuarial formulas, statistics, cost and utilization data, or other proprietary information submitted upon request of the administrator or board by a contracting insurer, health care service contractor, health maintenance organization, or vendor may be withheld at any time from public inspection when necessary to preserve trade secrets or prevent unfair competition.

(3) The board may hold an executive session during any regular or special meeting to discuss information submitted in accordance with subsection (1) or (2) of this section.

[1991 c 79 § 1; 1990 c 222 § 6.]

RCW 41.05.031 Agencies to establish health care information systems.

The following state agencies are directed to cooperate with the authority to establish appropriate health care information systems in their programs: The department of social and health services, the department of health, the department of labor and industries, the basic health plan, the department of veterans affairs, the department of corrections, and the superintendent of public instruction.

The authority, in conjunction with these agencies, shall determine:

- (1) Definitions of health care services;
- (2) Health care data elements common to all agencies;
- (3) Health care data elements unique to each agency; and
- (4) A mechanism for program and budget review of health care data.

[1990 c 222 § 4; 1988 c 107 § 5.]

RCW 41.05.050 Contributions for employees and dependents.

(1) Every department, division, or separate agency of state government, and such county, municipal, school district, educational service district, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, school district, educational service district, or other political subdivision for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups. Until October 1, 1995, contributions to be paid by school districts or educational service districts shall be adjusted by the authority to reflect the remittance provided under RCW 28A.400.400.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(3) The authority shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature.

[1995 1st sp.s. c 6 § 22; 1994 c 309 § 2; 1994 c 153 § 4. Prior: 1993 c 492 § 216; 1993 c 386 § 7; 1988 c 107 § 18; 1987 c 122 § 4; 1984 c 107 § 1; 1983 c 15 § 20; 1983 c 2 § 9; prior: 1982 1st ex.s. c 34 § 2; 1981 c 344 § 6; 1979 c 151 § 55; 1977 ex.s. c 136 § 4; 1975-'76 2nd ex.s. c 106 § 4; 1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

Notes:

Reviser's note: This section was amended by 1995 1st sp.s. c 6 § 22 without cognizance of its amendment by 1994 c 153 § 4. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Intent--Effective dates--1994 c 153: See notes following RCW 41.05.011.

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective date--1993 c 386 §§ 3, 7, and 11: See note following RCW 41.04.205.

Intent--1993 c 386: See note following RCW 28A.400.391.

Severability--1983 c 15: See RCW 47.64.910.

Severability--1983 c 2: See note following RCW 18.71.030.

Severability--1981 c 344: See note following RCW 47.60.326.

Effective date--Conditions prerequisite to implementing sections--1977 ex.s. c 136: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977: PROVIDED, That if the state operating budget appropriations act does not contain the funds necessary for the implementation of this 1977 amendatory act in an appropriated amount sufficient to fully fund the employer's contribution to the state employee insurance benefits program which is established by the board in accordance with RCW 41.05.050 (2) and (3) as now or hereafter amended, sections 1, 5, and 6 of this 1977 amendatory act shall be null and void." [1977 ex.s. c 136 § 8.]

Effective date--Effect of veto--1973 1st ex.s. c 147: "This bill shall not take effect until the funds necessary for its implementation have been specifically appropriated by the legislature and such appropriation itself has become law. It is the intention of the legislature that if the governor shall veto this section or any item thereof, none of the provisions of this bill shall take effect." [1973 1st ex.s. c 147 § 10.]

Savings--1973 1st ex.s. c 147: "Nothing contained in this 1973 amendatory act shall be deemed to amend, alter or affect the provisions of Chapter 23, Laws of 1972, Extraordinary Session, and RCW 28B.10.840 through 28B.10.844 as now or hereafter amended." [1973 1st ex.s. c 147 § 13.]

Severability--1973 1st ex.s. c 147: "If any provision of this 1973 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 147 § 9.]

Severability--1970 ex.s. c 39: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 39 § 14.]

RCW 41.05.055 Public employees' benefits board--Members.

(1) The public employees' benefits board is created within the authority. The function of the board is to design and approve insurance benefit plans for state employees and school district employees.

(2) The board shall be composed of nine members appointed by the governor as follows:

(a) Two representatives of state employees, one of whom shall represent an employee union certified as exclusive representative of at least one bargaining unit of classified employees, and one of whom is retired, is covered by a program under the jurisdiction of the board, and represents an organized group of retired public employees;

(b) Two representatives of school district employees, one of whom shall represent an association of school employees and one of whom is retired, and represents an organized group of retired school employees;

(c) Four members with experience in health benefit management and cost containment;
and

(d) The administrator.

(3) The member who represents an association of school employees and one member appointed pursuant to subsection (2)(c) of this section shall be nonvoting members until such time that there are no less than twelve thousand school district employee subscribers enrolled with the authority for health care coverage.

(4) The governor shall appoint the initial members of the board to staggered terms not to exceed four years. Members appointed thereafter shall serve two-year terms. Members of the

board shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe rules for the conduct of its business. The administrator shall serve as chair of the board. Meetings of the board shall be at the call of the chair.

[1995 1st sp.s. c 6 § 4; 1994 c 36 § 1; 1993 c 492 § 217; 1989 c 324 § 1; 1988 c 107 § 7.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Effective date--1994 c 36: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1994]." [1994 c 36 § 2.]

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 41.05.065 Public employees' benefits board--Duties.

(1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state. However, liability insurance shall not be made available to dependents.

(2) The board shall develop employee benefit plans that include comprehensive health care benefits for all employees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, such as smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education;

(d) Utilization review procedures including, but not limited to a cost-efficient method for prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers;

(e) Effective coordination of benefits;

(f) Minimum standards for insuring entities; and

(g) Minimum scope and content of public employee benefit plans to be offered to enrollees participating in the employee health benefit plans. To maintain the comprehensive nature of employee health care benefits, employee eligibility criteria related to the number of hours worked and the benefits provided to employees shall be substantially equivalent to the state employees' health benefits plan and eligibility criteria in effect on January 1, 1993. Nothing

in this subsection (2)(g) shall prohibit changes or increases in employee point-of-service payments or employee premium payments for benefits.

(3) The board shall design benefits and determine the terms and conditions of employee participation and coverage, including establishment of eligibility criteria.

(4) The board may authorize premium contributions for an employee and the employee's dependents in a manner that encourages the use of cost-efficient managed health care systems.

(5) Employees shall choose participation in one of the health care benefit plans developed by the board and may be permitted to waive coverage under terms and conditions established by the board.

(6) The board shall review plans proposed by insuring entities that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by insuring entities holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans.

(7) Before January 1, 1998, the public employees' benefits board shall make available one or more fully insured long-term care insurance plans that comply with the requirements of chapter 48.84 RCW. Such programs shall be made available to eligible employees, retired employees, and retired school employees as well as eligible dependents which, for the purpose of this section, includes the parents of the employee or retiree and the parents of the spouse of the employee or retiree. Employees of local governments and employees of political subdivisions not otherwise enrolled in the public employees' benefits board sponsored medical programs may enroll under terms and conditions established by the administrator, if it does not jeopardize the financial viability of the public employees' benefits board's long-term care offering.

(a) Participation of eligible employees or retired employees and retired school employees in any long-term care insurance plan made available by the public employees' benefits board is voluntary and shall not be subject to binding arbitration under chapter 41.56 RCW. Participation is subject to reasonable underwriting guidelines and eligibility rules established by the public employees' benefits board and the health care authority.

(b) The employee, retired employee, and retired school employee are solely responsible for the payment of the premium rates developed by the health care authority. The health care authority is authorized to charge a reasonable administrative fee in addition to the premium charged by the long-term care insurer, which shall include the health care authority's cost of administration, marketing, and consumer education materials prepared by the health care authority and the office of the insurance commissioner.

(c) To the extent administratively possible, the state shall establish an automatic payroll or pension deduction system for the payment of the long-term care insurance premiums.

(d) The public employees' benefits board and the health care authority shall establish a technical advisory committee to provide advice in the development of the benefit design and establishment of underwriting guidelines and eligibility rules. The committee shall also advise the board and authority on effective and cost-effective ways to market and distribute the long-term care product. The technical advisory committee shall be comprised, at a minimum, of

representatives of the office of the insurance commissioner, providers of long-term care services, licensed insurance agents with expertise in long-term care insurance, employees, retired employees, retired school employees, and other interested parties determined to be appropriate by the board.

(e) The health care authority shall offer employees, retired employees, and retired school employees the option of purchasing long-term care insurance through licensed agents or brokers appointed by the long-term care insurer. The authority, in consultation with the public employees' benefits board, shall establish marketing procedures and may consider all premium components as a part of the contract negotiations with the long-term care insurer.

(f) In developing the long-term care insurance benefit designs, the public employees' benefits board shall include an alternative plan of care benefit, including adult day services, as approved by the office of the insurance commissioner.

(g) The health care authority, with the cooperation of the office of the insurance commissioner, shall develop a consumer education program for the eligible employees, retired employees, and retired school employees designed to provide education on the potential need for long-term care, methods of financing long-term care, and the availability of long-term care insurance products including the products offered by the board.

(h) By December 1998, the health care authority, in consultation with the public employees' benefits board, shall submit a report to the appropriate committees of the legislature, including an analysis of the marketing and distribution of the long-term care insurance provided under this section.

[1996 c 140 § 1; 1995 1st sp.s. c 6 § 5; 1994 c 153 § 5. Prior: 1993 c 492 § 218; 1993 c 386 § 9; 1988 c 107 § 8.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Intent--Effective dates--1994 c 153: See notes following RCW 41.05.011.

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent--1993 c 386: See note following RCW 28A.400.391.

Effective date--1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

RCW 41.05.075 Employee benefit plans--Contracts with insuring entities.

(1) The administrator shall provide benefit plans designed by the board through a contract or contracts with insuring entities, through self-funding, self-insurance, or other methods of providing insurance coverage authorized by RCW 41.05.140.

(2) The administrator shall establish a contract bidding process that:

(a) Encourages competition among insuring entities;

(b) Maintains an equitable relationship between premiums charged for similar benefits and between risk pools including premiums charged for retired state and school district employees under the separate risk pools established by RCW 41.05.022 and 41.05.080 such that insuring entities may not avoid risk when establishing the premium rates for retirees eligible for medicare;

- (c) Is timely to the state budgetary process; and
- (d) Sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee and retired or disabled school employee health plans offered under chapter 41.05 RCW and develop enrollment demographics on a plan-specific basis.

(5) All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all information deemed necessary including subscriber or member demographic and claims data necessary for risk assessment and adjustment calculations in order to fulfill the administrator's duties as set forth in this chapter.

(6) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to RCW 41.05.065(2) (a), (b), and (d).

(7) Beginning in January 1990, and each January thereafter until January 1996, the administrator shall publish and distribute to each school district a description of health care benefit plans available through the authority and the estimated cost if school district employees were enrolled.

[1994 sp.s. c 9 § 724; 1994 c 309 § 3; 1994 c 153 § 6; 1993 c 386 § 10; 1988 c 107 § 9.]

Notes:

Reviser's note: This section was amended by 1994 c 153 § 6, 1994 c 309 § 3, and by 1994 sp.s. c 9 § 724, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Intent--Effective dates--1994 c 153: See notes following RCW 41.05.011.

Intent--1993 c 386: See note following RCW 28A.400.391.

Effective date--1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

RCW 41.05.080 Participation in insurance plans and contracts--Retired, disabled, or separated employees--Certain surviving spouses and dependent children.

(1) Under the qualifications, terms, conditions, and benefits set by the board:

(a) Retired or disabled state employees, retired or disabled school employees, or employees of county, municipal, or other political subdivisions covered by this chapter who are retired may continue their participation in insurance plans and contracts after retirement or disablement;

(b) Separated employees may continue their participation in insurance plans and contracts if participation is selected immediately upon separation from employment;

(c) Surviving spouses and dependent children of emergency service personnel killed in the line of duty may participate in insurance plans and contracts.

(2) Rates charged surviving spouses of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or dependent children who are not eligible for parts A and B of medicare shall be based on the experience of the community rated risk pool established under RCW 41.05.022.

(3) Rates charged to surviving spouses of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or children who are eligible for parts A and B of medicare shall be calculated from a separate experience risk pool comprised only of individuals eligible for parts A and B of medicare; however, the premiums charged to medicare-eligible retirees and disabled employees shall be reduced by the amount of the subsidy provided under RCW 41.05.085.

(4) Surviving spouses and dependent children of emergency service personnel killed in the line of duty and retired or disabled and separated employees shall be responsible for payment of premium rates developed by the authority which shall include the cost to the authority of providing insurance coverage including any amounts necessary for reserves and administration in accordance with this chapter. These self pay rates will be established based on a separate rate for the employee, the spouse, and the children.

(5) The term "retired state employees" for the purpose of this section shall include but not be limited to members of the legislature whether voluntarily or involuntarily leaving state office.

[2001 c 165 § 3; 1996 c 39 § 22; 1994 c 153 § 7; 1993 c 386 § 11; 1977 ex.s. c 136 § 6; 1975-'76 2nd ex.s. c 106 § 6; 1973 1st ex.s. c 147 § 7; 1970 ex.s. c 39 § 8.]

NOTES:

Effective date--Application--2001 c 165: See note following RCW 41.05.011.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Effective dates--1994 c 153: See notes following RCW 41.05.011.

Effective date--1993 c 386 §§ 3, 7, and 11: See note following RCW 41.04.205.

Intent--1993 c 386: See note following RCW 28A.400.391.

Effective date--Conditions prerequisite to implementing sections--1977 ex.s. c 136: See note following RCW 41.05.050.

Effective date--Effect of veto--Savings--Severability--1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability--1970 ex.s. c 39: See note following RCW 41.05.050.

RCW 41.05.085 Retired or disabled school employee health insurance subsidy.

Beginning with the appropriations act for the 1995-1997 biennium, the legislature shall establish as part of both the state employees' and the school and educational service district employees' insurance benefit allocation the portion of the allocation to be used to provide a subsidy to reduce the health care insurance premiums charged to retired or disabled school district and educational service district employees, or retired state employees, who are eligible for parts A and B of medicare. The amount of any premium reduction shall be established by the board, but shall not result in a premium reduction of more than fifty percent. The board may also determine the amount of any subsidy to be available to spouses and dependents.

[1994 c 153 § 8.]

Notes:

Intent--Effective dates--1994 c 153: See notes following RCW 41.05.011.

RCW 41.05.090 Continuation of coverage of employee, spouse, or covered dependent ineligible under state plan--Exceptions.

(1) When an employee, spouse, or covered dependent becomes ineligible under the state plan and wishes to continue coverage on an individual basis with the same provider under the state plan, such employee, spouse, or covered dependent shall be entitled to immediately transfer and shall not be required to undergo any waiting period before obtaining individual coverage.

(2) Entitlement to a conversion contract under the terms of this section shall not apply to any employee, spouse, or covered dependent who is:

(a) Eligible for federal medicare coverage; or

(b) Covered under another group plan, policy, contract, or agreement providing benefits for hospital or medical care.

(3) Entitlement to conversion under the terms of this section shall not apply to any employee terminated for misconduct, except that conversion shall be offered to the spouse and covered dependents of the terminated employee.

[1990 c 222 § 5; 1979 c 125 § 3.]

RCW 41.05.100 Chapter not applicable to certain employees of Cooperative Extension Service.

The provisions of this chapter shall not be applicable to any employee of the Washington State University Cooperative Extension Service who holds a federal civil service appointment and is thereby eligible for insurance coverage under the regulations of the United States Department of Agriculture and the United States Civil Service Commission, and which employee elects participation in the federal programs in lieu of the programs established pursuant to this chapter. Such election may be made only once.

[1979 ex.s. c 9 § 1.]

RCW 41.05.110 Chapter not applicable to officers and employees of state convention and trade center.

The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW.

[1984 c 210 § 3.]

Notes:

Savings--Severability--1984 c 210: See notes following RCW 67.40.020.

RCW 41.05.120 Public employees' and retirees' insurance account.

(1) The public employees' and retirees' insurance account is hereby established in the custody of the state treasurer, to be used by the administrator for the deposit of contributions, the remittance paid by school districts and educational service districts under *RCW 28A.400.400, reserves, dividends, and refunds, and for payment of premiums for employee and retiree insurance benefit contracts and subsidy amounts provided under RCW 41.05.085. Moneys from the account shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the administrator.

(2) The state treasurer and the state investment board may invest moneys in the public employees' and retirees' insurance account. All such investments shall be in accordance with RCW 43.84.080 or 43.84.150, whichever is applicable. The administrator shall determine whether the state treasurer or the state investment board or both shall invest moneys in the public employees' insurance account.

[1994 c 153 § 9; 1993 c 492 § 219; 1991 sp.s. c 13 § 100; 1988 c 107 § 10.]

Notes:

***Reviser's note:** RCW 28A.400.400 was repealed by 1994 c 153 § 15, effective October 1, 1995.

Intent--Effective dates--1994 c 153: See notes following RCW 41.05.011.

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 41.05.130 State health care authority administrative account.

The state health care authority administrative account is hereby created in the state treasury. Moneys in the account, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation by statute, and may be used only for operating expenses of the authority.

[1988 c 107 § 11.]

RCW 41.05.140 Payment of claims--Self-insurance--Insurance reserve funds created.

(1) Except for property and casualty insurance, the authority may self-fund, self-insure, or enter into other methods of providing insurance coverage for insurance programs under its jurisdiction, including the basic health plan as provided in chapter 70.47 RCW. The authority shall contract for payment of claims or other administrative services for programs under its jurisdiction. If a program does not require the prepayment of reserves, the authority shall establish such reserves within a reasonable period of time for the payment of claims as are normally required for that type of insurance under an insured program. The authority shall endeavor to reimburse basic health plan health care providers under this section at rates similar to the average reimbursement rates offered by the state-wide benchmark plan determined through the request for proposal process.

(2) Reserves established by the authority for employee and retiree benefit programs shall be held in a separate trust fund by the state treasurer and shall be known as the public employees' and retirees' insurance reserve fund. The state investment board shall act as the investor for the funds and, except as provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all earnings from these investments shall accrue directly to the public employees' and retirees' insurance reserve fund.

(3) Any savings realized as a result of a program created for employees and retirees under this section shall not be used to increase benefits unless such use is authorized by statute.

(4) Reserves established by the authority to provide insurance coverage for the basic health plan under chapter 70.47 RCW shall be held in a separate trust account in the custody of the state treasurer and shall be known as the basic health plan self-insurance reserve account. The state investment board shall act as the investor for the funds as set forth in RCW 43.33A.230 and, except as provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all earnings from these investments shall accrue directly to the basic health plan self-insurance reserve account.

(5) Any program created under this section shall be subject to the examination requirements of chapter 48.03 RCW as if the program were a domestic insurer. In conducting an examination, the commissioner shall determine the adequacy of the reserves established for the program.

(6) The authority shall keep full and adequate accounts and records of the assets, obligations, transactions, and affairs of any program created under this section.

(7) The authority shall file a quarterly statement of the financial condition, transactions, and affairs of any program created under this section in a form and manner prescribed by the insurance commissioner. The statement shall contain information as required by the commissioner for the type of insurance being offered under the program. A copy of the annual statement shall be filed with the speaker of the house of representatives and the president of the senate.

[2000 c 80 § 5; 2000 c 79 § 44; 1994 c 153 § 10. Prior: 1993 c 492 § 220; 1993 c 386 § 12; 1988 c 107 § 12.]

Notes:

Effective date--Severability--2000 c 79: See notes following RCW 48.04.010.

Intent--Effective dates--1994 c 153: See notes following RCW 41.05.011.

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent--1993 c 386: See note following RCW 28A.400.391.

Effective date--1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: See note following RCW 28A.400.391.

RCW 41.05.143 Uniform medical plan benefits administration account--Uniform dental plan benefits administration account.

(1) The uniform medical plan benefits administration account is created in the custody of the state treasurer. Moneys in the account shall be used exclusively for contracted expenditures for uniform medical plan claims administration, data analysis, utilization management, preferred

provider administration, and activities related to benefits administration where the level of services provided pursuant to a contract fluctuate as a direct result of changes in uniform medical plan enrollment. Moneys in the account may also be used for administrative activities required to respond to new and unforeseen conditions that impact the uniform medical plan, but only when the authority and the office of financial management jointly agree that such activities must be initiated prior to the next legislative session.

(2) Receipts from amounts due from or on behalf of uniform medical plan enrollees for expenditures related to benefits administration, including moneys disbursed from the public employees' and retirees' insurance account, shall be deposited into the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. All proposals for allotment increases shall be provided to the house of representatives appropriations committee and to the senate ways and means committee at the same time as they are provided to the office of financial management.

(3) The uniform dental plan benefits administration account is created in the custody of the state treasurer. Moneys in the account shall be used exclusively for contracted expenditures related to benefits administration for the uniform dental plan as established under RCW 41.05.140. Receipts from amounts due from or on behalf of uniform dental plan enrollees for expenditures related to benefits administration, including moneys disbursed from the public employees' and retirees' insurance account, shall be deposited into the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

[2000 2nd sp.s. c 1 § 901.]

Notes:

Severability--2000 2nd sp.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2000 2nd sp.s. c 1 § 1047.]

Effective date--2000 2nd sp.s. c 1: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 2, 2000]." [2000 2nd sp.s. c 1 § 1048.]

RCW 41.05.150 Health care policy technical advisory committee.

(1) The administrator shall appoint a health care policy technical advisory committee. Its function is to advise the authority on effective approaches to cost control, quality assurance, and access to health care.

(2) The committee shall be composed of persons who have a demonstrated interest and expertise in one or more of the following areas: Health care purchasing; health care delivery; health administration; health care research and analysis; and ethics of health care. Board members shall include representatives of the following entities: Private health care purchasers; health care providers; insurance carriers; health care service contractors; health maintenance organizations; state agencies that purchase health care; the insurance commissioner; and health care consumers.

(3) The initial members of the committee shall be appointed for intervals of one to three

years. Thereafter, all committee members shall serve a term of three years. Committee members shall receive no compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

[1988 c 107 § 14.]

RCW 41.05.160 Rules.

The administrator may promulgate and adopt rules consistent with this chapter to carry out the purposes of this chapter. All rules shall be adopted in accordance with chapter 34.05 RCW.

[1988 c 107 § 15.]

RCW 41.05.165 Rules--Insurance benefit reimbursement.

The authority shall adopt rules that provide for members of the legislature who choose reimbursement under RCW 44.04.230 in lieu of insurance benefits under this chapter.

[1998 c 62 § 2.]

Notes:

Effective date--1998 c 62: See note following RCW 44.04.230.

RCW 41.05.170 Neurodevelopmental therapies--Employer-sponsored group contracts.

(1) Each health plan offered to public employees and their covered dependents under this chapter which is not subject to the provisions of Title 48 RCW and is established or renewed on or after twelve months after July 23, 1989, shall include coverage for neurodevelopmental therapies for covered individuals age six and under.

(2) Benefits provided under this section shall cover the services of those authorized to deliver occupational therapy, speech therapy, and physical therapy. Benefits shall be payable only where the services have been delivered pursuant to the referral and periodic review of a holder of a license issued pursuant to chapter 18.71 or 18.57 RCW or where covered services have been rendered by such licensee. Nothing in this section shall preclude a self-funded plan authorized under this chapter from negotiating rates with qualified providers.

(3) Benefits provided under this section shall be for medically necessary services as determined by the self-funded plan authorized under this chapter. Benefits shall be payable for services for the maintenance of a covered individual in cases where significant deterioration in the patient's condition would result without the service. Benefits shall be payable to restore and improve function.

(4) It is the intent of this section that the state, as an employer providing comprehensive health coverage including the benefits required by this section, retains the authority to design and employ utilization and cost controls. Therefore, benefits delivered under this section may be subject to contractual provisions regarding deductible amounts and/or copayments established by the self-funded plan authorized under this chapter. Benefits provided under this section may be

subject to standard waiting periods for preexisting conditions, and may be subject to the submission of written treatment plans.

(5) In recognition of the intent expressed in subsection (4) of this section, benefits provided under this section may be subject to contractual provisions establishing annual and/or lifetime benefit limits. Such limits may define the total dollar benefits available, or may limit the number of services delivered as established by the self-funded plan authorized under this chapter.

[1989 c 345 § 4.]

RCW 41.05.180 Mammograms--Insurance coverage.

Each health plan offered to public employees and their covered dependents under this chapter that is not subject to the provisions of Title 48 RCW and is established or renewed after January 1, 1990, and that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the nursing care quality assurance commission pursuant to chapter 18.79 RCW or physician assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard health plan provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of the state health care authority to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

[1994 sp.s. c 9 § 725; 1989 c 338 § 5.]

Notes:

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

RCW 41.05.183 General anesthesia services for dental procedures--Public employee benefit plans.

(1) Each employee benefit plan offered to public employees that provides coverage for hospital, medical, or ambulatory surgery center services must cover general anesthesia services and related facility charges in conjunction with any dental procedure performed in a hospital or ambulatory surgical center if such anesthesia services and related facility charges are medically necessary because the covered person:

(a) Is under the age of seven, or physically or developmentally disabled, with a dental condition that cannot be safely and effectively treated in a dental office; or

(b) Has a medical condition that the person's physician determines would place the person at undue risk if the dental procedure were performed in a dental office. The procedure

must be approved by the person's physician.

(2) Each employee benefit plan offered to public employees that provides coverage for dental services must cover general anesthesia services in conjunction with any covered dental procedure performed in a dental office if the general anesthesia services are medically necessary because the covered person is under the age of seven or physically or developmentally disabled.

(3) This section does not prohibit an employee benefit plan from:

(a) Applying cost-sharing requirements, maximum annual benefit limitations, and prior authorization requirements to the services required under this section; or

(b) Covering only those services performed by a health care provider, or in a health care facility, that is part of its provider network; nor does it limit the authority in negotiating rates and contracts with specific providers.

(4) This section does not apply to medicare supplement policies, or supplemental contracts covering a specified disease or other limited benefits.

(5) For the purpose of this section, "general anesthesia services" means services to induce a state of unconsciousness accompanied by a loss of protective reflexes, including the ability to maintain an airway independently and respond purposefully to physical stimulation or verbal command.

(6) This section applies to employee benefit plans issued or renewed on or after January 1, 2002.

[2001 c 321 § 1.]

RCW 41.05.185 Diabetes benefits--State-purchased health care.

The legislature finds that diabetes imposes a significant health risk and tremendous financial burden on the citizens and government of the state of Washington, and that access to the medically accepted standards of care for diabetes, its treatment and supplies, and self-management training and education is crucial to prevent or delay the short and long-term complications of diabetes and its attendant costs.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Person with diabetes" means a person diagnosed by a health care provider as having insulin using diabetes, noninsulin using diabetes, or elevated blood glucose levels induced by pregnancy; and

(b) "Health care provider" means a health care provider as defined in RCW 48.43.005.

(2) All state-purchased health care purchased or renewed after January 1, 1998, except the basic health plan described in chapter 70.47 RCW, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For state-purchased health care that includes coverage for pharmacy services, appropriate and medically necessary equipment and supplies, as prescribed by a health care provider, that includes but is not limited to insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated

with diabetes, and glucagon emergency kits; and

(b) For all state-purchased health care, outpatient self-management training and education, including medical nutrition therapy, as ordered by the health care provider. Diabetes outpatient self-management training and education may be provided only by health care providers with expertise in diabetes. Nothing in this section prevents any state agency purchasing health care according to this section from restricting patients to seeing only health care providers who have signed participating provider agreements with that state agency or an insuring entity under contract with that state agency.

(3) Coverage required under this section may be subject to customary cost-sharing provisions established for all other similar services or supplies within a policy.

(4) Health care coverage may not be reduced or eliminated due to this section.

(5) Services required under this section shall be covered when deemed medically necessary by the medical director, or his or her designee, subject to any referral and formulary requirements.

[1997 c 276 § 1.]

Notes:

Effective date--1997 c 276: "This act takes effect January 1, 1998." [1997 c 276 § 6.]

RCW 41.05.190 Medicare supplemental insurance plan.

The administrator, in consultation with the public employees' benefits board, shall design a self-insured medicare supplemental insurance plan for retired and disabled employees eligible for medicare. For the purpose of determining the appropriate scope of the self-funded medicare supplemental plan, the administrator shall consider the differences in the scope of health services available under the uniform benefits package and the medicare program.

[1998 c 245 § 37; 1993 c 492 § 221.]

Notes:

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 41.05.195 Medicare supplemental insurance policies.

Notwithstanding any other provisions of this title or rules or procedures adopted by the authority, the authority shall make available to retired or disabled employees who are eligible for medicare at least two medicare supplemental insurance policies that conform to the requirements of chapter 48.66 RCW. One policy shall include coverage for prescription drugs. The policies shall be chosen in consultation with the public employees' benefits board. These policies shall be made available to retired or disabled employees, or employees of county, municipal, or other political subdivisions eligible for coverage available under the authority. All offerings shall be made available not later than January 1, 1994.

[1993 c 492 § 222.]

Notes:

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 41.05.197 Medicare supplemental insurance policies--January 1995 federal waiver threshold.

If a waiver of the medicare statute, Title XVIII of the federal social security act, sufficient to meet the requirements of chapter 492, Laws of 1993 is not granted on or before January 1, 1995, the medicare supplemental insurance policies authorized under RCW 41.05.195 shall be made available to any resident of the state eligible for medicare benefits. Except for those retired state or school district employees eligible to purchase medicare supplemental benefits through the authority, persons purchasing a medicare supplemental insurance policy under this section shall be required to pay the full cost of any such policy.

[1993 c 492 § 223.]

Notes:

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 41.05.220 Community and migrant health centers--Maternity health care centers--People of color--Underserved populations.

(1) State general funds appropriated to the department of health for the purposes of funding community health centers to provide primary health and dental care services, migrant health services, and maternity health care services shall be transferred to the state health care authority. Any related administrative funds expended by the department of health for this purpose shall also be transferred to the health care authority. The health care authority shall exclusively expend these funds through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services. The administrator of the health care authority shall establish requirements necessary to assure community health centers provide quality health care services that are appropriate and effective and are delivered in a cost-efficient manner. The administrator shall further assure that community health centers have appropriate referral arrangements for acute care and medical specialty services not provided by the community health centers.

(2) The authority, in consultation with the department of health, shall work with community and migrant health clinics and other providers of care to underserved populations, to ensure that the number of people of color and underserved people receiving access to managed care is expanded in proportion to need, based upon demographic data.

[1998 c 245 § 38; 1993 c 492 § 232.]

Notes:

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 41.05.230 Multicultural health care technical assistance program.

(1) Consistent with funds appropriated specifically for this purpose, the authority shall provide matching grants to support community-based multicultural health care technical assistance programs. The purpose of the programs shall be to promote technical assistance through community and migrant health clinics and other appropriate health care providers who serve underserved populations and persons of color.

The technical assistance provided shall include, but is not limited to: (a) Collaborative research and data analysis on health care outcomes that disproportionately affect persons of color; (b) design and development of model health education and promotion strategies aimed at modifying unhealthy health behaviors or enhancing the use of the health care delivery system by persons of color; (c) provision of technical information and assistance on program planning and financial management; (d) administration, public policy development, and analysis in health care issues affecting people of color; and (e) enhancement and promotion of health care career opportunities for persons of color.

(2) Consistent with appropriated funds, the programs shall be available on a state-wide basis.

[1993 c 492 § 272.]

Notes:

Finding--1993 c 492: See note following RCW 28B.125.010.

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 41.05.240 American Indian health care delivery plan.

[1993 c 492 § 468.] Recodified as RCW 43.70.590 pursuant to 1995 c 43 § 5; and also repealed by 1995 1st sp.s. c 6 § 9.

Notes:

Reviser's note: RCW 41.05.240 was recodified as RCW 43.70.590 pursuant to 1995 c 43 § 5 and amended by 1995 c 43 § 4, without cognizance of its repeal by 1995 1st sp.s. c 6 § 9. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

RCW 41.05.280 Department of corrections--Inmate health care.

The department of corrections shall consult with the state health care authority to identify how the department of corrections shall develop a working plan to correspond to the health care reform measures that require all departments to place all state purchased health services in a community-rated, single risk pool under the direct administrative authority of the state purchasing agent by July 1, 1997.

[1998 c 245 § 39; 1993 c 504 § 3.]

Notes:

Findings--1993 c 504: "The legislature finds that Washington state government purchases approximately one-fourth of all the health care state-wide. In addition to this huge expenditure, the state also faces health care inflation rates, far exceeding the growth rate of the economy as a whole and the general inflationary rate. Together these factors are straining state resources beyond our capability to pay.

The legislature finds that the department of corrections is responsible for providing health care to a large and growing number of offenders. It is also facing rapidly escalating medical, dental, and mental health care expenditures. As a result of this, the department must review its entire inmate health care system and take steps to reduce health care expenditures.

The legislature further finds that efforts to achieve state-wide health care reform should also include the department of correction's health care facilities. In this light, the department must develop an appropriate plan that will correspond to the changing health care environment." [1993 c 504 § 1.]

Effective date--1993 c 504: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 18, 1993]." [1993 c 504 § 4.]

RCW 41.05.300 Benefits contribution plan--Authorized.

(1) The state of Washington may enter into benefits contribution plans with employees of the state pursuant to the internal revenue code, 26 U.S.C. Sec. 125, for the purpose of making it possible for employees of the state to select on a "before-tax basis" certain taxable and nontaxable benefits pursuant to 26 U.S.C. Sec. 125. The purpose of the benefits contribution plan established in this chapter is to attract and retain individuals in governmental service by permitting them to enter into agreements with the state to provide for benefits pursuant to 26 U.S.C. Sec. 125 and other applicable sections of the internal revenue code.

(2) Nothing in the benefits contribution plan constitutes an employment agreement between the participant and the state, and nothing contained in the participant's benefits contribution agreement, the plan, this section, or RCW 41.05.310 through 41.05.360 gives a participant any right to be retained in state employment.

[1995 1st sp.s. c 6 § 11.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 41.05.310 Benefits contribution plan--Policies and procedures--Plan document.

The authority shall have responsibility for the formulation and adoption of a plan, policies, and procedures designed to guide, direct, and administer the benefits contribution plan. For the plan year beginning January 1, 1996, the administrator may establish a premium only contribution plan. Expansion of the benefits contribution plan to a medical flexible spending arrangement or cafeteria plan during subsequent plan years shall be subject to approval by the director of the office of financial management.

(1) A plan document describing the benefits contribution plan shall be adopted and administered by the authority. The authority shall represent the state in all matters concerning the administration of the plan. The state, through the authority, may engage the services of a professional consultant or administrator on a contractual basis to serve as an agent to assist the authority or perform the administrative functions necessary in carrying out the purposes of RCW 41.05.300 through 41.05.350.

(2) The authority shall formulate and establish policies and procedures for the administration of the benefits contribution plan that are consistent with existing state law, the internal revenue code, and the regulations adopted by the internal revenue service as they may apply to the benefits offered to participants under the plan.

(3) Every action taken by the authority in administering RCW 41.05.300 through 41.05.350 shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The authority shall be presumed to have exercised reasonable care, diligence, and prudence and to have acted impartially as to all persons interested unless the contrary be proved by clear and convincing affirmative evidence.

[1995 1st sp.s. c 6 § 12.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 41.05.320 Benefits contribution plan--Eligibility--Participation, withdrawal.

(1) Elected officials and all permanent employees of the state are eligible to participate in the benefits contribution plan and contribute amount(s) by agreement with the authority. The authority may adopt rules to permit participation in the plan by temporary employees of the state.

(2) Persons eligible under subsection (1) of this section may enter into benefits contribution agreements with the state.

(3)(a) In the initial year of the medical flexible spending arrangement or cafeteria plan, if authorized, an eligible person may become a participant after the adoption of the plan and before its effective date by agreeing to have a portion of his or her gross salary contributed and deposited into a health care and other benefits account to be used for reimbursement of expenses covered by the plan.

(b) After the initial year of the medical flexible spending arrangement or cafeteria plan, if authorized, an eligible person may become a participant for a full plan year, with annual benefit selection for each new plan year made before the beginning of the plan year, as determined by the authority, or upon becoming eligible.

(c) Once an eligible person elects to participate and the amount of gross salary that he or she shall contribute and the benefit for which the funds are to be used during the plan year is determined, the agreement shall be irrevocable and may not be amended during the plan year except as provided in (d) of this subsection. Prior to making an election to participate in the benefit[s] contribution plan, the eligible person shall be informed in writing of all the benefits and contributions that will occur as a result of such election.

(d) The authority shall provide in the benefits contribution plan that a participant may enroll, terminate, or change his or her election after the plan year has begun if there is a significant change in a participant's status, as provided by 26 U.S.C. Sec. 125 and the regulations adopted under that section and defined by the authority.

(4) The authority shall establish as part of the benefits contribution plan the procedures for and effect of withdrawal from the plan by reason of retirement, death, leave of absence, or termination of employment. To the extent possible under federal law, the authority shall protect

participants from forfeiture of rights under the plan.

(5) Any contribution under the benefits contribution plan shall continue to be included as reportable compensation for the purpose of computing the state retirement and pension benefits earned by the employee pursuant to chapters 41.26, 41.32, 41.40, and 43.43 RCW.

[1995 1st sp.s. c 6 § 13.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 41.05.330 Benefits contribution plan--Accounts and records.

The authority shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of a benefits contribution plan created under RCW 41.05.300.

[1995 1st sp.s. c 6 § 14.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 41.05.340 Benefits contribution plan--Termination--Amendment.

(1) The state may terminate the benefits contribution plan at the end of the plan year or upon notification of federal action affecting the status of the plan.

(2) The authority may amend the benefits contribution plan at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement from the participants' benefits contribution accounts.

[1995 1st sp.s. c 6 § 15.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 41.05.350 Benefits contribution plan--Rules.

The authority shall adopt rules necessary to implement RCW 41.05.300 through 41.05.340.

[1995 1st sp.s. c 6 § 16.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 41.05.360 Benefits contribution plan--Construction.

RCW 41.05.300 through 41.05.350 shall be construed to effectuate the purposes of 26 U.S.C. Sec. 125 and other applicable sections of the internal revenue code as required.

[1995 1st sp.s. c 6 § 17.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 41.05.400 Plan of health care coverage--Available funds--Components--Eligibility--Administrator's duties.

(1) The administrator shall design and offer a plan of health care coverage as described in subsection (2) of this section, for any person eligible under subsection (3) of this section. The health care coverage shall be designed and offered only to the extent that state funds are specifically appropriated for this purpose.

(2) The plan of health care coverage shall have the following components:

(a) Services covered more limited in scope than those contained in RCW 48.41.110(3);

(b) Enrollee cost-sharing that may include but not be limited to point-of-service cost-sharing for covered services;

(c) Deductibles of three thousand dollars on a per person per calendar year basis, and four thousand dollars on a per family per calendar year basis. The deductible shall be applied to the first three thousand dollars, or four thousand dollars, of eligible expenses incurred by the covered person or family, respectively, except that the deductible shall not be applied to clinical preventive services as recommended by the United States public health service. Enrollee out-of-pocket expenses required to be paid under the plan for cost-sharing and deductibles shall not exceed five thousand dollars per person, or six thousand dollars per family;

(d) Payment methodologies for network providers may include but are not limited to resource-based relative value fee schedules, capitation payments, diagnostic related group fee schedules, and other similar strategies including risk-sharing arrangements; and

(e) Other appropriate care management and cost-containment measures determined appropriate by the administrator, including but not limited to care coordination, provider network limitations, preadmission certification, and utilization review.

(3) Any person is eligible for coverage in the plan who resides in a county of the state where no carrier, as defined in RCW 48.43.005, or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan as defined in RCW 48.43.005 other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the administrator. Such eligibility may terminate pursuant to subsection (8) of this section.

(4) The administrator may not reject an individual for coverage based upon preexisting conditions of the individual or deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that it shall impose a nine-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a health care provider recommended or provided treatment, or for which a prudent layperson would have sought advice or treatment, within six months before the effective date of coverage. The preexisting condition waiting period shall not apply to prenatal care services. Credit against the waiting period shall be provided pursuant to subsections (5) and (6) of this section.

(5) Except for persons to whom subsection (6) of this section applies, the administrator shall credit any preexisting condition waiting period in the plan for a person who was enrolled at any time during the sixty-three day period immediately preceding the date of application for the plan in a group health benefit plan or an individual health benefit plan other than a catastrophic health plan. The administrator must credit the period of coverage the person was continuously

covered under the immediately preceding health plan toward the waiting period of the new health plan. For the purposes of this subsection, a preceding health plan includes an employer-provided self-funded health plan.

(6) The administrator shall waive any preexisting condition waiting period in the plan for a person who is an eligible individual as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg-41(b)).

(7) The administrator shall set the rates to be charged plan enrollees.

(8) When a carrier, as defined in RCW 48.43.005, or an insurer regulated under chapter 48.15 RCW, begins to offer an individual health benefit plan as defined in RCW 48.43.005 in a county where no carrier or insurer had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in the plan under subsection (3) of this section in that county shall no longer be eligible;

(b) The administrator shall provide written notice to any person who is no longer eligible for coverage under the plan within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options available to the person; and (iii) describe the enrollment process for the available options.

[2000 c 80 § 7; 2000 c 79 § 46.]

Notes:

Effective date--Severability--2000 c 79: See notes following RCW 48.04.010.

RCW 41.05.900 Short title.

This chapter shall be known as the Washington state health care reform act of 1988.

[1988 c 107 § 1.]

RCW 41.05.901 Implementation--Effective dates--1988 c 107.

(1) The state health care authority shall be established and shall take such steps as are necessary to ensure that this act is fully implemented on October 1, 1988.

There is hereby appropriated for the biennium ending June 30, 1989, the sum of one million three hundred thousand dollars, or as much thereof as is necessary, to the office of the governor from the state employees' insurance administrative account, for the purposes of implementing this subsection.

(2) Subsection (1) of this section, RCW 48.14.027 and 82.04.4331, and sections 13 and 31, chapter 107, Laws of 1988 are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect March 16, 1988.

(3) The remainder of this act shall take effect on October 1, 1988.

[1988 c 107 § 36.]

Chapter 41.06 RCW
STATE CIVIL SERVICE LAW

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NOTES:

Personnel appeals board: Chapter 41.64 RCW.

Qualifications for persons assessing real property--Examination: RCW 36.21.015.

Sexual misconduct by state employees: RCW 13.40.570 and 72.09.225.

RCW 41.06.010 Declaration of purpose.

The general purpose of this chapter is to establish for the state a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, recruitment, retention, classification and pay plan, removal,

discipline, training and career development, and welfare of its civil employees, and other incidents of state employment. All appointments and promotions to positions, and retention therein, in the state service, shall be made on the basis of policies hereinafter specified.

[1980 c 118 § 1; 1961 c 1 § 1 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Severability--1980 c 118: "If any provision of this 1980 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1980 c 118 § 10.]

RCW 41.06.020 Definitions.

Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

(2) "Board" means the Washington personnel resources board established under the provisions of RCW 41.06.110, except that this definition does not apply to the words "board" or "boards" when used in RCW 41.06.070.

(3) "Classified service" means all positions in the state service subject to the provisions of this chapter.

(4) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(5) "Comparable worth" means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions.

(6) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required.

(7) "Department" means an agency of government that has as its governing officer a person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency responsible either to (a) no other public officer or (b) the governor.

(8) "Career development" means the progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies.

(9) "Training" means activities designed to develop job-related knowledge and skills of employees.

(10) "Director" means the director of personnel appointed under the provisions of RCW 41.06.130.

(11) "Affirmative action" means a procedure by which racial minorities, women, persons

in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

(12) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(13) "Related boards" means the state board for community and technical colleges; and such other boards, councils, and commissions related to higher education as may be established.

[1993 c 281 § 19. Prior: 1985 c 461 § 1; 1985 c 365 § 3; 1983 1st ex.s. c 75 § 4; 1982 1st ex.s. c 53 § 1; 1980 c 118 § 2; 1970 ex.s. c 12 § 1; prior: 1969 ex.s. c 36 § 21; 1969 c 45 § 6; 1967 ex.s. c 8 § 48; 1961 c 1 § 2 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--1985 c 461: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 461 § 17.]

Severability--1982 1st ex.s. c 53: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 53 § 32.]

Severability--1980 c 118: See note following RCW 41.06.010.

RCW 41.06.022 "Manager"--Definition.

For purposes of this chapter, "manager" means any employee who:

- (1) Formulates state-wide policy or directs the work of an agency or agency subdivision;
- (2) Is responsible to administer one or more state-wide policies or programs of an agency or agency subdivision;
- (3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;
- (4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; or
- (5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

[1993 c 281 § 8.]

Notes:

Effective date--1993 c 281: "Sections 1 through 66 and 68 through 71 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 281 § 74.]

RCW 41.06.030 Department of personnel established.

A department of personnel, governed by the Washington personnel resources board and administered by a director of personnel, is hereby established as a separate agency within the state government.

[1993 c 281 § 20; 1961 c 1 § 3 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.040 Scope of chapter.

The provisions of this chapter apply to:

(1) Each board, commission or other multimember body, including, but not limited to, those consisting in whole or in part of elective officers;

(2) Each agency, and each employee and position therein, not expressly excluded or exempted under the provisions of RCW 41.06.070.

[1969 ex.s. c 36 § 22; 1961 c 1 § 4 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.070 Exemptions--Right of reversion to civil service status--Exception--Expiration of subsection.

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or

committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of the state wheat commission formed under *chapter 15.63 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Up to a total of five senior staff positions of the western library network under **chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997;

(aa) Staff employed by the department of community, trade, and economic development to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045(2)(m);

(bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;

(c) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(d) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the Washington personnel resources board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the Washington personnel resources board stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for

the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v), (y), (z), and (2) of this section, shall be determined by the Washington personnel resources board. However, beginning with changes proposed for the 1997-99 fiscal biennium, changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

[1998 c 245 § 40. Prior: 1996 c 319 § 3; 1996 c 288 § 33; 1996 c 186 § 109; 1995 c 163 § 1; 1994 c 264 § 13; prior: 1993 sp.s. c 2 § 15; 1993 c 379 § 306; 1993 c 281 § 21; 1990 c 60 § 101; 1989 c 96 § 8; 1987 c 389 § 2; 1985 c 221 § 1; 1984 c 210 § 2; 1983 c 15 § 21; 1982 1st ex.s. c 53 § 2; 1981 c 225 § 2; 1980 c 87 § 14; 1973 1st ex.s. c 133 § 1; 1972 ex.s. c 11 § 1; prior: 1971 ex.s. c 209 § 1; 1971 ex.s. c 59 § 1; 1971 c 81 § 100; 1969 ex.s. c 36 § 23; 1967 ex.s. c 8 § 47; 1961 c 179 § 1; 1961 c 1 § 7 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Reviser's note: *(1) Chapter 15.63 RCW was repealed by 1998 c 11 § 1.

** (2) Chapter 27.26 RCW was repealed and/or decodified pursuant to 1989 c 96 § 10, effective June 30, 1997.

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Effective date--1995 c 163: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 1, 1995]." [1995 c 163 § 2.]

Effective date--1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability--1993 sp.s. c 2: See RCW 43.300.901.

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--1990 c 60: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 60 § 403.]

Subheadings not law--1990 c 60: "Subheadings as used in this act do not constitute any part of the law." [1990 c 60 § 401.]

Severability--1987 c 389: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 389 § 8.]

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Effective date--1987 c 389: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 389 § 9.]

Savings--Severability--1984 c 210: See notes following RCW 67.40.020.

Severability--1983 c 15: See RCW 47.64.910.

Severability--1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability--1967 ex.s. c 8: See RCW 28B.50.910.

County road administration board: RCW 36.78.060.

State agencies and departments--Certain personnel exempted from chapter basic health plan: RCW 70.47.040.

board of health: RCW 43.20.030.

caseload forecast supervisor and staff: RCW 41.06.087.

center for volunteerism and citizen service: RCW 43.150.040.

Columbia River Gorge commission: RCW 43.97.015.

commission on judicial conduct: RCW 2.64.050.

council for the prevention of child abuse and neglect: RCW 43.121.040.

department of

agriculture: RCW 41.06.084.

corrections: RCW 41.06.071.

ecology: RCW 41.06.073, 43.21A.100.

general administration, supervisor of motor transport: RCW 43.19.585.

health: RCW 43.70.020.

information services: RCW 41.06.094.

retirement systems: RCW 41.50.070.

services for the blind: RCW 74.18.050.

social and health services: RCW 41.06.076, 43.20A.090.

transportation: RCW 41.06.079, 47.01.081.

veterans affairs: RCW 41.06.077.

economic and revenue forecast supervisor and staff: RCW 41.06.087.

gambling commission: RCW 9.46.080.

law revision commission: RCW 41.06.083.

office of

administrative hearings: RCW 34.12.030.

financial management: RCW 41.06.075, 43.41.080.

minority and women's business enterprises: RCW 39.19.030.

personnel appeals board: RCW 41.64.050.

state actuary: RCW 44.44.030.

state convention and trade center: RCW 67.40.020.

state internship program: RCW 41.06.088.

state investment board: RCW 43.33A.100.

state lottery commission: RCW 67.70.050.

state school directors' association: RCW 41.06.086.

state treasurer: RCW 43.08.120.

state veterinarian: RCW 41.06.084.

superintendent of public instruction: RCW 28A.300.020.

Washington conservation corps: RCW 43.220.070.

Washington service corps: RCW 50.65.110.

Washington state patrol, drug control assistance unit: RCW 43.43.640.

world fair commission: RCW 41.06.085.

youth development and conservation corps: RCW 79A.05.520.

RCW 41.06.071 Department of corrections--Certain personnel exempted from chapter.

In addition to the exemptions provided under RCW 41.06.070, the provisions of this chapter shall not apply in the department of corrections to the secretary, the secretary's personal secretary, the deputy secretaries and their personal secretaries, all assistant deputy secretaries and their personal secretaries, all regional administrators and program administrators, all facility superintendents and associate superintendents for facilities with a resident capacity of fifty or more, and all management and sales staff of correctional industries.

[1999 c 122 § 1; 1989 c 185 § 1; 1983 c 175 § 1; 1981 c 136 § 28.]

Notes:

Effective date--1981 c 136: See RCW 72.09.900.

RCW 41.06.072 Department of community, trade, and economic development--Certain personnel exempted from chapter.

In addition to the exemptions set forth in this chapter, this chapter shall not apply within the department of community, trade, and economic development to the director, one confidential secretary, the deputy directors, all assistant directors, the state historic preservation officer, and up to two professional staff members within the emergency management program.

[1995 c 399 § 59; 1986 c 266 § 8.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 41.06.073 Department of ecology--Certain personnel exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of ecology to the director, his confidential secretary, his deputy director, and not to exceed six assistant directors.

[1970 ex.s. c 62 § 11.]

Notes:

Savings--Severability--Effective date--1970 ex.s. c 62: See notes following RCW 43.21A.010.

RCW 41.06.074 Department of health--Certain personnel exempted from chapter.

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the department of health to any deputy secretary, assistant secretary, or person who administers the necessary divisions, offices, bureaus, and programs and five additional positions involved in policy or program direction.

[1989 1st ex.s. c 9 § 813.]

Notes:

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

RCW 41.06.075 Office of financial management--Certain personnel exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the office of financial management to the director, his confidential secretary, not to exceed two deputy directors and not to exceed seven assistant directors.

[1979 c 151 § 56; 1969 ex.s. c 239 § 7.]

Notes:

Office of financial management: Chapter 43.41 RCW.

RCW 41.06.076 Department of social and health services--Certain personnel exempted from chapter. (Expires June 30, 2005.)

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of social and health services to the secretary; the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors; one confidential secretary for each of the above-named officers; not to exceed six bureau chiefs; all social worker V positions; and all superintendents of institutions of which the average daily population equals or exceeds one hundred residents: PROVIDED, That each such confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board.

This section expires June 30, 2005.

[1997 c 386 § 1; 1993 c 281 § 22; 1980 c 73 § 1; 1970 ex.s. c 18 § 8.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Effective date--Severability--1970 ex.s. c 18: See notes following RCW 43.20A.010.

RCW 41.06.077 Department of veterans affairs--Certain personnel exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of veterans affairs to the director, the deputy director, no more than two assistant directors, a confidential secretary for the deputy director, and a confidential secretary for each assistant director.

[2001 c 84 § 1; 1975-'76 2nd ex.s. c 115 § 7.]

NOTES:

Severability--1975-'76 2nd ex.s. c 115: See RCW 43.60A.908.

RCW 41.06.079 Department of transportation--Certain personnel exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter

shall not apply in the department of transportation to the secretary, a deputy secretary, an administrative assistant to the secretary, if any, one assistant secretary for each division designated pursuant to RCW 47.01.081, one confidential secretary for each of the above-named officers, up to six transportation district administrators and one confidential secretary for each district administrator, up to six additional new administrators or confidential secretaries designated by the secretary of the department of transportation and approved by the Washington personnel resources board pursuant to the provisions of *RCW 41.06.070(1)(z), the legislative liaison for the department, the state construction engineer, the state aid engineer, the personnel manager, the state project development engineer, the state maintenance and operations engineer, one confidential secretary for each of the last-named five positions, and a confidential secretary for the public affairs administrator. The individuals appointed under this section shall be exempt from the provisions of the state civil service law, and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for individuals exempt from the operation of the state civil service law.

[1993 c 281 § 23; 1985 c 178 § 1; 1977 ex.s. c 151 § 13.]

Notes:

***Reviser's note:** The reference to RCW 41.06.070(1)(z) appears to be erroneous. The correct reference should be to RCW 41.06.070(3).

Effective date--1993 c 281: See note following RCW 41.06.022.

Exempt positions filled pending permanent appointment--1977 ex.s. c 151: "If on September 21, 1977, any exempt position designated hereinabove has not been filled by appointment, the person serving in the comparable exempt position, if any, in an agency whose functions are by *section 3 of this 1977 amendatory act transferred to the department of transportation shall fill such exempt position until a permanent appointment thereto has been made." [1977 ex.s. c 151 § 14.]

***Reviser's note:** "section 3 of this 1977 amendatory act" is codified as RCW 47.01.031.

Federal requirements--Severability--1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

RCW 41.06.080 Department of personnel's services available on request to certain governmental entities--Reimbursement.

Notwithstanding the provisions of this chapter, the department of personnel may make its services available on request, on a reimbursable basis, to:

- (1) Either the legislative or the judicial branch of the state government;
- (2) Any county, city, town, or other municipal subdivision of the state;
- (3) The institutions of higher learning;
- (4) Any agency, class, or position set forth in RCW 41.06.070.

[1970 ex.s. c 12 § 2. Prior: 1969 ex.s. c 152 § 2; 1969 c 45 § 5; 1961 c 1 § 8 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.082 Office of minority and women's business enterprises--Certain personnel exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, this chapter shall not apply in the office of minority and women's business enterprises to the director, the director's confidential

secretary, and the deputy director.

[1983 c 120 § 14.]

Notes:

Effective date--Applicability--Severability--Conflict with federal requirements--1983 c 120: See RCW 39.19.910, 39.19.920.

RCW 41.06.083 Law revision commission--Personnel exempted from chapter.

The provisions of this chapter do not apply to any position in or employee of the Washington law revision commission.

[1982 c 183 § 10.]

RCW 41.06.084 Department of agriculture--Certain personnel exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of agriculture to the director, the director's confidential secretary, the deputy director, not more than eight assistant directors, the state veterinarian, and the milk pooling administrator employed under RCW 15.35.100.

[1992 c 58 § 3; 1990 c 37 § 2; 1983 c 248 § 11.]

RCW 41.06.085 World fair commission--Certain personnel exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply to the executive director and one confidential secretary of the world fair commission created in chapter 177, Laws of 1983.

[1983 c 177 § 6.]

RCW 41.06.086 Washington state school directors' association--Certain personnel exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply to officers and employees of the Washington state school directors' association.

[1983 c 187 § 5.]

Notes:

Termination--Sunset review--Expiration date--Effective date--1983 c 187: See RCW 28A.345.900, 28A.345.902.

RCW 41.06.087 Economic and revenue forecast supervisor and staff--Caseload forecast supervisor and staff--Exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, this chapter does not apply to the economic and revenue forecast supervisor and staff employed under RCW 82.33.010 or the

caseload forecast supervisor and staff employed under RCW 43.88C.010.

[1997 c 168 § 4; 1990 c 229 § 3; 1984 c 138 § 2.]

Notes:

Effective date--1997 c 168: See RCW 43.88C.900.

Effective date--1990 c 229: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1990." [1990 c 229 § 12.]

RCW 41.06.088 State internship program--Positions exempt from chapter.

This chapter does not apply to positions under the state internship program established under RCW 43.06.410.

[1985 c 442 § 8.]

Notes:

Construction--Severability--1985 c 442: See notes following RCW 43.06.410.

RCW 41.06.093 Washington state patrol--Certain personnel exempted from chapter.

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the Washington state patrol to confidential secretaries of agency bureau chiefs, or their functional equivalent, and a confidential secretary for the chief of staff: PROVIDED, That each confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board.

[1993 c 281 § 24; 1990 c 14 § 1.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.094 Department of information services--Certain personnel exempted from chapter.

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the department of information services to up to twelve positions in the planning component involved in policy development and/or senior professionals.

[1987 c 504 § 7.]

Notes:

Severability--Effective date--1987 c 504: See RCW 43.105.901 and 43.105.902.

RCW 41.06.110 Washington personnel resources board--Created--Term--Qualifications, conditions--Compensation, travel expenses--Officers, quorum, records.

(1) There is hereby created a Washington personnel resources board composed of three members appointed by the governor, subject to confirmation by the senate. The members of the

personnel board serving June 30, 1993, shall be the members of the Washington personnel resources board, and they shall complete their terms as under the personnel board. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed;

(2) Each member of the board shall be compensated in accordance with RCW 43.03.250. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chair and vice-chair from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board. The director shall serve as secretary.

(4) The board may appoint and compensate hearing officers to hear and conduct appeals until December 31, 1982. Such compensation shall be paid on a contractual basis for each hearing, in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto, as they relate to personal service contracts.

[1993 c 281 § 25; 1984 c 287 § 69; 1982 c 10 § 8. Prior: 1981 c 338 § 20; 1981 c 311 § 16; 1977 c 6 § 2; prior: 1975-'76 2nd ex.s. c 43 § 1; 1975-'76 2nd ex.s. c 34 § 86; 1961 c 1 § 11 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Severability--1982 c 10: See note following RCW 6.13.080.

Severability--1981 c 311: See RCW 41.64.910.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Adoption of rules for leave sharing program: RCW 41.04.670.

Appointment and compensation of institutional chaplains: RCW 72.01.210.

Personnel appeals board: Chapter 41.64 RCW.

RCW 41.06.120 Meetings of board--Hearings authorized, notice--Majority to approve release of findings--Administration of oaths.

(1) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action and may hold hearings, such hearings to be called by (a) the chairman of the board, or (b) a majority of the members of the board. An official notice of the calling of the hearing shall be filed with the secretary, and all members shall be notified of

the hearing within a reasonable period of time prior to its convening.

(2) No release of material or statement of findings shall be made except with the approval of a majority of the board;

(3) In the conduct of hearings or investigations, a member of the board or the director of personnel, or the hearing officer, may administer oaths.

[1981 c 311 § 17; 1975-'76 2nd ex.s. c 43 § 2; 1961 c 1 § 12 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Severability--1981 c 311: See RCW 41.64.910.

RCW 41.06.130 Director of personnel--Appointment--Rules--Powers and duties--Delegation of authority.

The office of director of personnel is hereby established.

(1) The director of personnel shall be appointed by the governor. The governor shall consult with, but shall not be obligated by recommendations of the board. The director's appointment shall be subject to confirmation by the senate.

(2) The director of personnel shall serve at the pleasure of the governor.

(3) The director of personnel shall direct and supervise all the department of personnel's administrative and technical activities in accordance with the provisions of this chapter and the rules adopted under it. The director shall prepare for consideration by the board proposed rules required by this chapter. The director's salary shall be fixed by the governor.

(4) The director of personnel may delegate to any agency the authority to perform administrative and technical personnel activities if the agency requests such authority and the director of personnel is satisfied that the agency has the personnel management capabilities to effectively perform the delegated activities. The director of personnel shall prescribe standards and guidelines for the performance of delegated activities. If the director of personnel determines that an agency is not performing delegated activities within the prescribed standards and guidelines, the director shall withdraw the authority from the agency to perform such activities.

[1993 c 281 § 26; 1982 1st ex.s. c 53 § 3; 1961 c 1 § 13 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--1982 1st ex.s. c 53: See note following RCW 41.06.020.

RCW 41.06.140 Employee participation in policy and rule making, administration, etc.--Publication of board rules.

It shall be the duty of the board to make rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty days notice to, and considered proposals from, employee

representatives and agencies affected. Complete and current compilations of all rules and regulations of the board in printed, mimeographed or multigraphed form shall be available to the public in the office of the director of personnel free of charge.

[1961 c 1 § 14 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.150 Rules of board--Mandatory subjects--Veterans' preference--Affirmative action.

The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

- (1) The reduction, dismissal, suspension, or demotion of an employee;
- (2) Certification of names for vacancies, including departmental promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;
- (3) Examinations for all positions in the competitive and noncompetitive service;
- (4) Appointments;
- (5) Training and career development;
- (6) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;
- (7) Transfers;
- (8) Sick leaves and vacations;
- (9) Hours of work;
- (10) Layoffs when necessary and subsequent reemployment, both according to seniority;
- (11) Determination of appropriate bargaining units within any agency: PROVIDED, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;
- (12) Certification and decertification of exclusive bargaining representatives: PROVIDED, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: PROVIDED FURTHER, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine

whether a majority wish to rescind such condition of employment: PROVIDED FURTHER, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: AND PROVIDED FURTHER, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(13) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

(14) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties;

(15) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position.

(a) The board shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

(b) Beginning July 1, 1995, through June 30, 1997, in addition to the requirements of (a) of this subsection:

(i) The board may approve the implementation of salary increases resulting from adjustments to the classification plan during the 1995-97 fiscal biennium only if:

(A) The implementation will not result in additional net costs and the proposed implementation has been approved by the director of financial management in accordance with chapter 43.88 RCW;

(B) The implementation will take effect on July 1, 1996, and the total net cost of all such actions approved by the board for implementation during the 1995-97 fiscal biennium does not exceed the amounts specified by the legislature specifically for this purpose; or

(C) The implementation is a result of emergent conditions. Emergent conditions are defined as emergency situations requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare, which do not exceed \$250,000 of the

moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp. sess.

(ii) The board shall approve only those salary increases resulting from adjustments to the classification plan if they are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent.

(iii) Adjustments made to the higher education hospital special pay plan are exempt from (b)(i) through (ii) of this subsection.

(c) Reclassifications, class studies, and salary adjustments to be implemented during the 1997-99 and subsequent fiscal biennia are governed by (a) of this subsection and RCW 41.06.152;

(16) Allocation and reallocation of positions within the classification plan;

(17) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and that, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(20) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse of a veteran is

entitled to the benefits of this section regardless of the veteran's length of active military service: PROVIDED FURTHER, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(21) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the board may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

(22) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

(23) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables.

[1999 c 297 § 3; 1996 c 319 § 2; 1995 2nd sp.s. c 18 § 911. Prior: 1993 sp.s. c 24 § 913; 1993 c 281 § 27; 1990 c 60 § 103; prior: 1985 c 461 § 2; 1985 c 365 § 5; 1983 1st ex.s. c 75 § 5; 1982 1st ex.s. c 53 § 4; prior: 1982 c 79 § 1; 1981 c 311 § 18; 1980 c 118 § 3; 1979 c 151 § 57; 1977 ex.s. c 152 § 1; 1973 1st ex.s. c 75 § 1; 1973 c 154 § 1; 1971 ex.s. c 19 § 2; 1967 ex.s. c 108 § 13; 1961 c 1 § 15 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Findings--1999 c 297: See note following RCW 43.03.125.

Severability--Effective date--1995 2nd sp.s. c 18: See notes following RCW 19.118.110.

Severability--Effective dates--1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--Subheadings not law--1990 c 60: See notes following RCW 41.06.070.

Severability--1985 c 461: See note following RCW 41.06.020.

Severability--1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability--1981 c 311: See RCW 41.64.910.

Severability--1980 c 118: See note following RCW 41.06.010.

Severability--1977 ex.s. c 152: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 152 § 14.]

Effective date--1973 1st ex.s. c 75: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect midnight June 6, 1973." [1973 1st ex.s. c 75 § 3.]

Leaves for public employees

military: RCW 38.40.060.

vacation: RCW 43.01.040.

Public employees' collective bargaining: Chapter 41.56 RCW.

RCW 41.06.152 Job classification revisions, class studies, salary adjustments--Limitations.

(1) The board shall adopt only those job classification revisions, class studies, and salary adjustments under RCW 41.06.150(15) that:

(a) Are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent; and

(b) Are such that the office of financial management has reviewed the agency's fiscal impact statement and has concurred that the agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

(2) In addition to reclassifications, class studies, and salary adjustments under subsection (1)(b) of this section, the board may approve other reclassifications, class studies, and salary adjustments that meet the requirements of subsection (1)(a) of this section and have been approved under the procedures established under this subsection.

Before the department of personnel's biennial budget request is due to the office of financial management, the board shall prioritize requests for reclassifications, class studies, and salary adjustments for the next fiscal biennium. The board shall prioritize according to such criteria as are developed by the board consistent with RCW 41.06.150(15)(a).

The board shall submit the prioritized list to the governor's office and the fiscal committees of the house of representatives and senate at the same time the department of personnel's biennial budget request is submitted. The office of financial management shall review the biennial cost of each proposed salary adjustment on the board's prioritized list.

In the biennial appropriations acts, the legislature may establish a level of funding, from the state general fund and other accounts, to be applied by the board to the prioritized list. Upon enactment of the appropriations act, the board may approve reclassifications, class studies, and salary adjustments only to the extent that the total cost does not exceed the level of funding established in the appropriations acts and the board's actions are consistent with the priorities established in the list. The legislature may also specify or otherwise limit in the appropriations act the implementation dates for actions approved by the board under this section.

(3) When the board develops its priority list in the 1999-2001 biennium, for increases proposed for funding in the 2001-2003 biennium, the board shall give top priority to proposed increases to address documented recruitment and retention increases, and shall give lowest priority to proposed increases to recognize increased duties and responsibilities. When the board submits its prioritized list for the 2001-2003 biennium, the board shall also provide: A comparison of any differences between the salary increases recommended by the department of personnel staff and those adopted by the board; a review of any salary compression, inversion, or inequities that would result from implementing a recommended increase; and a complete description of the information relied upon by the board in adopting its proposals and priorities.

(4) This section does not apply to the higher education hospital special pay plan or to any

adjustments to the classification plan under RCW 41.06.150(15) that are due to emergent conditions. Emergent conditions are defined as emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

[1999 c 309 § 914; 1996 c 319 § 1.]

NOTES:

Severability--1999 c 309: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1999 c 309 § 2001.]

Effective date--1999 c 309: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999, except as provided in section 2002 of this act." [1999 c 309 § 2003.]

RCW 41.06.155 Salaries--Implementation of changes to achieve comparable worth.

Salary changes necessary to achieve comparable worth shall be implemented during the 1983-85 biennium under a schedule developed by the department. Increases in salaries and compensation solely for the purpose of achieving comparable worth shall be made at least annually. Comparable worth for the jobs of all employees under this chapter shall be fully achieved not later than June 30, 1993.

[1993 c 281 § 28; 1983 1st ex.s. c 75 § 6.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.160 Classification and salary schedules to consider rates in other public and private employment--Wage and fringe benefits surveys--Recommendations to governor, standing committees on appropriations of the legislature, and the director of financial management--Data required.

In preparing classification and salary schedules as set forth in RCW 41.06.150 as now or hereafter amended the department of personnel shall give full consideration to prevailing rates in other public employment and in private employment in this state. For this purpose the department shall undertake comprehensive salary and fringe benefit surveys, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the department shall plan and conduct a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement for broad occupational groups which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of each comprehensive and trend salary and fringe benefit survey shall be completed and forwarded by September 30 with a recommended state salary schedule to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the standing committees for appropriations of the senate and

house of representatives.

In the case of comprehensive salary and fringe benefit surveys, the department shall furnish the following supplementary data in support of its recommended salary schedule:

(1) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data;

(2) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

(3) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the department of personnel with those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included;

(4) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and

(5) A supplemental salary schedule which indicates those cases where the board determines that prevailing rates do not provide similar salaries for positions that require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary dissimilarities shall not be included in the basic salary schedule but shall be maintained as a separate salary schedule for purposes of full disclosure and visibility.

It is the intention of the legislature that requests for funds to support recommendations for salary deviations from the prevailing rate survey data shall be kept to a minimum, and that the requests be fully documented when forwarded by the department of personnel.

Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW.

The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1988.

[1993 c 281 § 29; 1985 c 94 § 2; 1980 c 11 § 1; 1979 c 151 § 58; 1977 ex.s. c 152 § 2; 1961 c 1 § 16 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--1977 ex.s. c 152: See note following RCW 41.06.150.

RCW 41.06.163 Comprehensive salary and fringe benefit survey plan required--Contents.

(1) In the conduct of salary and fringe benefit surveys under RCW 41.06.160 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial management, employee organizations, and the standing committees for appropriations of the senate and house of representatives six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data.

(3) Interim or special surveys conducted under RCW 41.06.160 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

(a) Leave time, including vacation, holiday, civil, and personal leave;

(b) Employer retirement contributions;

(c) Health and insurance payments, including life, accident, and health insurance,

workers' compensation, and sick leave; and

(d) Stock options, bonuses, and purchase discounts where appropriate.

[1993 c 281 § 30; 1987 c 185 § 9; 1986 c 158 § 6; 1979 c 151 § 59; 1977 ex.s. c 152 § 3.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Severability--1977 ex.s. c 152: See note following RCW 41.06.150.

RCW 41.06.165 Salary surveys--Criteria.

Salary surveys shall be conducted according to the following criteria in addition to any other provisions under this chapter:

(1) Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out-of-state sources when necessary to obtain statistically valid salary surveys; and

(2) Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparisons of survey data to individual state job classes.

[1977 ex.s. c 152 § 4.]

Notes:

Severability--1977 ex.s. c 152: See note following RCW 41.06.150.

RCW 41.06.167 Compensation surveys required for officers and officer candidates of the Washington state patrol--Comprehensive compensation survey plan and recommendations of chief required.

The department of personnel shall undertake comprehensive compensation surveys for officers and entry-level officer candidates of the Washington state patrol, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive compensation survey is not conducted, the department shall conduct a trend compensation survey. This survey shall measure average compensation movement which has occurred since the last comprehensive compensation survey was conducted. The results of each comprehensive and trend survey shall be completed and forwarded by September 30th, after review and preparation of recommendations by the chief of the Washington state patrol, to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the legislative transportation committee and the standing committees for appropriations of the senate and house of representatives. The office of financial management shall analyze the survey results and

conduct investigations which may be necessary to arbitrate differences between interested parties regarding the accuracy of collected survey data and the use of such data for salary adjustment.

Surveys conducted by the department of personnel for the Washington state patrol shall be undertaken in a manner consistent with statistically accurate sampling techniques, including comparisons of medians, base ranges, and weighted averages of salaries. The surveys shall compare competitive labor markets of law enforcement officers. This service performed by the department of personnel shall be on a reimbursable basis in accordance with the provisions of RCW 41.06.080.

A comprehensive compensation survey plan and the recommendations of the chief of the Washington state patrol shall be submitted jointly by the department of personnel and the Washington state patrol to the director of financial management, the legislative transportation committee, the committee on ways and means of the senate, and the committee on appropriations of the house of representatives six months before the beginning of each periodic survey.

[1991 c 196 § 1; 1986 c 158 § 7; 1985 c 94 § 3; 1980 c 11 § 2; 1979 c 151 § 60; 1977 ex.s. c 152 § 5.]

Notes:

Severability--1977 ex.s. c 152: See note following RCW 41.06.150.

RCW 41.06.169 Employee performance evaluations--Standardized procedures and forms required to be developed.

After consultation with state agency heads, employee organizations, and other interested parties, the state personnel director shall develop standardized employee performance evaluation procedures and forms which shall be used by state agencies for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual agencies may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. Performance evaluation procedures shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling state agency and job objectives.

[1985 c 461 § 3; 1982 1st ex.s. c 53 § 5; 1977 ex.s. c 152 § 6.]

Notes:

Severability--1985 c 461: See note following RCW 41.06.020.

Severability--1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability--1977 ex.s. c 152: See note following RCW 41.06.150.

RCW 41.06.170 Suspension, dismissal, demotion of employee--Appeal to personnel appeals board.

(1) The board or director, in the adoption of rules governing suspensions for cause, shall not authorize an appointing authority to suspend an employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties. The board or director shall require that the appointing authority give written

notice to the employee not later than one day after the suspension takes effect, stating the reasons for and the duration thereof.

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the board, or any employee who is adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal to the personnel appeals board created by RCW 41.64.010 not later than thirty days after the effective date of such action. The employee shall be furnished with specified charges in writing when a reduction, dismissal, suspension, or demotion action is taken. Such appeal shall be in writing.

(3) Any employee whose position has been exempted after July 1, 1993, shall have the right to appeal to the personnel appeals board created by RCW 41.64.010 not later than thirty days after the effective date of such action.

(4) An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to the personnel appeals board created by RCW 41.64.010. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

[1993 c 281 § 31; 1981 c 311 § 19; 1975-'76 2nd ex.s. c 43 § 3; 1961 c 1 § 17 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--1981 c 311: See RCW 41.64.910.

Decision of Washington personnel resources board under RCW 41.06.170(4) not subject to judicial review: RCW 41.64.100.

RCW 41.06.176 Employee performance evaluations--Written notification of deficiencies.

Each employee whose work is judged unsatisfactory shall be notified in writing of the areas in which the work is considered deficient. Unless the deficiency is extreme, the employee shall be given an opportunity to demonstrate improvement.

[1985 c 461 § 4.]

Notes:

Severability--1985 c 461: See note following RCW 41.06.020.

RCW 41.06.186 Employee performance evaluations--Termination of employment--Rules.

The Washington personnel resources board shall adopt rules designed to terminate the state employment of any employee whose performance is so inadequate as to warrant termination.

[1993 c 281 § 32; 1985 c 461 § 5.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--1985 c 461: See note following RCW 41.06.020.

RCW 41.06.196 Employee performance evaluations--Termination of supervisors tolerating deficient employees.

The Washington personnel resources board shall adopt rules designed to remove from supervisory positions those supervisors who in violation of the rules adopted under RCW 41.06.186 have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment.

[1993 c 281 § 33; 1985 c 461 § 6.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--1985 c 461: See note following RCW 41.06.020.

Duty of state officers to identify employees whose performance warrants termination from state employment: RCW 43.01.125.

RCW 41.06.220 Reemployment list--Reinstatement after appeal, guaranteed rights and benefits.

(1) An employee who is terminated from state service may request the board to place his name on an appropriate reemployment list and the board shall grant this request where the circumstances are found to warrant reemployment.

(2) Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, retirement and OASDI credits.

[1961 c 1 § 22 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.250 Political activities.

(1) Solicitation for or payment to any partisan, political organization or for any partisan, political purpose of any compulsory assessment or involuntary contribution is prohibited: PROVIDED, HOWEVER, That officers of employee associations shall not be prohibited from soliciting dues or contributions from members of their associations. No person shall solicit on state property or property of a political subdivision of this state any contribution to be used for partisan, political purposes.

(2) Employees of the state or any political subdivision thereof shall have the right to vote and to express their opinions on all political subjects and candidates and to hold any political party office or participate in the management of a partisan, political campaign. Nothing in this section shall prohibit an employee of the state or any political subdivision thereof from participating fully in campaigns relating to constitutional amendments, referendums, initiatives,

and issues of a similar character, and for nonpartisan offices.

(3) A classified civil service employee shall not hold a part time public office in a political subdivision of the state when the holding of such office is incompatible with, or substantially interferes with, the discharge of official duties in state employment.

(4) For persons employed in state agencies or agencies of any political subdivision of the state the operation of which is financed in total or primarily by federal grant-in-aid funds political activity will be regulated by the rules and regulations of the United States civil service commission.

(5) The provisions of this section shall supersede all statutes, charter provisions, ordinances, resolutions, regulations, and requirements promulgated by the state or any subdivision thereof, including any provision of any county charter, insofar as they may be in conflict with the provisions of this section.

[1974 ex.s. c 136 § 1; 1961 c 1 § 25 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.260 Conflict with federal requirements--Effect--Rules to conform chapter.

If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such findings or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The board shall make such rules and regulations as may be necessary to meet federal requirements which are a condition precedent to the receipt of federal funds by the state.

[1961 c 1 § 26 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.270 Salary withheld unless employment is in accord with chapter--Certification of payrolls, procedures.

A disbursing officer shall not pay any employee holding a position covered by this chapter unless the employment is in accordance with this chapter or the rules, regulations and orders issued hereunder. The board and the director of financial management shall jointly establish procedures for the certification of payrolls.

[1979 c 151 § 61; 1961 c 1 § 27 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.280 Department of personnel service fund--Created--Charges to agencies, payment--Use, disbursement.

There is hereby created a fund within the state treasury, designated as the "department of personnel service fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter, applicable provisions of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed one and

one-half percent of the approved allotments of salaries and wages for all positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher education, shall be charged to the operations appropriations of each agency and credited to the department of personnel service fund as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director from time to time which, together with income derived from services rendered under RCW 41.06.080, will provide the department with funds to meet its anticipated expenditures during the allotment period, including the training requirements in RCW 41.06.500 and 41.06.530.

The director of personnel shall fix the terms and charges for services rendered by the department of personnel pursuant to RCW 41.06.080, which amounts shall be credited to the department of personnel service fund and charged against the proper fund or appropriation of the recipient of such services on a quarterly basis. Payment for services so rendered under RCW 41.06.080 shall be made on a quarterly basis to the state treasurer and deposited by him in the department of personnel service fund.

Moneys from the department of personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board.

[1993 c 379 § 309; 1993 c 281 § 34; 1987 c 248 § 4; 1984 c 7 § 45; 1982 c 167 § 13; 1963 c 215 § 1; 1961 c 1 § 28 (Initiative Measure No. 207, approved November 8, 1960).]

Notes:

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

Effective date--1993 c 281: See note following RCW 41.06.022.

Legislative findings--Purpose--1987 c 248: See note following RCW 41.04.362.

Severability--1984 c 7: See note following RCW 47.01.141.

Severability--1982 c 167: See note following RCW 41.60.015.

RCW 41.06.285 Higher education personnel service fund.

(1) There is hereby created a fund within the state treasury, designated as the "higher education personnel service fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of institutions of higher education and related boards, the budget for which shall be subject to review and approval and appropriation by the legislature. Subject to the requirements of subsection (2) of this section, an amount not to exceed one-half of one percent of the salaries and wages for all positions in the classified service shall be contributed from the operations appropriations of each institution and the state board for community and technical colleges and credited to the higher education personnel service fund as such allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, such amount shall be charged against the allotments pro rata, at a rate to be fixed by the director of financial management from time to time, which will provide the board with funds to meet its anticipated expenditures during the allotment period.

(2) If employees of institutions of higher education cease to be classified under this chapter pursuant to an agreement authorized by RCW 41.56.201, each institution of higher

education and the state board for community and technical colleges shall continue, for six months after the effective date of the agreement, to make contributions to the higher education personnel service fund based on employee salaries and wages that includes the employees under the agreement. At the expiration of the six-month period, the director of financial management shall make across-the-board reductions in allotments of the higher education personnel service fund for the remainder of the biennium so that the charge to the institutions of higher education and state board for community and technical colleges based on the salaries and wages of the remaining employees of institutions of higher education and related boards classified under this chapter does not increase during the biennium, unless an increase is authorized by the legislature.

(3) Moneys from the higher education personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board.

[1998 c 245 § 41; 1993 c 379 § 308.]

Notes:

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

RCW 41.06.290 Personnel subject to chapter 47.64 RCW not affected.

Nothing in this chapter shall be interpreted as changing the provisions of or affecting the conditions of employment for personnel covered by chapter 47.64 RCW.

[1961 c 1 § 29 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.340 Unfair labor practices provisions applicable to chapter.

Each and every provision of RCW 41.56.140 through *41.56.190 shall be applicable to this chapter as it relates to state civil service employees and the Washington personnel resources board, or its designee, whose final decision shall be appealable to the Washington personnel resources board, which is granted all powers and authority granted to the department of labor and industries by RCW 41.56.140 through *41.56.190.

[1993 c 281 § 35; 1969 ex.s. c 215 § 13.]

Notes:

***Reviser's note:** RCW 41.56.170 through 41.56.190 were repealed by 1994 c 58 § 3.

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.350 Acceptance of federal funds authorized.

The Washington personnel resources board is authorized to receive federal funds now available or hereafter made available for the assistance and improvement of public personnel administration, which may be expended in addition to the department of personnel service fund established by RCW 41.06.280.

[1993 c 281 § 36; 1969 ex.s. c 152 § 1.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.380 Purchasing services by contract not prohibited--Limitations.

Nothing contained in this chapter shall prohibit any department, as defined in RCW 41.06.020, from purchasing services by contract with individuals or business entities if such services were regularly purchased by valid contract by such department prior to April 23, 1979: PROVIDED, That no such contract may be executed or renewed if it would have the effect of terminating classified employees or classified employee positions existing at the time of the execution or renewal of the contract.

[1979 ex.s. c 46 § 2.]

RCW 41.06.382 Purchasing services by contract not prohibited--Limitations.

Nothing contained in this chapter shall prohibit any institution of higher education, as defined in RCW 28B.10.016, or related board from purchasing services by contract with individuals or business entities if such services were regularly purchased by valid contract at such institution prior to April 23, 1979: PROVIDED, That no such contract may be executed or renewed if it would have the effect of terminating classified employees or classified employee positions existing at the time of the execution or renewal of the contract.

[1979 ex.s. c 46 § 1. Formerly RCW 28B.16.240.]

RCW 41.06.400 Training and career development programs--Powers and duties of director.

(1) In addition to other powers and duties specified in this chapter, the board shall, by rule, prescribe the purpose and minimum standards for training and career development programs and, in so doing, regularly consult with and consider the needs of individual agencies and employees.

(2) In addition to other powers and duties specified in this chapter, the director shall:

(a) Provide for the evaluation of training and career development programs and plans of agencies based on minimum standards established by the board. The director shall report the results of such evaluations to the agency which is the subject of the evaluation;

(b) Provide training and career development programs which may be conducted more efficiently and economically on an interagency basis;

(c) Promote interagency sharing of resources for training and career development;

(d) Monitor and review the impact of training and career development programs to ensure that the responsibilities of the state to provide equal employment opportunities are diligently carried out. The director shall report to the board the impact of training and career development programs on the fulfillment of such responsibilities.

(3) At an agency's request, the director may provide training and career development programs for an agency's internal use which may be conducted more efficiently and

economically by the department of personnel.

[1980 c 118 § 4.]

Notes:

Severability--1980 c 118: See note following RCW 41.06.010.

RCW 41.06.410 Training and career development programs--Agency plan--Report--Budget.

Each agency subject to the provisions of this chapter shall:

(1) Prepare an employee training and career development plan which shall at least meet minimum standards established by the board. A copy of such plan shall be submitted to the director for purposes of administering the provisions of RCW 41.06.400(2);

(2) Provide for training and career development for its employees in accordance with the agency plan;

(3) Report on its training and career development program operations and costs to the director in accordance with reporting procedures adopted by the board;

(4) Budget for training and career development in accordance with procedures of the office of financial management.

[1980 c 118 § 5.]

Notes:

Severability--1980 c 118: See note following RCW 41.06.010.

RCW 41.06.420 Entry-level management training course--Requirements--Suspension--Waiver--Designation of supervisory or management positions.

(1) The board, by rule, shall prescribe the conditions under which an employee appointed to a supervisory or management position after June 12, 1980, shall be required to successfully complete an entry-level management training course as approved by the director. Such training shall not be required of any employee who has completed a management training course prior to the employee's appointment which is, in the judgment of the director, at least equivalent to the entry-level course required by this section.

(2) The board, by rule, shall establish procedures for the suspension of the entry-level training requirement in cases where the ability of an agency to perform its responsibilities is adversely affected, or for the waiver of this requirement in cases where a person has demonstrated experience as a substitute for training.

(3) Agencies subject to the provisions of this chapter, in accordance with rules prescribed by the board, shall designate individual positions, or groups of positions, as being "supervisory" or "management" positions. Such designations shall be subject to review by the director as part of the director's evaluation of training and career development programs prescribed by RCW 41.06.400(2).

[1980 c 118 § 6.]

Notes:

Severability--1980 c 118: See note following RCW 41.06.010.

RCW 41.06.450 Destruction or retention of information relating to employee misconduct.

(1) By January 1, 1983, the Washington personnel resources board shall adopt rules applicable to each agency to ensure that information relating to employee misconduct or alleged misconduct is destroyed or maintained as follows:

(a) All such information determined to be false and all such information in situations where the employee has been fully exonerated of wrongdoing, shall be promptly destroyed;

(b) All such information having no reasonable bearing on the employee's job performance or on the efficient and effective management of the agency, shall be promptly destroyed;

(c) All other information shall be retained only so long as it has a reasonable bearing on the employee's job performance or on the efficient and effective management of the agency.

(2) Notwithstanding subsection (1) of this section, an agency may retain information relating to employee misconduct or alleged misconduct if:

(a) The employee requests that the information be retained; or

(b) The information is related to pending legal action or legal action may be reasonably expected to result.

(3) In adopting rules under this section, the Washington personnel resources board shall consult with the public disclosure commission to ensure that the public policy of the state, as expressed in chapter 42.17 RCW, is adequately protected.

[1993 c 281 § 37; 1982 c 208 § 10.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Legislative finding--Purpose--RCW 41.06.450: "The legislature finds that, under some circumstances, maintaining information relating to state employee misconduct or alleged misconduct is unfair to employees and serves no useful function to the state. The purpose of RCW 41.06.450 is to direct the personnel board to adopt rules governing maintenance of employee records so that the records are maintained in a manner which is fair to employees, which ensures proper management of state governmental affairs, and which adequately protects the public interest." [1982 c 208 § 9.]

Severability--1982 c 208: See RCW 42.40.900.

Application of public disclosure law to information relating to employee misconduct: RCW 42.17.295.

Employee inspection of personnel file: RCW 49.12.240 through 49.12.260.

RCW 41.06.455 Destruction of employee records authorized if consistent with other laws.

RCW 41.06.450 does not prohibit an agency from destroying identifying information in

records relating to employee misconduct or alleged misconduct if the agency deems the action is consistent with the policy expressed in RCW 41.06.450 and in chapter 42.17 RCW.

[1982 c 208 § 11.]

Notes:

Severability--1982 c 208: See RCW 42.40.900.

RCW 41.06.460 Application of RCW 41.06.450 and 41.06.455 to classified and exempt employees.

Notwithstanding RCW 41.06.040, 41.06.450 and 41.06.455 apply to all classified and exempt employees of the state, including employees of the institutions of higher education.

[1982 c 208 § 12.]

Notes:

Severability--1982 c 208: See RCW 42.40.900.

RCW 41.06.475 State employment in the supervision, care, or treatment of children or developmentally disabled persons--Rules on background investigation.

The Washington personnel resources board shall adopt rules, in cooperation with the secretary of social and health services, for the background investigation of persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons.

[1993 c 281 § 38; 1986 c 269 § 2.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Children and vulnerable adults: RCW 43.43.830 through 43.43.842.

State hospitals: RCW 72.23.035.

Supervision, care, or treatment of children or developmentally disabled or other vulnerable persons--State employment--Investigation of conviction records or pending charges: RCW 43.20A.710.

RCW 41.06.476 Background investigation rules--Updating.

(1) The board shall amend any existing rules established under RCW 41.06.475 and adopt rules developed in cooperation and agreement with the department of social and health services to implement the provisions of chapter 296, Laws of 2001.

(2) The legislature's delegation of authority to the agency under chapter 296, Laws of 2001 is strictly limited to:

(a) The minimum delegation necessary to administer the clear and unambiguous directives of chapter 296, Laws of 2001; and

(b) The administration of circumstances and behaviors foreseeable at *the time of enactment.

[2001 c 296 § 6.]

NOTES:

***Reviser's note:** 2001 c 296 attained final passage by the legislature on April 20, 2001, was signed by the governor and filed with the secretary of state on May 14, 2001, and took effect July 22, 2001.

Intent--2001 c 296: See note following RCW 9.96A.060.

RCW 41.06.480 Background check disqualification--Policy recommendations.

The personnel resources board must develop policy recommendations addressing the action that will be taken if a background check result disqualifies an employee from his or her current position. A report of the recommendations developed must be delivered to the legislature by December 1, 2001.

[2001 c 296 § 7.]

NOTES:

Intent--2001 c 296: See note following RCW 9.96A.060.

RCW 41.06.490 State employee return-to-work program.

(1) In addition to the rules adopted under RCW 41.06.150, the board shall adopt rules establishing a state employee return-to-work program. The program shall, at a minimum:

(a) Direct each agency to adopt a return-to-work policy. The program shall allow each agency program to take into consideration the special nature of employment in the agency;

(b) Provide for eligibility in the return-to-work program, for a minimum of two years from the date the temporary disability commenced, for any permanent employee who is receiving compensation under RCW 51.32.090 and who is, by reason of his or her temporary disability, unable to return to his or her previous work, but who is physically capable of carrying out work of a lighter or modified nature;

(c) Allow opportunity for return-to-work state-wide when appropriate job classifications are not available in the agency that is the appointing authority at the time of injury;

(d) Require each agency to name an agency representative responsible for coordinating the return-to-work program of the agency;

(e) Provide that applicants receiving appointments for classified service receive an explanation of the return-to-work policy;

(f) Require training of supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee; and

(g) Coordinate participation of applicable employee assistance programs, as appropriate.

(2) The agency full-time equivalents necessary to implement the return-to-work program established under this section shall be used only for the purposes of the return-to-work program and the net increase in full-time equivalents shall be temporary.

[1990 c 204 § 3.]

Notes:

Findings--Purpose--1990 c 204: See note following RCW 51.44.170.

RCW 41.06.500 Managers--Rules--Goals.

(1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted by the board for other employees, and to the extent that the rules adopted apply only to managers shall take precedence over rules adopted by the board, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system consistent with the policy set forth in RCW 41.06.150(17). The system shall provide flexibility in setting and changing salaries, and shall require review and approval by the director in the case of any salary changes greater than five percent proposed for any group of employees;

(c) Establishment of a performance appraisal system that emphasizes individual accountability for program results and efficient management of resources; effective planning, organization, and communication skills; valuing and managing workplace diversity; development of leadership and interpersonal abilities; and employee development;

(d) Strengthening management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration.

[1996 c 319 § 4; 1993 c 281 § 9.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.510 Institutions of higher education--Designation of personnel officer.

Each institution of higher education and each related board shall designate an officer who shall perform duties as personnel officer. The personnel officer at each institution or related board shall direct, supervise, and manage administrative and technical personnel activities for the classified service at the institution or related board consistent with policies established by the institution or related board and in accordance with the provisions of this chapter and the rules adopted under this chapter. Institutions may undertake jointly with one or more other institutions to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects. The services of the department of personnel may also be used by the institutions or related boards pursuant to RCW 41.06.080.

The state board for community and technical colleges shall have general supervision and control over activities undertaken by the various community colleges pursuant to this section.

[1993 c 281 § 10.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.520 Administration, management of institutions of higher education--Rules--Audit and review by board.

Rules adopted by the board shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the board, of the following:

- (1) Appointment, promotion, and transfer of employees;
- (2) Dismissal, suspension, or demotion of an employee;
- (3) Examinations for all positions in the competitive and noncompetitive service;
- (4) Probationary periods of six to twelve months and rejection of probationary employees;
- (5) Sick leaves and vacations;
- (6) Hours of work;
- (7) Layoffs when necessary and subsequent reemployment;
- (8) Allocation and reallocation of positions within the classification plans;
- (9) Training programs; and
- (10) Maintenance of personnel records.

[1993 c 281 § 11.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.530 Personnel resource and management policy--Implementation.

- (1) The legislature recognizes that:

(a) The labor market and the state government work force are diverse in terms of gender, race, ethnicity, age, and the presence of disabilities.

(b) The state's personnel resource and management practices must be responsive to the diverse nature of its work force composition.

(c) Managers in all agencies play a key role in the implementation of all critical personnel policies.

It is therefore the policy of the state to create an organizational culture in state government that respects and values individual differences and encourages the productive potential of every employee.

(2) To implement this policy, the department shall:

(a) In consultation with agencies, employee organizations, employees, institutions of higher education, and related boards, review civil service rules and related policies to ensure that they support the state's policy of valuing and managing diversity in the workplace;

(b) In consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop model policies, procedures, and technical information to be made available to such entities for the support of workplace diversity programs, including, but not limited to:

(i) Voluntary mentorship programs;

(ii) Alternative testing practices for persons of disability where deemed appropriate;

(iii) Career counseling;

(iv) Training opportunities, including management and employee awareness and skills training, English as a second language, and individual tutoring;

(v) Recruitment strategies;

(vi) Management performance appraisal techniques that focus on valuing and managing diversity in the workplace; and

(vii) Alternative work arrangements;

(c) In consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop training programs for all managers to enhance their ability to implement diversity policies and to provide a thorough grounding in all aspects of the state civil service law and merit system rules, and how the proper implementation and application thereof can facilitate and further the mission of the agency.

(3) The department shall coordinate implementation of this section with the office of financial management and institutions of higher education and related boards to reduce duplication of effort.

[1993 c 281 § 12.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.540 Joint employee-management committees.

Meaningful and effective involvement of employees and their representatives is essential to the efficient and effective delivery of state government services. To accomplish this, agencies

shall use joint employee-management committees to collaborate on the desired goals of streamlined organizational structures, continuous improvement in all systems and processes, empowerment of line level employees to solve workplace and system delivery problems, managers functioning as coaches and facilitators, and employee training and development as an investment in the future. If employees are represented by an exclusive bargaining representative, the representative shall select the employee committee members and also be on the committee. In addition, the committees shall be used for improvement of the quality of work life for state employees resulting in more productive and efficient service delivery to the general public and customers of state government. Nothing in this section supplants any collective bargaining process or provision.

[1993 c 281 § 13.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.06.900 Short title.

This chapter shall be referred to as the state civil service law.

[1961 c 1 § 34 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.910 Severability--1961 c 1.

If any provision of this act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end any section, sentence, or word is declared to be severable.

[1961 c 1 § 35 (Initiative Measure No. 207, approved November 8, 1960).]

RCW 41.06.911 Severability--1975-'76 2nd ex.s. c 43.

If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1975-'76 2nd ex.s. c 43 § 5.]

**Chapter 41.07 RCW
CENTRAL PERSONNEL-PAYROLL SYSTEM**

Sections

41.07.010	Definitions.
41.07.020	Administration, maintenance and operation of system--Intent.
41.07.030	Costs.
41.07.900	Transfer of personnel, records, equipment, etc.

41.07.901 Effective date--1975 1st ex.s. c 239.

RCW 41.07.010 Definitions.

(1) As used in this chapter "state agency" means all offices, departments, agencies, institutions, boards, and commissions of state government including those headed by an elected official and including institutions of higher education.

(2) As used in this chapter "central personnel-payroll system" means an automated data processing system capable of keeping records and processing necessary transactions in the process of employing persons, changing their employment status, and paying employees of any or all state agencies. Such system shall include production of reports and documents required or authorized by state or federal agencies.

[1975 1st ex.s. c 239 § 1.]

RCW 41.07.020 Administration, maintenance and operation of system--Intent.

The department of personnel is authorized to administer, maintain, and operate the central personnel-payroll system and to provide its services for any state agency designated jointly by the director of the department of personnel and the director of financial management.

The system shall be operated through state data processing centers. State agencies shall convert personnel and payroll processing to the central personnel-payroll system as soon as administratively and technically feasible as determined by the office of financial management and the department of personnel. It is the intent of the legislature to provide, through the central personnel-payroll system, for uniform reporting to the office of financial management and to the legislature regarding salaries and related costs, and to reduce present costs of manual procedures in personnel and payroll record keeping and reporting.

[1979 c 151 § 62; 1975 1st ex.s. c 239 § 2.]

RCW 41.07.030 Costs.

The costs of administering, maintaining, and operating the central personnel-payroll system shall be distributed to the using state agencies. In order to insure proper and equitable distribution of costs the department of personnel shall utilize cost accounting procedures to identify all costs incurred in the administration, maintenance, and operation of the central personnel-payroll system. In order to facilitate proper and equitable distribution of costs to the using state agencies the department of personnel is authorized to utilize the data processing revolving fund created by RCW 43.105.080 and the department of personnel service fund created by RCW 41.06.280.

[1975 1st ex.s. c 239 § 3.]

RCW 41.07.900 Transfer of personnel, records, equipment, etc.

On October 1, 1975, or at such earlier time as may be mutually agreed upon by the director of general administration and the director of personnel, the staff of the data processing service center engaged in payroll data control and payroll data entry along with such records, files, data, materials, equipment, supplies, and other assets as are directly associated with their function shall be transferred to the department of personnel.

[1975 1st ex.s. c 239 § 4.]

RCW 41.07.901 Effective date--1975 1st ex.s. c 239.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975.

[1975 1st ex.s. c 239 § 6.]

**Chapter 41.08 RCW
CIVIL SERVICE FOR CITY FIREMEN**

Sections

41.08.010	Application of chapter.
41.08.020	Excluded cities--Repeal of local law--Effect.
41.08.030	Civil service commission created--Appointment--Terms--Removal--Quorum.
41.08.040	Organization of commission--Secretary--Powers and duties of commission.
41.08.050	Persons included--Competitive examinations--Transfers, discharges, and reinstatements.
41.08.060	Existing firemen blanketed under civil service.
41.08.070	Qualifications of applicants.
41.08.075	Residency as condition of employment--Discrimination because of lack of residency--Prohibited.
41.08.080	Tenure of employment--Grounds for discharge, reduction, or deprivation of privileges.
41.08.090	Procedure for removal, suspension, demotion or discharge--Investigation--Hearing--Appeal.
41.08.100	Filling of vacancies--Probationary period.
41.08.110	Power to create offices, make appointments and fix salaries not infringed.
41.08.120	Approval of payrolls.
41.08.130	Leaves of absence--Notice--Filling vacancy.
41.08.140	Enforcement by civil action--Legal counsel.
41.08.150	Deceptive practices, false marks, etc., prohibited.
41.08.160	Political contributions and services--Not required--Solicitation and coercion prohibited.
41.08.170	Local legislation required--Penalty.
41.08.180	Office and supplies to be furnished--Penalty for not providing.
41.08.183	Time limit for creation of commission--Penalty.
41.08.185	Duty of commission to organize and function--Penalty for violation.
41.08.190	Cooperation of city officers and employees enjoined.
41.08.200	Appropriation for expenses.
41.08.210	Penalty--Jurisdiction.
41.08.220	Definitions.

41.08.900 Severability--1935 c 31.

41.08.910 Repeal.

Notes:

Civil service for employees of fire protection districts: RCW 52.30.040.

RCW 41.08.010 Application of chapter.

The provisions of this chapter shall have no application to cities and towns which at the present time have provided for civil service in the fire department or which shall subsequently provide for civil service in the fire department by local charter or other regulations which said local charter or regulations substantially accomplish the purpose of this chapter.

[1935 c 31 § 1; RRS § 9558-1.]

RCW 41.08.020 Excluded cities--Repeal of local law--Effect.

If any of the cities or towns referred to in RCW 41.08.010 shall at any time repeal the charter provisions or other local acts of said cities or towns providing for civil service for firemen as referred to in RCW 41.08.010, in that event this chapter shall apply to all of such cities and towns which have at any time abolished civil service for members of the fire department.

[1935 c 31 § 2; RRS § 9558-2.]

RCW 41.08.030 Civil service commission created--Appointment--Terms--Removal--Quorum.

There is hereby created in every city, town or municipality except those referred to in RCW 41.08.010, having a full paid fire department a civil service commission which shall be composed of three persons.

The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with power and authority to select, appoint, or employ the chief of a fire department in any such city, prior to the enactment of this chapter. The members of such commission shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein he resides. The term of office of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause: PROVIDED, HOWEVER, That no member of the commission shall be removed until

charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. Confirmation of said appointment or appointments of commissioners by any legislative body shall not be required. At the time of any appointment not more than two commissioners shall be adherents of the same political party.

[1935 c 31 § 3; RRS § 9558-3.]

RCW 41.08.040 Organization of commission--Secretary--Powers and duties of commission.

Immediately after appointment the commission shall organize by electing one of its members chair and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

They shall appoint a secretary and chief examiner, who shall keep the records of the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the city, town or municipality, or promotional and limited to persons already in the service of the fire department or of the fire department and other departments of said city, town or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction or discharge in the same manner and subject to the same limitations as are provided in the case of members of the fire department. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions of this chapter. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the interest of good personnel administration. Such rules and regulations may be changed from time to time. The rules and regulations and any amendments thereof shall be printed, mimeographed or multigraphed for free public distribution. Such rules and regulations may be changed from time to time.

(2) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill.

(3) The rules and regulations adopted by the commission shall provide for a credit in

accordance with RCW 41.04.010 in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy, and marine corps and the American Red Cross. These credits apply to entrance examinations only.

(4) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a superior court judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such.

(5) All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission: PROVIDED, HOWEVER, That no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members.

(6) To hear and determine appeals or complaints respecting the administrative work of the personnel department; appeals upon the allocation of positions; the rejection of an examination, and such other matters as may be referred to the commission.

(7) Establish and maintain in card or other suitable form a roster of officers and employees.

(8) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and to provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the

order of their seniority, to the end that they shall be the first to be reemployed.

(9) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as a provisional appointee in any one fiscal year.

(10) Keep such records as may be necessary for the proper administration of this chapter.

[1993 c 47 § 4; 1973 1st ex.s. c 154 § 60; 1935 c 31 § 5; RRS § 9558-5.]

Notes:

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

Preferred rights in employment, examinations, appointments, etc., limited to actual members of armed forces: RCW 73.04.090.

Veterans' scoring criteria status in examinations: RCW 41.04.010.

RCW 41.08.050 Persons included--Competitive examinations--Transfers, discharges, and reinstatements.

The classified civil service and provisions of this chapter shall include all full paid employees of the fire department of each city, town or municipality coming within its purview, except that individuals appointed as fire chief after July 1, 1987, may be excluded by the legislative body of the city, town, or municipality. All appointments to and promotions in said department shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in, or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter.

[1987 c 339 § 1; 1935 c 31 § 4; RRS § 9558-4.]

Notes:

Severability--Effective date--1987 c 339: See notes following RCW 35.21.333.

RCW 41.08.060 Existing firemen blanketed under civil service.

For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment of this chapter, all persons holding a position in the fire department of any such city, including the chief thereof, when this chapter takes effect, who shall have served in such position for a period of at least six months last past continuously, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person

had been permanently appointed thereto under civil service after examination and investigation.

[1935 c 31 § 6; RRS § 9558-6.]

RCW 41.08.070 Qualifications of applicants.

An applicant for a position of any kind under civil service, must be a citizen of the United States of America who can read and write the English language.

An applicant for a position of any kind under civil service must be of an age suitable for the position applied for, in ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the commission may deem advisable.

[1972 ex.s. c 37 § 2; 1963 c 95 § 1; 1935 c 31 § 7; RRS § 9558-7.]

Notes:

Purpose--1972 ex.s. c 37: "It is the purpose of this 1972 amendatory act to increase the availability of qualified applicants for employment in positions of public safety in municipal government; namely, firemen and policemen; and to eliminate present inequities that result from the application of residency requirements under existing statutes pertaining to such employment." [1972 ex.s. c 37 § 1.]

RCW 41.08.075 Residency as condition of employment--Discrimination because of lack of residency--Prohibited.

No city, town, or municipality shall require any person applying for or holding an office, place, position, or employment under the provisions of this chapter or under any local charter or other regulations described in RCW 41.08.010 to reside within the limits of such municipal corporation as a condition of employment, or to discriminate in any manner against any such person because of his residence outside of the limits of such city, town, or municipality.

[1972 ex.s. c 37 § 4.]

Notes:

Purpose--1972 ex.s. c 37: See note following RCW 41.08.070.

RCW 41.08.080 Tenure of employment--Grounds for discharge, reduction, or deprivation of privileges.

The tenure of every one holding an office, place, position or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

- (1) Incompetency, inefficiency or inattention to or dereliction of duty;
- (2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other wilful failure on the part of the employee to properly conduct

himself; or any wilful violation of the provisions of this chapter or the rules and regulations to be adopted hereunder;

(3) Mental or physical unfitness for the position which the employee holds;

(4) Dishonest, disgraceful, immoral or prejudicial conduct;

(5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the functions and duties of any position under civil service;

(6) Conviction of a felony, or a misdemeanor, involving moral turpitude;

(7) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

[1935 c 31 § 8; RRS § 9558-8.]

RCW 41.08.090 Procedure for removal, suspension, demotion or discharge--Investigation--Hearing--Appeal.

No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted or discharged except for cause, and only upon the written accusation of the appointing power, or any citizen or taxpayer, a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, demoted or discharged may within ten days from the time of his removal, suspension, demotion or discharge, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons and was or was not made in good faith [f]or cause. After such investigation the commission may affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation, in lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge by directing a suspension, without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay; the findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to the provisions of this section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person

and by counsel, and presenting his defense. If such judgment or order be concurred in by the commission or a majority thereof, the accused may appeal therefrom to the court of original and unlimited jurisdiction in civil suits of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the commission with such court. The commission shall, within ten days after the filing of such notice, make, certify and file such transcript with such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine such appeal in a summary manner: PROVIDED, HOWEVER, That such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds.

[1935 c 31 § 9; RRS § 9558-9.]

RCW 41.08.100 Filling of vacancies--Probationary period.

Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall make requisition upon the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the name of the person standing highest on said list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and said appointing power shall forthwith appoint the person so certified to said position. No person so certified shall be laid off, suspended, or given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of three to six months' probationary service, as may be provided in the rules of the civil service commission during which the appointing power may terminate the employment of the person certified to him, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him unfit or unsatisfactory for service in the department. Whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon said duties until some person is found who is deemed

fit for appointment, employment or promotion for the probationary period provided therefor, whereupon the appointment, employment or promotion shall be deemed to be complete.

[1935 c 31 § 11; RRS § 9558-11.]

RCW 41.08.110 Power to create offices, make appointments and fix salaries not infringed.

All offices, places, positions and employments coming within the purview of this chapter, shall be created by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, chief, common council, commission or otherwise, is or are vested by law with power and authority to select, appoint, or employ any person coming within the purview of this chapter, and nothing herein contained shall infringe upon the power and authority of any such person or group of persons, or appointing power, to fix the salaries and compensation of all employees employed hereunder.

[1935 c 31 § 12; RRS § 9558-12.]

RCW 41.08.120 Approval of payrolls.

No treasurer, auditor, comptroller or other officer or employee of any city, town or municipality in which this chapter is effective, shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage or other compensation for services, to any person subject to the jurisdiction and scope of this chapter, unless a payroll, estimate or account for such salary, wage or other compensation, containing the names of the persons to be paid, the amount to be paid to each such person, the services on account of which same is paid, and any other information which, in the judgment of the civil service commission, should be furnished on said payroll, bears the certificate of the civil service commission or of its secretary or other duly authorized agent, that the persons named in such payroll, estimate or account have been appointed or employed in compliance with the terms of this chapter and with the rules of the commission, and that the said payroll, estimate or account is, so far as known to the said commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who shall wilfully or through culpable negligence violate or fail to comply with this chapter or with the rules of the commission.

[1935 c 31 § 13; RRS § 9558-13.]

RCW 41.08.130 Leaves of absence--Notice--Filling vacancy.

Leave of absence, without pay, may be granted by any appointing power to any person under civil service: PROVIDED, That such appointing power shall give notice of such leave to the commission. All temporary employment caused by leaves of absence shall be made from the

eligible list of the classified civil service.

[1935 c 31 § 14; RRS § 9558-14.]

RCW 41.08.140 Enforcement by civil action--Legal counsel.

It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and of the rules of the commission. The commission shall be represented in such suits by the chief legal officer of the city, but said commission may in any case be represented by special counsel appointed by it.

[1935 c 31 § 15; RRS § 9558-15.]

RCW 41.08.150 Deceptive practices, false marks, etc., prohibited.

No commissioner or any other person, shall, by himself or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of his right of examination or registration according to the rules and regulations of this chapter, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration or application or request to be examined or registered.

[1935 c 31 § 16; RRS § 9558-16.]

RCW 41.08.160 Political contributions and services--Not required--Solicitation and coercion prohibited.

No person holding any office, place, position or employment subject to civil service, is under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten so to do, for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose.

[1935 c 31 § 17; RRS § 9558-17.]

Notes:

Political activities of public employees: RCW 41.06.250.

RCW 41.08.170 Local legislation required--Penalty.

The various cities affected by the provisions of this chapter, shall, immediately upon the taking effect thereof, enact appropriate legislation for carrying this chapter into effect, and the failure upon the part of the duly constituted authorities of any such city so to do shall be considered a violation of this chapter and be punishable as such.

[1935 c 31 § 18; RRS § 9558-18.]

RCW 41.08.180 Office and supplies to be furnished--Penalty for not providing.

The duly constituted authorities of each and every city coming within the purview of this chapter, shall provide the commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the commission and with such clerical assistance as may be necessary, all of which is to be commensurate with the number of persons in each such city coming within the purview of this chapter; and the failure upon the part of the duly constituted authorities to do so, shall be considered a violation of this chapter and shall be punishable as such.

[1935 c 31 § 19; RRS § 9558-19.]

RCW 41.08.183 Time limit for creation of commission--Penalty.

In ninety days after the taking effect of this chapter, it shall be the duty of the duly constituted authorities in each such city, subject to the provisions of this chapter, to appoint and create a civil service commission as provided for in RCW 41.08.010, and the failure upon the part of said duly constituted authorities, or any of them, so to do, shall be deemed a violation of this chapter, and shall be punishable as such.

[1935 c 31 § 20; RRS § 9558-20.]

RCW 41.08.185 Duty of commission to organize and function--Penalty for violation.

It shall be the duty of each commission appointed subject to the provisions of this chapter, to immediately organize and see to it that the provisions thereof are carried into effect, and to this end to make suitable rules and regulations not inconsistent with the purpose of this chapter, for the purpose of carrying the provisions thereof into effect; and the failure upon the part of said commission, or any individual member thereof to do so, shall be deemed a violation of this chapter, and shall be punishable as such.

[1935 c 31 § 21; RRS § 9558-21.]

RCW 41.08.190 Cooperation of city officers and employees enjoined.

It shall be the duty of all officers and employees of any such city to aid in all proper ways

of carrying out the provisions of this chapter, and such rules and regulations as may, from time to time, be prescribed by the commission thereunder and to afford the commission, its members and employees, all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all offices, places, positions and employments, subject to civil service, and also to produce said books, papers, documents and accounts, and attend and testify, whenever required so to do by the commission or any commissioner.

[1935 c 31 § 10; RRS § 9558-10.]

RCW 41.08.200 Appropriation for expenses.

For the purpose of carrying out the provisions of this chapter, such city, town or municipality is hereby authorized to appropriate from the general fund not to exceed four-tenths of one percent of the total payroll of those included under the jurisdiction and scope of the chapter: PROVIDED, HOWEVER, That if the city council or other proper legislative body shall make an appropriation for the support of said commission equal to or more than the said continuing appropriation in any year, this section shall not be operative for said year but otherwise shall be in full force and effect.

[1935 c 31 § 22; RRS § 9558-22.]

RCW 41.08.210 Penalty--Jurisdiction.

Any person who shall wilfully violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars and by imprisonment in the county jail for not longer than thirty days, or by both such fine and imprisonment. The court of original and unlimited jurisdiction in civil suits shall have jurisdiction of all such offenses defined by this chapter.

[1935 c 31 § 23; RRS § 9558-23.]

RCW 41.08.220 Definitions.

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

The term "commission" means the civil service commission herein created, and the term "commissioner" means any one of the three commissioners of that commission.

The term "appointing power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are, vested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

The term "appointment" includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

The term "city" includes all cities, towns and municipalities having a full paid fire department.

The term "full paid fire department" means that the officers and firemen employed in such are paid regularly by the city and devote their whole time to fire fighting.

[1935 c 31 § 24; RRS § 9558-24.]

RCW 41.08.900 Severability--1935 c 31.

If any section, subsection, subdivision, sentence, clause or phrase of this chapter, shall for any reason be held to be unconstitutional such decision shall not affect the validity of the remaining portions of this chapter.

[1935 c 31 § 25; RRS § 9558-25.]

RCW 41.08.910 Repeal.

All acts and parts of acts in conflict with the provisions of this chapter are hereby repealed insofar as they conflict with the provisions of this chapter.

[1935 c 31 § 26; RRS § 9558-26.]

**Chapter 41.12 RCW
CIVIL SERVICE FOR CITY POLICE**

Sections

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RCW 41.12.010 Application of chapter.

The provisions of this chapter shall have no application to cities and towns which at the present time have provided for civil service in the police department or which shall subsequently provide for civil service in the police department by local charter or other regulations which said local charter or regulations substantially accomplish the purpose of this chapter, nor to cities having a police force of not more than two persons including the chief of police.

[1937 c 13 § 1; RRS § 9558a-1.]

RCW 41.12.020 Excluded cities--Repeal of local law--Effect.

If any of the cities or towns referred to in RCW 41.12.010 shall at any time repeal the charter provisions or other local acts of said cities or towns providing for civil service for policemen as referred to in RCW 41.12.010, in that event this chapter shall apply to all of such cities and towns which have at any time abolished civil service for members of the police department.

[1937 c 13 § 2; RRS § 9558a-2.]

RCW 41.12.030 Civil service commission--Appointment--Terms--Removal--Quorum.

There is hereby created in every city, town or municipality except those referred to in RCW 41.12.010, having fully paid policemen a civil service commission which shall be composed of three persons.

The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with the power and authority to select, appoint, or employ the chief of a police department in any such city, prior to the enactment of this chapter. The members of such commission shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein he resides. The term of office of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good

cause: PROVIDED, HOWEVER, That no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. Confirmation of said appointment or appointments of commissioners by any legislative body shall not be required. At the time of any appointment not more than two commissioners shall be adherents of the same political party.

[1937 c 13 § 3; RRS § 9558a-3.]

RCW 41.12.040 Organization of commission--Secretary--Powers and duties of commission.

Immediately after appointment the commission shall organize by electing one of its members chair and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

They shall appoint a secretary and chief examiner, who shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the city, town, or municipality, or promotional and limited to persons already in the service of the police department or of the police department and other departments of the city, town, or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the police department. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions of this chapter. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the interest of good personnel administration. Such rules and regulations may be changed from time to time. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time;

(2) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill;

(3) The rules and regulations adopted by the commission shall provide for a credit in accordance with RCW 41.04.010 in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy, and marine corps and the American Red Cross. These credits apply to entrance examinations only;

(4) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions, and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation, and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a superior court judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such;

(5) Hearings and Investigations: How conducted. All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission: PROVIDED, HOWEVER, That no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members;

(6) To hear and determine appeals or complaints respecting the administrative work of the personnel department; appeals upon the allocation of positions; the rejection of an examination, and such other matters as may be referred to the commission;

(7) Establish and maintain in card or other suitable form a roster of officers and employees;

(8) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and to provide that persons laid off

because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed;

(9) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as provisional appointee in any one fiscal year;

(10) Keep such records as may be necessary for the proper administration of this chapter.

[1993 c 47 § 5; 1937 c 13 § 5; RRS § 9558a-5.]

Notes:

Preferred rights in employment, examinations, appointments, etc., limited to actual members of armed forces: RCW 73.04.090.

Veterans' scoring criteria status in examinations: RCW 41.04.010.

RCW 41.12.050 Persons included--Competitive examinations--Transfers, discharges, and reinstatements.

The classified civil service and provisions of this chapter shall include all full paid employees of the police department of each city, town or municipality coming within its purview, except that individuals appointed as police chief after July 1, 1987, to a department with six or more commissioned officers, including the police chief, may be excluded by the legislative body of the city, town or municipality. All appointments to and promotions in the department shall be made solely on merit, efficiency and fitness except as provided in RCW 35.13.360 through 35.13.400, which shall be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this chapter.

[1993 c 189 § 1; 1987 c 339 § 2; 1937 c 13 § 4; RRS § 9558a-4.]

Notes:

Severability--Effective date--1987 c 339: See notes following RCW 35.21.333.

Chief of police or marshal--Eligibility requirements: RCW 35.21.333.

RCW 41.12.060 Existing police blanketed under civil service.

For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment of this chapter, all persons holding a position in the police department of any such city, including the chief thereof, when this chapter takes effect, who shall have served in such position for a period of at least six months last past continuously, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and

inducted permanently into civil service, into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation.

[1937 c 13 § 6; RRS § 9558a-6.]

RCW 41.12.070 Qualifications of applicants.

An applicant for a position of any kind under civil service, must be a citizen of the United States of America who can read and write the English language.

An applicant for a position of any kind under civil service must be of an age suitable for the position applied for, in ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the commission may deem advisable.

[1972 ex.s. c 37 § 3; 1963 c 95 § 2; 1937 c 13 § 7; RRS § 9558a-7.]

Notes:

Purpose--1972 ex.s. c 37: See note following RCW 41.08.070.

RCW 41.12.075 Residency as condition of employment--Discrimination because of lack of residency--Prohibited.

No city, town, or municipality shall require any person applying for or holding an office, place, position, or employment under the provisions of this chapter or under any local charter or other regulations described in RCW 41.12.010 to reside within the limits of such municipal corporation as a condition of employment or to discriminate in any manner against any such person because of his residence outside of the limits of such city, town, or municipality.

[1972 ex.s. c 37 § 5.]

Notes:

Purpose--1972 ex.s. c 37: See note following RCW 41.08.070.

RCW 41.12.080 Tenure of employment--Grounds for discharge, reduction, or deprivation of privileges.

The tenure of everyone holding an office, place, position or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

- (1) Incompetency, inefficiency or inattention to or dereliction of duty;
- (2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other wilful failure on the part of the employee to properly conduct himself; or any wilful violation of the provisions of this chapter or the rules and regulation to be

adopted hereunder;

(3) Mental or physical unfitness for the position which the employee holds;

(4) Dishonest, disgraceful, immoral or prejudicial conduct;

(5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;

(6) Conviction of a felony, or a misdemeanor, involving moral turpitude;

(7) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

[1937 c 13 § 8; RRS § 9558a-8.]

RCW 41.12.090 Procedure for removal, suspension, demotion or discharge--Investigation--Hearing--Appeal.

No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted or discharged except for cause, and only upon written accusation of the appointing power, or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, demoted or discharged may within ten days from the time of his removal, suspension, demotion or discharge, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons and was or was not made in good faith [f]or cause. After such investigation the commission may affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement of [or] reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation, [in] lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge by directing a suspension, without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay; the findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to the provisions of this section shall be had by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If such judgment or order be concurred in by the

commission or a majority thereof, the accused may appeal therefrom to the court of original and unlimited jurisdiction in civil suits of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the commission with such court. The commission shall, within ten days after the filing of such notice, make, certify and file such transcript with such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine such appeal in a summary manner: PROVIDED, HOWEVER, That such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds.

[1937 c 13 § 9; RRS § 9558a-9.]

RCW 41.12.100 Filling of vacancies--Probationary period.

Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall make requisition upon the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the name of the person standing highest on said list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and said appointing power shall forthwith appoint the person so certified to said position. No person so certified shall be laid off, suspended, or given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of three to six months' probationary service, as may be provided in the rules of the civil service commission during which the appointing power may terminate the employment of the person certified to him, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him unfit or unsatisfactory for service in the department, whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon said duties until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided therefor,

whereupon the appointment, employment or promotion shall be deemed to be complete.

[1937 c 13 § 11; RRS § 9558a-11.]

RCW 41.12.110 Power to create offices, make appointments and fix salaries not infringed.

All offices, places, positions and employments coming within the purview of this chapter, shall be created by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, chief, common council, commission or otherwise, it is vested by law with power and authority to select, appoint, or employ any person coming within the purview of this chapter, and nothing herein contained shall infringe upon the power and authority of any such person or group of persons, or appointing power, to fix the salaries and compensation of all employees employed hereunder.

[1937 c 13 § 12; RRS § 9558a-12.]

RCW 41.12.120 Approval of payrolls.

No treasurer, auditor, comptroller or other officer, or employee of any city, town or municipality in which this chapter is effective, shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage, or other compensation for services, to any person subject to the jurisdiction and scope of this chapter, unless a payroll, estimate or account for such salary, wage or other compensation, containing the names of the persons to be paid, the amount to be paid to each such person, the services on account of which same is paid, and any other information which, in the judgment of the civil service commission, should be furnished on said payroll, bears the certificate of the civil service commission or of its secretary or other duly authorized agent, that the persons named in such payroll, estimate or account have been appointed or employed in compliance with the terms of this chapter and with the rules of the commission, and that the said payroll, estimate or account is, so far as known to the said commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who shall wilfully or through culpable negligence violate or fail to comply with this chapter or with the rules of the commission.

[1937 c 13 § 13; RRS § 9558a-13.]

RCW 41.12.130 Leaves of absence--Notice--Filling vacancy.

Leave of absence, without pay, may be granted by any appointing power to any person under civil service: PROVIDED, That such appointing power shall give notice of such leave to the commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service.

[1937 c 13 § 14; RRS § 9558a-14.]

RCW 41.12.140 Enforcement by civil action--Legal counsel.

It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and of the rules of the commission. The commission shall be represented in such suits by the chief legal officer of the city, but said commission may in any case be represented by special counsel appointed by it.

[1937 c 13 § 15; RRS § 9558a-15.]

RCW 41.12.150 Deceptive practices, false marks, etc., prohibited.

No commissioner or any other person, shall, by himself or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of his right of examination or registration according to the rules and regulations of this chapter, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration of application or request to be examined or registered.

[1937 c 13 § 16; RRS § 9558a-16.]

RCW 41.12.160 Political contributions and services.

No person holding any office, place, position or employment subject to civil service, is under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten so to do, for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose.

[1937 c 13 § 17; RRS § 9558a-17.]

Notes:

Political activities of public employees: RCW 41.06.250.

RCW 41.12.170 Local legislation required--Penalty.

The various cities affected by the provisions of this chapter, shall immediately upon the taking effect thereof, enact appropriate legislation for carrying this chapter into effect, and the failure upon the part of the duly constituted authorities of any such city so to do shall be considered a violation of this chapter and be punishable as such.

[1937 c 13 § 18; RRS § 9558a-18.]

RCW 41.12.180 Office and supplies to be furnished--Penalty for not providing.

The duly constituted authorities of each and every city coming within the purview of this chapter, shall provide the commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the commission and with such clerical assistance as may be necessary, all of which is to be commensurate with the number of persons in each such city coming within the purview of this chapter; and the failure upon the part of the duly constituted authorities to do so, shall be considered a violation of this chapter and shall be punishable as such.

[1937 c 13 § 19; RRS § 9558a-19.]

RCW 41.12.183 Time limit for creation of commission--Penalty.

In ninety days after the taking effect of this chapter, it shall be the duty of the duly constituted authorities in each such city, subject to the provisions of this chapter, to appoint and create a civil service commission as provided for in RCW 41.12.010, and the failure upon the part of said duly constituted authorities, or any of them, so to do, shall be deemed a violation of this chapter, and shall be punishable as such.

[1937 c 13 § 20; RRS § 9558a-20.]

RCW 41.12.185 Duty of commission to organize and function--Penalty for violation.

It shall be the duty of each commission appointed subject to the provisions of this chapter, to immediately organize and see to it that the provisions thereof are carried into effect, and to this end to make suitable rules and regulations not inconsistent with the purpose of this chapter, for the purpose of carrying the provisions thereof into effect; and the failure upon the part of said commission, or any individual member thereof to do so, shall be deemed a violation of this chapter, and shall be punishable as such.

[1937 c 13 § 21; RRS § 9558a-21.]

RCW 41.12.190 Cooperation of city officers and employees enjoined.

It shall be the duty of all officers and employees of any such city to aid in all proper ways of carrying out the provisions of this chapter, and such rules and regulations as may, from time to

time, be prescribed by the commission thereunder and to afford the commission, its members and employees, all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all offices, places, positions and employments, subject to civil service, and also to produce said books, papers, documents and accounts, and attend and testify, whenever required so to do by the commission or any commissioner.

[1937 c 13 § 10; RRS § 9558a-10.]

RCW 41.12.200 Appropriation for expenses.

For the purpose of carrying out the provisions of this chapter, such city, town or municipality is hereby authorized to appropriate from the general fund not to exceed four-tenths of one percent of the total payroll of those included under the jurisdiction and scope of the chapter: PROVIDED, HOWEVER, That if the city council or other proper legislative body shall make an appropriation for the support of said commission equal to or more than the said continuing appropriation in any year, this section shall not be operative for said year but otherwise shall be in full force and effect.

[1937 c 13 § 22; RRS § 9558a-22.]

RCW 41.12.210 Penalty--Jurisdiction.

Any person who shall wilfully violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars and by imprisonment in the county jail for not longer than thirty days, or by both such fine and imprisonment. The court of original and unlimited jurisdiction in civil suits shall have jurisdiction of all such offenses defined by this chapter.

[1937 c 13 § 23; RRS § 9558a-23.]

RCW 41.12.220 Definitions.

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

The term "commission" means the civil service commission herein created, and the term "commissioner" means any one of the three commissioners of that commission.

The term "appointing power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are, invested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

The term "appointment" includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

The term "city" includes all cities, towns and municipalities having a full paid police

department.

The term "full paid police department" means that the officers and policemen employed in such are paid regularly by the city and devote their whole time to police duty: PROVIDED, "full paid police department" whenever used in this chapter shall also mean "full paid policemen".

[1937 c 13 § 24; RRS § 9558a-24.]

RCW 41.12.900 Severability--1937 c 13.

If any section, subsection, subdivision, sentence, clause or phrase of this chapter, shall for any reason be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

[1937 c 13 § 25; RRS § 9558a-25.]

RCW 41.12.910 Repeal.

All acts and parts of acts in conflict with the provisions of this chapter are hereby repealed insofar as they conflict with the provisions of this chapter.

[1937 c 13 § 26; RRS § 9558a-26.]

**Chapter 41.14 RCW
CIVIL SERVICE FOR SHERIFF'S OFFICE**

Sections

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RCW 41.14.010 Declaration of purpose.

The general purpose of this chapter is to establish a merit system of employment for county deputy sheriffs and other employees of the office of county sheriff, thereby raising the standards and efficiency of such offices and law enforcement in general.

[1987 c 251 § 1; 1985 c 429 § 3; 1959 c 1 § 1 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.020 Terms defined.

Definition of terms:

(1) "Commission" means the civil service commission, or combined county civil service commission, herein created, and "commissioner" means any one of the three members of any such commission;

(2) "Appointing power" means the county sheriff who is invested by law with power and authority to select, appoint, or employ any deputy, deputies or other necessary employees subject to civil service;

(3) "Appointment" includes all means of selecting, appointing, or employing any person to any office, place, position, or employment subject to civil service;

(4) "County" means any county of the state, or any counties combined pursuant to RCW 41.14.040 for the purpose of carrying out the provisions of this chapter;

(5) "Deputy sheriff or other members of the office of county sheriff" means all persons regularly employed in the office of county sheriff either on a part time or full time basis.

[1959 c 1 § 2 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.030 Civil service commission--Appointment, terms, qualifications, compensation, etc.

There is created in each county and in each combination of counties, combined pursuant

to RCW 41.14.040 to carry out the provisions of this chapter, a civil service commission which shall be composed of three persons. The commission members shall be appointed by the board of county commissioners, or boards of county commissioners of each combination of counties, within sixty days after December 4, 1958. No person shall be appointed to the commission who is not a citizen of the United States, a resident of the county, or one of the counties combined, for at least two years immediately preceding his appointment, and an elector of the county wherein he resides. The term of office of the commissioners shall be six years, except that the first three members of the commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of the commission may be removed from office for incompetency, incompatibility, or dereliction of duty, or malfeasance in office, or other good cause: PROVIDED, That no member of the commission shall be removed until charges have been preferred, in writing, due notice, and a full hearing had. Any vacancy in the commission shall be filled by the county commissioners for the unexpired term. Two members of the commission shall constitute a quorum and the votes of any two members concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission. Confirmation of the appointment of commissioners by any legislative body shall not be required. At the time of appointment not more than two commissioners shall be adherents of the same political party. No member after appointment shall hold any salaried public office or engage in county employment, other than his commission duties. The members of the commission shall serve without compensation.

[1959 c 1 § 3 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.040 Combined system authorized in counties with populations of less than forty thousand.

Any counties with populations of less than forty thousand, whether contiguous or not, are authorized to establish and operate a combined civil service system to serve all counties so combined. The combination of any such counties shall be effective whenever each board of county commissioners of the counties involved adopts a resolution declaring intention to participate in the operation of a combined county civil service system in accordance with agreements made between any such counties. Any such combined county civil service commission shall serve the employees of each county sheriff's office impartially and according to need.

All matters affecting the combined civil service commission, including the selection of commissioners, shall be decided by majority vote of all the county commissioners of the counties involved.

All the provisions of this chapter shall apply equally to any such combined civil service system.

[1991 c 363 § 114; 1959 c 1 § 4 (Initiative Measure No. 23, approved November 4, 1958).]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 41.14.050 Commission--Organization, meetings--Chief examiner, qualifications, duties.

Immediately after appointment the commission shall organize by electing one of its members chairman and shall hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of its duties.

It shall appoint a chief examiner who shall also serve as secretary of the commission and such assistants as may be necessary. The chief examiner shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The chief examiner shall be appointed as a result of competitive examination, which examination must be open to all properly qualified citizens of the county: PROVIDED, That no appointee of the commission, either as chief examiner or as an assistant to the chief examiner, shall be an employee of the sheriff's department. The chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the classified service.

[1979 ex.s. c 153 § 1; 1959 c 1 § 5 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.060 Powers and duties of commission.

It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions hereof. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, reallocations, transfers, reinstatements, demotions, suspensions, and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the interest of good personnel administration. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time.

(2) To give practical tests which shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made. Such tests may include tests of physical fitness or manual skill or both.

(3) To make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; to inspect all departments, offices, places, positions, and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a

citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, may administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation and also cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered and the subpoenas issued hereunder shall have the same force and effect as the oaths administered and subpoenas issued by a superior court judge in his judicial capacity; and the failure of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such.

(4) To conduct hearings and investigations in accordance with this chapter and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule, or regulation made, approved, or confirmed by the commission: PROVIDED, That no order, decision, rule, or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members.

(5) To hear and determine appeals or complaints respecting the allocation of positions, the rejection of an examinee, and such other matters as may be referred to the commission.

(6) To provide for, formulate, and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and provide that persons laid off, or who have accepted voluntary demotion in lieu of layoff, because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed or reinstated in their former job class.

(7) To certify to the appointing authority, when a vacant position is to be filled, on written request, the names of the three persons highest on the eligible list for the class. If there is no such list, to authorize a provisional or temporary appointment list for such class. A temporary appointment expires after four months. However, the appointing authority may extend the temporary appointment beyond the four-month period up to one year if the commission continues to advertise and test for the position. If, after one year from the date the initial temporary appointment was first made, there are less than three persons on the eligible list for the class, then the appointing authority may fill the position with any person or persons on the eligible list.

(8) To keep such records as may be necessary for the proper administration of this chapter.

[2001 c 232 § 1; 1979 ex.s. c 153 § 2; 1959 c 1 § 6 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.065 Delegation of powers and duties of commission in county with a

population of one million or more.

Any county with a population of one million or more may assign the powers and duties of the commission to such county agencies or departments as may be designated by charter or ordinance: PROVIDED, That the powers and duties of the commission under RCW 41.14.120 shall not be assigned to any other body but shall continue to be vested in the commission, which shall exist to perform such powers and duties, together with such other adjudicative functions as may be designated by charter or ordinance.

[1991 c 363 § 115; 1987 c 251 § 2.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 41.14.070 Classified and unclassified service designated--Procedures.

(1) The classified civil service and provisions of this chapter shall include all deputy sheriffs and other employees of the office of sheriff in each county except the county sheriff in every county and an additional number of positions, designated the unclassified service, determined as follows:

Staff Personnel	Unclassified Position Appointments
1 through 10	2
11 through 20	3
21 through 50	4
51 through 100	5
101 through 250	6
251 through 500	8
501 and over	10

(2) The unclassified position appointments authorized by this section must include selections from the following positions up to the limit of the number of positions authorized: Undersheriff, inspector, chief criminal deputy, chief civil deputy, jail superintendent, and administrative assistant or administrative secretary. The initial selection of specific positions to be exempt shall be made by the sheriff, who shall notify the civil service commission of his or her selection. Subsequent changes in the designation of which positions are to be exempt may be made only with the concurrence of the sheriff and the civil service commission, and then only after the civil service commission has heard the issue in open meeting. Should the position or positions initially selected by the sheriff to be exempt (unclassified) pursuant to this section be under the classified civil service at the time of such selection, and should it (or they) be occupied, the employee(s) occupying said position(s) shall have the right to return to the next highest position or a like position under classified civil service.

(3) In counties with a sheriff's department that operates the 911 emergency

communications system, in addition to the unclassified positions authorized in subsections (1), (2), and (4) of this section, the sheriff may designate one unclassified position for the 911 emergency communications system.

(4) In addition to the unclassified positions authorized in this section, the county legislative authority of any county with a population of five hundred thousand or more operating under a home rule charter may designate unclassified positions of administrative responsibility not to exceed twenty positions.

[2001 c 151 § 1; 1997 c 62 § 1; 1991 c 363 § 116; 1979 ex.s. c 153 § 3; 1975 1st ex.s. c 186 § 1; 1959 c 1 § 7 (Initiative Measure No. 23, approved November 4, 1958).]

NOTES:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 41.14.080 Classified service--Appointment, promotion, transfer, suspension, discharge.

All appointments to and promotions to positions in the classified civil service of the office of county sheriff shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation: PROVIDED, That before June 30, 1981, employees in an existing county personnel system may be transferred to newly created and classified positions within such county's sheriff's office, in order to permanently transfer the functions of these positions, without meeting the open competitive examination requirements of this section if the transfer is approved by the civil service commission created in RCW 41.14.030. No person in the classified civil service shall be reinstated in or transferred, suspended, or discharged from any such place, position, or employment contrary to the provisions of this chapter.

[1980 c 108 § 1; 1959 c 1 § 8 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.090 Status of existing employees in classified service.

For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment hereof, all persons holding a position which is deemed classified by RCW 41.14.070 for a continuous period of six months prior to December 4, 1958, are eligible for permanent appointment under civil service to the offices, places, positions, or employments which they then held without examination or other act on their part, and not on probation; and every such person is automatically adopted and inducted permanently into civil service, into the office, place, position, or employment which he then held as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation.

[1959 c 1 § 9 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.100 Qualifications of applicants for position.

An applicant for a position of any kind under civil service, must be a citizen of the United States who can read and write the English language.

[1963 c 95 § 3; 1959 c 1 § 10 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.110 Tenure--Grounds for deprivation.

The tenure of every person holding an office, place, position, or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

- (1) Incompetency, inefficiency, or inattention to, or dereliction of duty;
- (2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other wilful failure on the part of the employee to properly conduct himself; or any wilful violation of the provisions of this chapter or the rules and regulations to be adopted hereunder;
- (3) Mental or physical unfitness for the position which the employee holds;
- (4) Dishonest, disgraceful, or prejudicial conduct;
- (5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid, or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;
- (6) Conviction of a felony, or a misdemeanor involving moral turpitude;
- (7) Any other act or failure to act which in the judgment of the civil service commission is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

[1959 c 1 § 11 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.120 Removal, suspension, demotion, or discharge--Procedure--Appeal.

No person in the classified civil service who has been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted, or discharged except for cause, and only upon written accusation of the appointing power or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, discharged, or demoted may within ten days from the time of his removal, suspension, discharge, or demotion file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. Upon receipt of the written demand for an investigation, the commission shall within ten days set a date for a public hearing which will be held within thirty days from the date of receipt. The investigation shall be confined to the determination of the question of whether the removal, suspension, demotion, or discharge was made in good faith for cause. After such investigation the commission shall render

a written decision within ten days and may affirm the removal, suspension, demotion, or discharge, or if it finds that removal, suspension, demotion, or discharge was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position, or employment from which he was removed, suspended, demoted, or discharged, which reinstatement shall, if the commission so provides, be retroactive, and entitle such person to pay or compensation from the time of the removal, suspension, demotion, or discharge. The commission upon such investigation, in lieu of affirming a removal, suspension, demotion, or discharge, may modify the order by directing the removal, suspension, demotion, or discharge without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay. The findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to this section shall be by public hearing, after reasonable notice to the accused of the time and place thereof, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If order of removal, suspension, demotion, or discharge is concurred in by the commission or a majority thereof, the accused may appeal therefrom to the superior court of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of its order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to its order, be filed by the commission with the court. The commission shall, within ten days after the filing of the notice, make, certify, and file such transcript with the court. The court shall thereupon proceed to hear and determine the appeal in a summary manner. Such hearing shall be confined to the determination of whether the order of removal, suspension, demotion, or discharge made by the commission, was or was not made in good faith for cause, and no appeal shall be taken except upon such ground or grounds. The decision of the superior court may be appealed to the supreme court or the court of appeals.

[1984 c 199 § 1; 1982 c 133 § 1; 1971 c 81 § 102; 1959 c 1 § 12 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.130 Filling vacancies in classified service--Eligibility list--Probation.

Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall requisition the commission for the names and addresses of persons eligible for appointment thereto. Before a requisition can be made, the appointing authority shall give employees of the appointing authority who are in layoff status or who have been notified of an intended layoff an opportunity to qualify for any class within the office of the appointing authority. The commission shall certify the names of the three persons highest on the eligible list for the class to which the vacant position has been allocated, who are willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the names of the three persons standing highest on the list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint a person from those certified to the

vacant position.

To enable the appointing power to exercise a greater degree of choice in the filling of positions, no appointment, employment, or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of one year's probationary service, as may be provided in the rules of the civil service commission, during which the appointing power may terminate the employment of the person appointed, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems such person unfit or unsatisfactory for service in the office of county sheriff. Thereupon the appointing power shall again requisition the commission for the names and addresses of persons eligible for appointment in the manner provided by this section and the person appointed in the manner provided by this section shall likewise enter upon said duties for the probationary period, until some person is found who is deemed fit for appointment, employment, or promotion whereupon the appointment, employment, or promotion shall be deemed complete.

[1984 c 199 § 2; 1979 ex.s. c 153 § 4; 1959 c 1 § 13 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.140 Power to fill positions--Consent of county commissioners--Salaries and compensation.

All offices, places, positions, and employments coming within the purview of this chapter, shall be filled by the appointing power with the consent of the board of county commissioners, and nothing herein contained shall infringe upon such authority that an appointing power may have to fix the salaries and compensation of all employees employed hereunder.

[1959 c 1 § 14 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.150 Procedure for payment of compensation--Refusal to pay.

No treasurer, auditor or other officer, or employee of any county subject to this chapter shall approve the payment of or be in any manner concerned in paying, auditing, or approving any salary, wage, or other compensation for services, to any person subject to the jurisdiction and scope of this chapter, unless a payroll, estimate, or account for such salary, wage, or other compensation, containing the names of the persons to be paid, the amount to be paid to each such person, the services on account of which same is paid, and any other information which, in the judgment of the civil service commission, should be furnished on such payroll, bears the certificate of the civil service commission, or of its chief examiner or other duly authorized agent, that the persons named therein have been appointed or employed in compliance with the terms of this chapter and the rules of the commission, and that the payroll, estimate, or account is, insofar as known to the commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who wilfully or through culpable negligence, violates or fails to comply with this chapter or with

the rules of the commission.

[1959 c 1 § 15 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.160 Leaves of absence.

Leave of absence, without pay, may be granted by any appointing power to any person under civil service: PROVIDED, That such appointing power gives notice of the leave to the commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service.

[1959 c 1 § 16 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.170 Actions to enforce chapter--Duties of prosecuting attorneys.

The commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of this chapter and rules of the commission. The commission shall be represented in such suits by the prosecuting attorney of the county. In the case of combined counties any one or more of the prosecuting attorneys of each county so combined may be selected by the commission to represent it.

[1959 c 1 § 17 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.180 Prohibited acts relating to registration, examination, certification--Discrimination prohibited.

No commissioner or any other person, shall, by himself or in cooperation with others, defeat, deceive, or obstruct any person in respect of his right of examination or registration according to the rules and regulations, or falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered, or certified, or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration of application or request to be examined or registered.

The right of any person to an appointment or promotion to any position in a sheriff's office shall not be withheld because of his race, color, creed, national origin, political affiliation or belief, nor shall any person be dismissed, demoted, or reduced in grade for such reason.

[1959 c 1 § 18 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.190 Political activities regulated.

No person holding any office, place, position, or employment subject to civil service,

shall contribute to any political fund or render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment, or compensation of any person under civil service or promise or threaten so to do for giving or withholding, or neglecting to make any contribution of money, or service, or any other valuable thing, for any political purpose.

[1959 c 1 § 19 (Initiative Measure No. 23, approved November 4, 1958).]

Notes:

Political activities of public employees: RCW 41.06.250.

RCW 41.14.200 Cooperation and aid by other county officers and employees.

All officers and employees of each county shall aid in all proper ways in carrying out the provisions of this chapter, and such rules and regulations as may, from time to time, be prescribed by the commission and afford the commission, its members, and employees, all reasonable facilities and assistance in the inspection of books, papers, documents, and accounts applying or in any way appertaining to any and all offices, places, positions, and employments, subject to civil service, and also shall produce such books, papers, documents, and accounts, and attend and testify, whenever required so to do by the commission or any commissioner.

[1959 c 1 § 20 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.210 Funds for commission in counties with populations of two hundred ten thousand or more--County budget--Surplus.

The county legislative authority or [of] each county with a population of two hundred ten thousand or more may provide in the county budget for each fiscal year a sum equal to one percent of the preceding year's total payroll of those included under the jurisdiction and scope of this chapter. The funds so provided shall be used for the support of the commission. Any part of the funds so provided and not expended for the support of the commission during the fiscal year shall be placed in the general fund of the county, or counties according to the ratio of contribution, on the first day of January following the close of such fiscal year.

[1991 c 363 § 117; 1971 ex.s. c 214 § 3; 1959 c 1 § 21 (Initiative Measure No. 23, approved November 4, 1958).]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 41.14.220 Penalty--Jurisdiction.

Any person who wilfully violates any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars and by imprisonment in the county jail for not longer than thirty days or by both

such fine and imprisonment. The superior court shall have jurisdiction of all such offenses.

[1959 c 1 § 22 (Initiative Measure No. 23, approved November 4, 1958).]

RCW 41.14.250 City contracts to obtain sheriff's office law enforcement services--Transfer of police department employees.

When any city or town shall contract with the county sheriff's office to obtain law enforcement services to the city or town, any employee of the police department of such city or town who (1) was at the time such contract was entered into employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the county sheriff's office under such contract (2) will, as a direct consequence of such contract, be separated from the employ of the city or town, and (3) meets the minimum standards and qualifications of the county sheriff's office, then such employee may transfer his employment to the county sheriff's office as provided for in RCW 41.14.260 and 41.14.270.

[1972 ex.s. c 48 § 1.]

RCW 41.14.260 City contracts to obtain sheriff's office law enforcement services--Transfer of police department employees into county civil service for sheriff's office--Seniority for employment.

(1) An eligible employee may transfer into the county civil service system for the sheriff's office by filing a written request with the county civil service commission and by giving written notice thereof to the legislative authority of the city or town. Upon receipt of such request by the civil service commission the transfer of employment shall be made. The employee so transferring will (1) be on probation for the same period as are new employees of the sheriff's office, (2) be eligible for promotion after completion of the probationary period as completed, (3) receive a salary at least equal to that of other new employees of the sheriff's office, and (4) in all other matters, such as retirement, vacation, etc., have, within the county civil service system, all the rights, benefits, and privileges that he would have been entitled to had he been a member of the county sheriff's office from the beginning of his employment with the city or town police department. The city or town shall, upon receipt of such notice, transmit to the county civil service commission a record of the employee's service with the city or town which shall be credited to such member as a part of his period of employment in the county sheriff's office. The sheriff may appoint the transferring employee to whatever duties he feels are in the best interest of the department and the individual.

(2) If in the process of contracting for law enforcement services economies or efficiencies are achieved or if the city or town intends by such contract to curtail expenditures and the level of services to the city or town, then only so many of the transferring employees shall be placed upon the payroll of the sheriff's office as the sheriff determines are needed to provide the contracted services. These needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in RCW 41.14.250, 41.14.260, and 41.14.270 shall head the list of their respective class or job listing in the civil service system in order of

their seniority, to the end that they shall be the first to be reemployed in the county sheriff's office when appropriate positions become available.

[1972 ex.s. c 48 § 2.]

RCW 41.14.270 City contracts to obtain sheriff's office law enforcement services--Lay offs--Notice--Time limitation for transfers.

When a city or town shall contract with the county sheriff's office for law enforcement services and as a result thereof lays off any employee who is eligible to transfer to the county sheriff's office pursuant to RCW 41.14.250 and 41.14.260, the city or town shall notify such employee of his right to so transfer and such employee shall have ninety days to transfer his employment to the county sheriff's office: PROVIDED, That any employee layed off during the year prior to February 21, 1972 shall have ninety days after the effective date to transfer his employment.

[1972 ex.s. c 48 § 3.]

RCW 41.14.280 City contracts to obtain sheriff's office law enforcement services--Rules and regulations.

In addition to its other duties prescribed by law, the civil service commission shall make such rules and regulations as may be necessary to provide for the orderly integration of employees of a city or town who shall transfer to the county sheriff's office pursuant to RCW 41.14.250, 41.14.260, and 41.14.270.

[1972 ex.s. c 48 § 4.]

RCW 41.14.290 Appointment of classified employee to exempt position--Return to regular position.

Any classified employee having civil service status in a position may take an appointment in an exempt position in the same county and maintain the right to return to his or her regular position or to a like position at the conclusion of such appointment. Such employee must apply to return to classified service within thirty calendar days of:

- (1) Termination of employment in such exempt position; or
- (2) Termination of employment in any other exempt position in which the employee subsequently serves provided there was no break in service with the county of more than thirty calendar days.

[1979 ex.s. c 153 § 5.]

RCW 41.14.900 Severability--1959 c 1.

If any section, sentence, clause, or phrase of this chapter should be held to be invalid or

unconstitutional, the validity or constitutionality thereof shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this chapter.

[1959 c 1 § 23 (Initiative Measure No. 23, approved November 4, 1958).]

Chapter 41.16 RCW
FIREMEN'S RELIEF AND PENSIONS--1947 ACT

Sections

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41.16.920	Construction--1959 c 5--Benefits retroactively authorized.
41.16.921	Construction--1975 1st ex.s. c 178, RCW 41.16.145.

Notes:

Prior acts relating to firemen's relief and pensions: 1935 c 39; 1929 c 86; 1919 c 196; 1909 c 50 were repealed by 1947 c 91 § 12 (codified herein as RCW 41.16.230).

Firemen's relief and pensions--1955 act: Chapter 41.18 RCW.

Rights of fireman injured outside corporate limits of municipality: RCW 35.84.050.

RCW 41.16.010 Terms defined.

For the purpose of this chapter, unless clearly indicated by the context, words and phrases shall have the following meaning:

(1) "Beneficiary" shall mean any person or persons designated by a fireman in a writing filed with the board, and who shall be entitled to receive any benefits of a deceased fireman under this chapter.

(2) "Board" shall mean the municipal firemen's pension board.

(3) "Child or children" shall mean a child or children unmarried and under eighteen years of age.

(4) "Contributions" shall mean and include all sums deducted from the salary of firemen and paid into the fund as hereinafter provided.

(5) "Disability" shall mean and include injuries or sickness sustained as a result of the performance of duty.

(6) "Fireman" shall mean any person regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, who has passed a civil service examination for fireman and who is actively employed as a fireman; and shall include any "prior fireman".

(7) "Fire department" shall mean the regularly organized, full time, paid, and employed force of firemen of the municipality.

(8) "Fund" shall mean the firemen's pension fund created herein.

(9) "Municipality" shall mean every city and town having a regularly organized full time, paid, fire department employing firemen.

(10) "Performance of duty" shall mean the performance of work and labor regularly required of firemen and shall include services of an emergency nature rendered while off regular duty, but shall not include time spent in traveling to work before answering roll call or traveling from work after dismissal at roll call.

(11) "Prior fireman" shall mean a fireman who was actively employed as a fireman of a fire department prior to the first day of January, 1947, and who continues such employment thereafter.

(12) "Retired fireman" shall mean and include a person employed as a fireman and retired under the provisions of chapter 50, Laws of 1909, as amended.

(13) "Widow or widower" means the surviving wife or husband of a retired fireman who was retired on account of length of service and who was lawfully married to such fireman; and whenever that term is used with reference to the wife or former wife or husband or former husband of a retired fireman who was retired because of disability, it shall mean his or her lawfully married wife or husband on the date he or she sustained the injury or contracted the illness that resulted in his or her disability. Said term shall not mean or include a surviving wife or husband who by process of law within one year prior to the retired fireman's death, collected or attempted to collect from him or her funds for the support of herself or himself or for his or

her children.

[1973 1st ex.s. c 154 § 61; 1947 c 91 § 1; Rem. Supp. 1947 § 9578-40.]

Notes:

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

**RCW 41.16.020 Pension board
created--Members--Terms--Vacancies--Officers--Quorum.**

There is hereby created in each city and town a municipal firemen's pension board to consist of the following five members, ex officio, the mayor, or in a city of the first class, the mayor or his designated representative who shall be an elected official of the city, who shall be chairman of the board, the city comptroller or clerk, the chairman of finance of the city council, or if there is no chairman of finance, the city treasurer, and in addition, two regularly employed or retired firemen elected by secret ballot of the employed and retired firemen. Retired members who are subject to the jurisdiction of the pension board have both the right to elect and the right to be elected under this section. The members to be elected by the firemen shall be elected annually for a two year term. The two firemen elected members shall, in turn, select a third eligible member who shall serve as an alternate in the event of an absence of one of the regularly elected members. In case a vacancy occurs in the membership of the firemen or retired members, the members shall in the same manner elect a successor to serve his unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the chairman to act, the board may select a chairman pro tempore who shall during such absence or inability perform the duties and exercise the powers of the chairman. A majority of the members of said board shall constitute a quorum and have power to transact business.

[1988 c 164 § 2; 1973 1st ex.s. c 19 § 1; 1961 c 255 § 10; 1947 c 91 § 2; Rem. Supp. 1947 § 9578-41. Prior: 1935 c 39 § 1; 1919 c 196 § 3; 1909 c 50 §§ 1, 2.]

RCW 41.16.030 Meetings.

The board shall meet at least once monthly, the date to be fixed by regulation of the board, at such other regular times as may be fixed by a regulation of the board; and at any time upon call of the chairman, of which due advance notice shall be given the other members of the board.

[1947 c 91 § 3; Rem. Supp. 1947 § 9578-42. Prior: 1929 c 86 § 1; 1919 c 196 § 3; 1909 c 50 § 3.]

RCW 41.16.040 Powers and duties.

The board shall have such general powers as are vested in it by the provisions of this chapter, and in addition thereto, the power to:

- (1) Generally supervise and control the administration of this chapter and the firemen's

pension fund created hereby.

(2) Pass upon and allow or disallow all applications for pensions or other benefits provided by this chapter.

(3) Provide for payment from said fund of necessary expenses of maintenance and administration of said pension system and fund.

(4) Invest the moneys of the fund in a manner consistent with the investment policies outlined in RCW 35.39.060. Authorized investments shall include investment grade securities issued by the United States, state, municipal corporations, other public bodies, corporate bonds, and other investments authorized by RCW 35.39.030, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130, 39.60.010, 39.60.020, 68.52.060, 68.52.065, and 72.19.120.

(5) Employ such agents, employees and other personnel as the board may deem necessary for the proper administration of this chapter.

(6) Compel witnesses to appear and testify before it, in the same manner as is or may be provided by law for the taking of depositions in the superior court. Any member of the board may administer oaths to witnesses who testify before the board of a nature and in a similar manner to oaths administered by superior courts of the state of Washington.

(7) Issue vouchers approved by the chairman and secretary and to cause warrants therefor to be issued and paid from said fund for the payment of claims allowed by it.

(8) Keep a record of all its proceedings, which record shall be public; and prepare and file with the city treasurer and city clerk or comptroller prior to the date when any payments are to be made from the fund, a list of all persons entitled to payment from the fund, stating the amount and purpose of such payment, said list to be certified to and signed by the chairman and secretary of the board and attested under oath.

(9) Make rules and regulations not inconsistent with this chapter for the purpose of carrying out and effecting the same.

(10) Appoint one or more duly licensed and practicing physicians who shall examine and report to the board upon all applications for relief and pension under this chapter. Such physicians shall visit and examine all sick and disabled firemen when, in their judgment, the best interests of the relief and pension fund require it or when ordered by the board. They shall perform all operations on such sick and injured firemen and render all medical aid and care necessary for the recovery of such firemen on account of sickness or disability received while in the performance of duty as defined in this chapter. Such physicians shall be paid from said fund, the amount of said fees or salary to be set and agreed upon by the board and the physicians. No physician not regularly appointed or specially appointed and employed, as hereinafter provided, shall receive or be entitled to any fees or compensation from said fund as attending physician to a sick or injured fireman. If any sick or injured fireman refuses the services of the appointed physicians, or the specially appointed and employed physician, he shall be personally liable for the fees of any other physician employed by him. No person shall have a right of action against the board or the municipality for negligence of any physician employed by it. The board shall have the power and authority to select and employ, besides the regularly appointed physician, such other physician, surgeon or specialist for consultation with, or assistance to the regularly

appointed physician, or for the purpose of performing operations or rendering services and treatment in particular cases, as it shall deem advisable, and to pay fees for such services from said fund. Said board shall hear and decide all applications for such relief or pensions under this chapter, and its decisions on such applications shall be final and conclusive and not subject to revision or reversal except by the board.

[1992 c 89 § 1; 1967 ex.s. c 91 § 1; 1947 c 91 § 4; Rem. Supp. 1947 § 9578-43. Prior: 1929 c 86 § 1; 1919 c 196 § 3; 1909 c 50 § 3.]

RCW 41.16.050 Firemen's pension fund--How constituted.

There is hereby created and established in the treasury of each municipality a fund which shall be known and designated as the firemen's pension fund, which shall consist of: (1) All bequests, fees, gifts, emoluments, or donations given or paid thereto; (2) twenty-five percent of all moneys received by the state from taxes on fire insurance premiums; (3) taxes paid pursuant to the provisions of RCW 41.16.060; (4) interest on the investments of the fund; and (5) contributions by fire fighters as provided for herein. The moneys received from the tax on fire insurance premiums under the provisions of this chapter shall be distributed in the proportion that the number of paid fire fighters in the city, town, or fire protection district bears to the total number of paid fire fighters throughout the state to be ascertained in the following manner: The secretary of the firemen's pension board of each city, town, and fire protection district now or hereafter coming under the provisions of this chapter shall within thirty days after June 7, 1961, and on or before the fifteenth day of January thereafter, certify to the state treasurer the number of paid fire fighters in the fire department in such city, town, or fire protection district. For any city or town annexed by a fire protection district at any time before, on, or after June 9, 1994, the city or town shall continue to certify to the state treasurer the number of paid fire fighters in the city or town fire department immediately before annexation until all obligations against the firemen's pension fund in the city or town have been satisfied. For the purposes of the calculation in this section, the state treasurer shall subtract the number certified by the annexed city or town from the number of paid fire fighters certified by an annexing fire protection district. The state treasurer shall on or before the first day of June of each year deliver to the treasurer of each city, town, and fire protection district coming under the provisions of this chapter his or her warrant, payable to each city, town, or fire protection district for the amount due such city, town or fire protection district ascertained as herein provided and the treasurer of each such city, town, or fire protection district shall place the amount thereof to the credit of the firemen's pension fund of such city, town, or fire protection district.

[1999 c 117 § 3; 1994 c 273 § 23; 1986 c 296 § 3; 1982 1st ex.s. c 35 § 16; 1967 c 42 § 1; 1961 c 255 § 8; 1949 c 45 § 1; 1947 c 91 § 5; Rem. Supp. 1949 § 9578-44. Prior: 1929 c 86 § 11; 1919 c 196 § 14.]

Notes:

Severability--Effective date--1986 c 296: See notes following RCW 48.14.020.

Severability--Effective dates--1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Insurance premiums taxes: RCW 48.14.020.

RCW 41.16.060 Tax levy for fund.

It shall be the duty of the legislative authority of each municipality, each year as a part of its annual tax levy, to levy and place in the fund a tax of twenty-two and one-half cents per thousand dollars of assessed value against all the taxable property of such municipality: PROVIDED, That if a report by a qualified actuary on the condition of the fund establishes that the whole or any part of said dollar rate is not necessary to maintain the actuarial soundness of the fund, the levy of said twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of said dollar rate may be levied and used for any other municipal purpose.

It shall be the duty of the legislative authority of each municipality, each year as a part of its annual tax levy and in addition to the city levy limit set forth in RCW 84.52.043, to levy and place in the fund an additional tax of twenty-two and one-half cents per thousand dollars of assessed value against all taxable property of such municipality: PROVIDED, That if a report by a qualified actuary establishes that all or any part of the additional twenty-two and one-half cents per thousand dollars of assessed value levy is unnecessary to meet the estimated demands on the fund under this chapter for the ensuing budget year, the levy of said additional twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of such dollar rate may be levied and used for any other municipal purpose: PROVIDED FURTHER, That cities that have annexed to library districts according to RCW 27.12.360 through 27.12.395 and/or fire protection districts according to RCW 52.04.061 through 52.04.081 shall not levy this additional tax to the extent that it causes the combined levies to exceed the statutory or constitutional limits.

The amount of a levy under this section allocated to the pension fund may be reduced in the same proportion as the regular property tax levy of the municipality is reduced by chapter 84.55 RCW.

[1987 c 319 § 2; 1980 c 155 § 4; 1973 1st ex.s. c 195 § 43; 1973 1st ex.s. c 195 § 144; 1970 ex.s. c 92 § 2; 1965 ex.s. c 45 § 1; 1961 c 255 § 9; 1951 c 72 § 1; 1947 c 91 § 6; Rem. Supp. 1947 § 9578-45. Prior: 1929 c 86 § 12; 1919 c 196 § 15; 1909 c 50 § 14.]

Notes:

Effective date--Applicability--1980 c 155: See note following RCW 84.40.030.

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Effective date--Application--1970 ex.s. c 92: See note following RCW 84.52.010.

RCW 41.16.070 Contributions by firemen.

(1) Every fireman employed on and after January 1, 1947, shall contribute to the fund and there shall be deducted from his pay and placed in the fund an amount in accordance with the following table:

Fireman whose age

at last birthday at time of entry of service was:	Contributions and deductions from salary
21 and under.	5.00%
22	5.24%
23	5.50%
24	5.77%
25	6.07%
26	6.38%
27	6.72%
28	7.09%
29	7.49%
30 and over.	7.92%

(2) Every fireman employed prior to January 1, 1947, and continuing active employment shall contribute to the fund and there shall be deducted from his salary and placed in the fund, five percent of his salary.

(3) Every fireman actively employed and eligible for retirement and not retired shall contribute to the fund and there shall be deducted from his salary and placed in the fund, four percent of his salary.

[1947 c 91 § 7; Rem. Supp. 1947 § 9578-46. Prior: 1929 c 86 § 14; 1919 c 196 § 18.]

RCW 41.16.080 Retirement for service.

Any fireman employed in a fire department on and before the first day of January, 1947, hereinafter in this section and RCW 41.16.090 to 41.16.190 inclusive, referred to as "fireman", and who shall have served twenty-five or more years and having attained the age of fifty-five years, as a member of the fire department, shall be eligible for retirement and shall be retired by the board upon his written request. Upon his retirement any fireman shall be paid a pension based upon the average monthly salary drawn for the five calendar years before retirement, the number of years of his service and a percentage factor based upon his age on entering service, as follows:

Entrance age at last birthday	Salary percentage factor
20 and under.	1.50%
21	1.55%
22	1.60%
23	1.65%

24	.....	1.70%
25	.....	1.75%
26	.....	1.80%
27	.....	1.85%
28	.....	1.90%
29	.....	1.95%
30	and over.....	2.00%

Said monthly pension shall be in the amount of his average monthly salary for the five calendar years before retirement, times the number of years of service, times the applicable percentage factor.

[1959 c 5 § 2; 1957 c 82 § 2. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 4, part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

RCW 41.16.090 Limit of pension.

All pensioners receiving a pension under the provisions of this chapter as provided for in section 12, chapter 91, Laws of 1947 and RCW 41.16.230, shall from and after April 25, 1973 receive a minimum pension of three hundred dollars per month.

[1973 1st ex.s. c 181 § 1; 1967 ex.s. c 91 § 2; 1959 c 5 § 3; 1957 c 82 § 3. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 4, part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

RCW 41.16.100 Payment on death of retired fireman.

The widow or widower, child, children or beneficiary of any fireman retired under this chapter shall receive an amount equal to his or her accumulated contributions to the fund, plus earned interest thereon compounded semiannually: PROVIDED, That there shall be deducted from said sum the amount paid to decedent in pensions and the remainder shall be paid to his or her widow or widower, child, children or beneficiary: PROVIDED FURTHER, That the amount paid shall not be less than one thousand dollars.

[1973 1st ex.s. c 154 § 62; 1959 c 5 § 4; 1957 c 82 § 4. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 4, part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

Notes:

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

RCW 41.16.110 Payment on death of eligible pensioner before retirement.

Whenever any fireman shall die while eligible to retirement on account of years of service, and shall not have been retired, benefits shall be paid in accordance with RCW 41.16.100.

[1959 c 5 § 5; 1957 c 82 § 5. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 4,

part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

RCW 41.16.120 Payment on death in line of duty.

Whenever any active fireman or fireman retired for disability shall die as the result of an accident or other fortuitous event occurring while in the performance of his or her duty, his widow or her widower may elect to accept a monthly pension equal to one-half the deceased fireman's salary but in no case in excess of one hundred fifty dollars per month, or the sum of five thousand dollars cash. The right of election must be exercised within sixty days of the fireman's death. If not so exercised, the pension benefits shall become fixed and shall be paid from the date of death. Such pension shall cease if, and when, he or she remarries. If there is no widow or widower, then such pension benefits shall be paid to his or her child or children.

[1973 1st ex.s. c 154 § 63; 1959 c 5 § 6; 1957 c 82 § 6. Prior: 1947 c 91 § 8, part; 1935 c 39 § 2, part; 1929 c 86 § 2, part; 1919 c 196 § 5, part; 1909 c 50 § 4, part; Rem. Supp. 1947 § 9578-47, part.]

Notes:

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

RCW 41.16.130 Payment upon disablement in line of duty.

(1) Any fireman who shall become disabled as a result of the performance of his duty or duties as defined in this chapter, may be retired at the expiration of six months from the date of his disability, upon his written request filed with his retirement board. The board may upon such request being filed, consult such medical advice as it sees fit, and may have the applicant examined by such physicians as it deems desirable. If from the reports of such physicians the board finds the applicant capable of performing his duties in the fire department, the board may refuse to recommend his retirement.

(2) If the board deems it for the good of the fire department or the pension fund, it may recommend the applicant's retirement without any request therefor by him, after giving him a thirty days notice. Upon his retirement he shall be paid a monthly disability pension in amount equal to one-half of his monthly salary at date of retirement, but which shall not exceed one hundred fifty dollars a month. If he recovers from his disability he shall thereupon be restored to active service, with the same rank he held when he retired.

(3) If the fireman dies during disability and not as a result thereof, RCW 41.16.160 shall apply.

[1959 c 5 § 7; 1957 c 82 § 7. Prior: 1947 c 91 § 8, part; 1935 c 39 § 3, part; 1929 c 86 § 3, part; 1919 c 196 § 5, part; 1909 c 50 § 5, part; Rem. Supp. 1947 § 9578-47, part.]

RCW 41.16.140 Payment upon disablement not in line of duty.

Any fireman who has served more than fifteen years and sustains a disability not in the performance of his or her duty which renders him or her unable to continue his or her service, shall within sixty days exercise his or her choice either to receive his or her contribution to the

fund, plus earned interest compounded semiannually, or be retired and paid a monthly pension based on the factor of his or her age shown in RCW 41.16.080, times his or her average monthly salary as a member of the fire department of his or her municipality at the date of his or her retirement, times the number of years of service rendered at the time he or she sustained such disability. If such fireman shall die leaving surviving him a wife or surviving her a husband, or child or children, then such wife or husband, or if he leaves no wife or she leaves no husband, then his or her child or children shall receive the sum of his contributions, plus accumulated compound interest, and such payment shall be reduced in the amount of the payments made to deceased.

[1973 1st ex.s. c 154 § 64; 1959 c 5 § 8; 1957 c 82 § 8. Prior: 1947 c 91 § 8, part; 1935 c 39 § 6, part; 1929 c 86 § 7, part; 1919 c 196 § 9, part; 1909 c 50 § 9, part; Rem. Supp. 1947 § 9578-47, part.]

Notes:

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

RCW 41.16.145 Annual increase in benefits payable on retirement for service, death in line of duty, and disability--Appeals.

The amount of all benefits payable under the provisions of RCW 41.16.080, 41.16.120, 41.16.130, 41.16.140 and 41.16.230 as now or hereafter amended, shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purposes of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: PROVIDED, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative. The increased benefits authorized by this section shall not affect any benefit payable under the provisions of chapter 41.16 RCW in which the benefit payment is attached to a current salary of the rank held at time of retirement. A beneficiary of benefit increases provided for pursuant to this section is hereby authorized to appeal a decision on such increases or the failure of the local pension board to order such increased benefits or the amount of such benefits to the Washington law enforcement officers' and fire fighters' system retirement board provided for in *RCW 41.26.050.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor.

[1975-'76 2nd ex.s. c 44 § 1; 1975 1st ex.s. c 178 § 1; 1974 ex.s. c 190 § 1; 1970 ex.s. c 37 § 3; 1969 ex.s. c 209 §

38.]

Notes:

***Reviser's note:** RCW 41.26.050 was repealed by 1982 c 163 § 23. Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.

Construction of RCW 41.16.145--Severability--1975 1st ex.s. c 178: See RCW 41.16.921, 41.16.911.

Construction--1970 ex.s. c 37: See note following RCW 41.18.104.

Effective date--Construction--Severability--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.16.150 Payment on separation from service.

(1) Any fireman who has served twenty years or more and who shall resign or be dismissed, shall have the option of receiving all his or her contributions plus earned interest compounded semiannually, or a monthly pension in the amount of his average monthly salary times the number of years of service rendered, times one and one-half percent. Payment of such pension shall commence at the time of severance from the fire department, or at the age of fifty-five years, whichever shall be later. The fireman shall have sixty days from the severance date to elect which option he or she will take. In the event he or she fails to exercise his or her right of election then he or she shall receive the amount of his or her contributions plus accrued compounded interest. In the event he or she elects such pension, but dies before attaining the age of fifty-five, his widow or her widower, or if he leaves no widow or she leaves no widower, then his or her child or children shall receive only his contribution, plus accrued compounded interest. In the event he elects to take a pension and dies after attaining the age of fifty-five, his widow or her widower, or if he leaves no widow or she leaves no widower, then child or children shall receive his or her contributions, plus accrued compounded interest, less the amount of pension payments made to such fireman during his or her lifetime.

(2) Any fireman who shall have served for a period of less than twenty years, and shall resign or be dismissed, shall be paid the amount of his or her contributions, plus accrued compounded interest.

[1973 1st ex.s. c 154 § 65; 1959 c 5 § 9; 1957 c 82 § 9. Prior: 1947 c 91 § 8, part; Rem. Supp. 1947 § 9578-47, part.]

Notes:

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

RCW 41.16.160 Payment on death not in line of duty.

Whenever any fireman, after four years of service, shall die from natural causes, or from an injury not sustained in the performance of his or her duty and for which no pension is provided in this chapter, and who has not been retired on account of disability, his widow or her widower, if he or she was his wife or her husband at the time he or she was stricken with his or her last illness, or at the time he or she received the injuries from which he or she died; or if there is no such widow, then his or her child or children shall be entitled to the amount of his or her

contributions, plus accrued compounded interest, or the sum of one thousand dollars, whichever sum shall be the greater. In case of death as above stated, before the end of four years of service, an amount based on the proportion of the time of service to four years shall be paid to such beneficiaries.

[1973 1st ex.s. c 154 § 66; 1959 c 5 § 10; 1957 c 82 § 10. Prior: 1947 c 91 § 8, part; 1929 c 86 § 7, part; 1919 c 196 § 9, part; 1909 c 50 § 9, part; Rem. Supp. 1947 § 9578-47, part.]

Notes:

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

RCW 41.16.170 Payment on death of fireman with no dependents.

Whenever a fireman dies leaving no widow or widower or children, the amount of his or her accumulated contributions, plus accrued compounded interest only, shall be paid to his or her beneficiary.

[1973 1st ex.s. c 154 § 67; 1959 c 5 § 11; 1957 c 82 § 11. Prior: 1947 c 91 § 8, part; 1935 c 39 § 5; 1929 c 86 § 6, part; 1919 c 196 § 8, part; 1909 c 50 § 8, part; Rem. Supp. 1947 § 9578-47, part.]

Notes:

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

RCW 41.16.180 Funeral expense.

Upon the death of any active, disabled or retired fireman the board shall pay from the fund the sum of two hundred dollars to assist in defraying the funeral expenses of such fireman.

[1959 c 5 § 12; 1957 c 82 § 12. Prior: 1947 c 91 § 8, part; 1935 c 39 § 10; 1929 c 86 § 15; 1919 c 196 § 18; Rem. Supp. 1947 § 9578-47, part.]

RCW 41.16.190 Waiting period--Disability retirement.

No fireman disabled in the performance of duty shall receive a pension until six months has elapsed after such disability was sustained. Therefore, whenever the retirement board, pursuant to examination by the board's physician and such other evidence as it may require, shall find a fireman has been disabled while in the performance of his duties, it shall declare him inactive. For a period of six months from the time he became disabled, he shall continue to draw full pay from his municipality and in addition thereto he shall, at the expense of the municipality, be provided with such medical, hospital and nursing care as the retirement board deems proper. If the board finds at the expiration of six months that the fireman is unable to return to and perform his duties, then he shall be retired as herein provided.

[1959 c 5 § 13; 1957 c 82 § 13. Prior: 1947 c 91 § 8, part; 1935 c 39 § 4, part; 1929 c 86 § 5, part; 1919 c 196 § 7, part; 1909 c 50 § 7, part; Rem. Supp. 1947 § 9578-47, part.]

RCW 41.16.200 Examination of disability pensioners--Restoration to duty.

The board shall require all firemen receiving disability pensions to be examined every six months. All such examinations shall be made by physicians duly appointed by the board. If a fireman shall fail to submit to such examination within ten days of having been so ordered in writing by said retirement board all pensions or benefits paid to said fireman under this chapter, shall immediately cease and the disbursing officer in charge of such payments shall issue no further payments to such fireman. If such fireman fails to present himself for examination within thirty days after being ordered so to do, he shall forfeit all rights under this chapter. If such fireman, upon examination as aforesaid, shall be found fit for service, he shall be restored to duty in the same rank held at the time of his retirement, or if unable to perform the duties of said rank, then, at his request, in such other rank, the duties of which he is then able to perform. The board shall thereupon so notify the fireman and shall require him to resume his duties as a member of the fire department. If, upon being so notified, such member shall fail to report for employment within ten days, he shall forfeit all rights to any benefits under this chapter.

[1947 c 91 § 9; Rem. Supp. 1947 § 9578-48. Prior: 1929 c 86 § 8; 1919 c 196 § 10; 1909 c 50 § 10.]

RCW 41.16.210 Transfer of assets to new fund--Assumption of obligations.

(1) Funds or assets on hand in the firemen's relief and pension fund of any municipality established under the provisions of chapter 50, Laws of 1909, as amended, after payment of warrants drawn upon and payable therefrom, shall, by the city treasurer, be transferred to and placed in the firemen's pension fund created by this chapter; and the firemen's pension fund created by this chapter shall be liable for and there shall be paid therefrom in the order of their issuance any and all unpaid warrants drawn upon said firemen's relief and pension fund.

(2) Any moneys loaned or advanced by a municipality from the general or any other fund of such municipality to the firemen's relief and pension fund created under the provisions of chapter 50, Laws of 1909, as amended, and not repaid shall be an obligation of the firemen's pension fund created under this chapter, and shall at such times and in such amounts as is directed by the board be repaid.

[1947 c 91 § 10; Rem. Supp. 1947 § 9578-49.]

RCW 41.16.220 Credit for military service.

Any person who was a member of the fire department and within the provisions of chapter 50, Laws of 1909, as amended, at the time he entered, and who is a veteran, as defined in RCW 41.04.005, shall have added and accredited to his period of employment as a fireman as computed under this chapter his period of war service in such armed forces upon payment by him of his contribution for the period of his absence, at the rate provided by chapter 50, Laws of 1909, as amended, for other members: PROVIDED, HOWEVER, Such accredited service shall not in any case exceed five years.

[1969 ex.s. c 269 § 7; 1947 c 91 § 11; Rem. Supp. 1947 § 9578-50.]

RCW 41.16.230 Repeal does not affect accrued rights.

Chapter 50, Laws of 1909; chapter 196, Laws of 1919; chapter 86, Laws of 1929, and chapter 39, Laws of 1935 (secs. 9559 to 9578, incl., Rem. Rev. Stat.; secs. 396-1 to 396-43, incl., PPC) and all other acts or parts of acts in conflict herewith are hereby repealed: PROVIDED, That the repeal of said laws shall not affect any "prior fireman", his widow, her widower, child or children, any fireman eligible for retirement but not retired, his widow, her widower, child or children, or the rights of any retired fireman, his widow, her widower, child or children, to receive payments and benefits from the firemen's pension fund created under this chapter, in the amount, and in the manner provided by said laws which are hereby repealed and as if said laws had not been repealed.

[1973 1st ex.s. c 154 § 68; 1947 c 91 § 12; Rem. Supp. 1947 § 9578-51.]

Notes:

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

RCW 41.16.240 Application of chapter to fire protection districts.

Any fire protection district having a full paid fire department may by resolution of its board of fire commissioners provide for the participation of its full time employees in a pension program in the same manner, with the same powers, and with the same force and effect as to such districts as the pension program provided by chapter 41.16 RCW for cities, towns and municipalities, or fire protection districts.

[1955 c 46 § 1.]

RCW 41.16.250 Retirement and job security rights preserved upon annexation, etc., of district.

If all or any portion of a fire protection district is annexed to or incorporated into a city or town, or is succeeded by a metropolitan municipal corporation or county fire department, no full time paid fireman affected by such annexation, incorporation or succession shall receive a reduction in his retirement and job security rights: PROVIDED, That this section shall not apply to any retirement and job security rights authorized under chapter 41.24 RCW.

[1963 c 63 § 1.]

RCW 41.16.260 Transfer of credit from city employees' retirement system to firemen's pension system.

See RCW 41.18.210.

RCW 41.16.900 Severability--1947 c 91.

If any clause, part or section of this chapter shall be adjudged in violation of the Constitution, or for any reason invalid, such judgment shall not affect nor invalidate the remainder of the chapter, nor any other clause, part or section thereof, but such judgment shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered, and the balance of the chapter shall remain in full force and effect.

[1947 c 91 § 13.]

RCW 41.16.910 Severability--1959 c 5.

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

[1959 c 5 § 15.]

RCW 41.16.911 Severability--1975 1st ex.s. c 178.

If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1975 1st ex.s. c 178 § 6.]

RCW 41.16.920 Construction--1959 c 5--Benefits retroactively authorized.

The provisions of chapter 5, Laws of 1959 are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as a part of chapter 5, Laws of 1959.

[1959 c 5 § 14.]

RCW 41.16.921 Construction--1975 1st ex.s. c 178, RCW 41.16.145.

(1) The provisions of this section are procedural and remedial.

(2) The application and effect of chapter 178, Laws of 1975 1st ex. sess. shall be retroactive to and including May 6, 1974. Each benefit being paid on June 4, 1975, shall then be adjusted as if chapter 178, Laws of 1975 1st ex. sess. had been in existence since May 6, 1974. Additionally, any amounts which would have been paid had chapter 178, Laws of 1975 1st ex. sess. been in effect since May 6, 1974, shall then be due as a one-time lump sum payment.

(3) The provisions of RCW 41.16.145 shall be construed and read to have granted the percentage increase provided by that section to those receiving benefits pursuant to RCW 41.16.230, until and including July 1, 1974, at which time those persons shall be regarded as

eligible for the benefits granted by chapter 190, Laws of 1974 ex. sess., as provided in subsection (2) of this section. Any amounts now payable due to a failure to so construe and read RCW 41.16.145 are now due as a one-time lump sum payment.

[1975 1st ex.s. c 178 § 5.]

Chapter 41.18 RCW FIREMEN'S RELIEF AND PENSIONS--1955 ACT

Sections

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41.18.060	Disablement in line of duty--Inactive period--Allowance--Medical, hospital, nursing care.
41.18.080	Payment upon disablement not in line of duty.
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41.18.100	Payment on death in line of duty or while retired on account of service connected disability.
41.18.102	Applicability of RCW 41.18.040 and 41.18.100.
41.18.104	Annual increase in benefits payable on retirement for service or disability--Appeals.
41.18.130	Payment on separation--With less than twenty-five years service or less than fifty years of age--Option to be classified as vested fireman.
41.18.140	Funeral expenses.
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41.18.160	Certain firemen may elect to be covered under other law.
41.18.165	Credit for membership in private organization acquired by municipality.
41.18.170	Application of chapter.
41.18.180	Fireman contributor under prior law may obtain benefits of chapter--Refunds.
41.18.190	Transfer of membership authorized.
41.18.200	Minimum pension.
41.18.210	Transfer of credit from city employees' retirement system to firemen's pension system.

Notes:

Prior acts relating to firemen's relief and pensions: 1935 c 39; 1929 c 86; 1919 c 196; 1909 c 50 were repealed by 1947 c 91 § 12 (codified as RCW 41.16.230).

Firemen's relief and pensions--1947 act: Chapter 41.16 RCW.

Volunteer fire fighters' relief and pensions: Chapter 41.24 RCW.

RCW 41.18.010 Definitions.

For the purpose of this chapter, unless clearly indicated otherwise by the context, words and phrases shall have the meaning hereinafter ascribed.

(1) "Beneficiary" shall mean any person or persons designated by a fireman in a writing

filed with the board, and who shall be entitled to receive any benefits of a deceased fireman under this chapter.

(2) "Fireman" means any person hereafter regularly or temporarily, or as a substitute newly employed and paid as a member of a fire department, who has passed a civil service examination for fireman and who is actively employed as a fireman or, if provided by the municipality by appropriate local legislation, as a fire dispatcher: PROVIDED, Nothing in *this 1969 amendatory act shall impair or permit the impairment of any vested pension rights of persons who are employed as fire dispatchers at the time *this 1969 amendatory act takes effect; and any person heretofore regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, and who has contributed under and been covered by the provisions of chapter 41.16 RCW as now or hereafter amended and who has come under the provisions of this chapter in accordance with RCW 41.18.170 and who is actively engaged as a fireman or as a member of the fire department as a fireman or fire dispatcher.

(3) "Retired fireman" means and includes a person employed as a fireman and retired under the provisions of this chapter.

(4) "Basic salary" means the basic monthly salary, including longevity pay, attached to the rank held by the retired fireman at the date of his retirement, without regard to extra compensation which such fireman may have received for special duties assignments not acquired through civil service examination: PROVIDED, That such basic salary shall not be deemed to exceed the salary of a battalion chief.

(5) "Widow or widower" means the surviving spouse of a fireman and shall include the surviving wife or husband of a fireman, retired on account of length of service, who was lawfully married to him or to her for a period of five years prior to the time of his or her retirement; and the surviving wife or husband of a fireman, retired on account of disability, who was lawfully married to him or her at and prior to the time he or she sustained the injury or contracted the illness resulting in his or her disability. The word shall not mean the divorced wife or husband of an active or retired fireman.

(6) "Child" or "children" means a fireman's child or children under the age of eighteen years, unmarried, and in the legal custody of such fireman at the time of his death or her death.

(7) "Earned interest" means and includes all annual increments to the firemen's pension fund from income earned by investment of the fund. The earned interest payable to any fireman when he leaves the service and accepts his contributions, shall be that portion of the total earned income of the fund which is directly attributable to each individual fireman's contributions. Earnings of the fund for the preceding year attributable to individual contributions shall be allocated to individual firemen's accounts as of January 1st of each year.

(8) "Board" shall mean the municipal firemen's pension board.

(9) "Contributions" shall mean and include all sums deducted from the salary of firemen and paid into the fund as hereinafter provided.

(10) "Disability" shall mean and include injuries or sickness sustained by a fireman.

(11) "Fire department" shall mean the regularly organized, full time, paid, and employed force of firemen of the municipality.

(12) "Fund" shall have the same meaning as in RCW 41.16.010 as now or hereafter

amended. Such fund shall be created in the manner and be subject to the provisions specified in chapter 41.16 RCW as now or hereafter amended.

(13) "Municipality" shall mean every city, town and fire protection district having a regularly organized full time, paid, fire department employing firemen.

(14) "Performance of duty" shall mean the performance of work or labor regularly required of firemen and shall include services of an emergency nature normally rendered while off regular duty.

[1973 1st ex.s. c 154 § 69; 1969 ex.s. c 209 § 40; 1965 ex.s. c 45 § 2; 1961 c 255 § 1; 1955 c 382 § 1.]

Notes:

***Reviser's note:** For codification of "this 1969 amendatory act" [1969 ex.s. c 209], see Codification Tables, Volume 0.

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

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

Severability--1961 c 255: "If any clause, part or section of this act shall be adjudged in violation of the constitution, or for any reason invalid, such judgment shall not affect nor invalidate the remainder of the act, nor any clause, part or section thereof, but such judgment shall be confined in its operation to the clause, part or section directly involved in the controversy in which judgment was rendered, and the balance of the act shall remain in full force and effect." [1961 c 255 § 13.]

**RCW 41.18.015 Pension boards in fire districts
created--Members--Terms--Vacancies--Officers--Quorum.**

There is hereby created in each fire protection district which qualifies under this chapter, a firemen's pension board to consist of the following five members, the chairman of the fire commissioners for said district who shall be chairman of the board, the county auditor, county treasurer, and in addition, two regularly employed or retired fire fighters elected by secret ballot of the employed and retired fire fighters. Retired members who are subject to the jurisdiction of the pension board have both the right to elect and the right to be elected under this section. The first members to be elected by the fire fighters shall be elected annually for a two-year term. The two fire fighter elected members shall, in turn, select a third eligible member who shall serve in the event of an absence of one of the regularly elected members. In case a vacancy occurs in the membership of the fire fighter or retired members, the members shall in the same manner elect a successor to serve the unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the chairman to act, the board may select a chairman pro tempore who shall during such absence or inability perform the duties and exercise the powers of the chairman. A majority of the members of said board shall constitute a quorum and have power to transact business.

[1992 c 6 § 1; 1961 c 255 § 11.]

RCW 41.18.020 Powers and duties of board.

The board, in addition to such general and special powers as are vested in it by the

provisions of chapter 41.16 RCW, which powers the board shall have with respect to this chapter shall have power to:

- (1) Generally supervise and control the administration of this chapter;
- (2) Pass upon and allow or disallow applications for pensions or other benefits provided by this chapter;
- (3) Provide for payment from the firemen's pension fund of necessary expenses of maintenance and administration required by the provisions of this chapter;
- (4) Make rules and regulations not inconsistent with this chapter for the purpose of carrying out and effecting the same;
- (5) Require the physicians appointed under the provisions of chapter 41.16 RCW, to examine and report to the board upon all applications for relief and pensions under this chapter; and
- (6) Perform such acts, receive such compensation and enjoy such immunity as provided in RCW 41.16.040.

[1955 c 382 § 2.]

RCW 41.18.030 Contributions by firemen.

Every fireman to whom this chapter applies shall contribute to the firemen's pension fund a sum equal to six percent of his basic salary which shall be deducted therefrom and placed in the fund.

[1961 c 255 § 2; 1955 c 382 § 3.]

RCW 41.18.040 Retirement for service--Widow's or widower's pension--Payments to children.

Whenever any fireman, *at the time of taking effect of this act or thereafter, shall have been appointed under civil service rules and have served for a period of twenty-five years or more as a member in any capacity of the regularly constituted fire department of any city, town or fire protection district which may be subject to the provisions of this chapter, and shall have attained the age of fifty years, he or she shall be eligible for retirement and shall be retired by the board upon his or her written request. Upon his or her retirement such fireman shall be paid a monthly pension which shall be equal to fifty percent of the basic salary now or hereafter attached to the same rank and status held by the said fireman at the date of his or her retirement: PROVIDED, That a fireman hereafter retiring who has served as a member for more than twenty-five years, shall have his pension payable under this section increased by two percent of the basic salary per year for each full year of such additional service to a maximum of five additional years.

Upon the death of any such retired fireman, his or her pension shall be paid to his widow or her widower, at the same monthly rate that the retired fireman would have received had he or she lived, if such widow or widower was his wife or her husband for a period of five years prior to the time of his or her retirement. If there be no widow or widower, then such monthly

payments shall be distributed to and divided among his or her children, share and share alike, until they reach the age of eighteen or are married, whichever occurs first.

[1973 1st ex.s. c 154 § 70; 1969 ex.s. c 209 § 29; 1965 ex.s. c 45 § 3; 1961 c 255 § 3; 1955 c 382 § 4.]

Notes:

***Reviser's note:** The phrase "at the time of taking effect of this act or thereafter" first appears in the 1961 amendment, which became effective at midnight June 7, 1961 (see preface, 1961 session laws). The basic act, 1955 c 382, became effective at midnight June 8, 1955 (see preface, 1955 session laws).

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

Applicability--1969 ex.s. c 209: See RCW 41.18.102.

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.18.045 Pension benefits for widows or widowers of unretired, eligible firemen--Retroactive.

Upon the death of a fireman who is eligible to retire under RCW 41.18.040 as now or hereafter amended, but who has not retired, a pension shall be paid to his widow or her widower at the same monthly rate that he or she was eligible to receive at the time of his or her death, if such widow or widower was his wife or her husband for a period of five years prior to his or her death. If there be no widow or widower, then such monthly payments shall be distributed to and divided among his or her children, share and share alike, until they reach the age of eighteen or are married, whichever comes first.

This section shall apply retroactively for the benefit of all widows or widowers and survivors of firemen who died after January 1, 1967, if such firemen were otherwise eligible to retire on the date of death.

[1973 1st ex.s. c 154 § 71; 1969 ex.s. c 209 § 25.]

Notes:

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

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.18.050 Disablement in line of duty--Retirement.

Every fireman who shall become disabled as a result of the performance of duty may be retired at the expiration of six months from the date of his disability, upon his written request filed with his retirement board. The board may, upon such request being filed, consult such medical advice as it sees fit, and may have the applicant examined by such physicians as it deems desirable. If from the reports of such physicians the board finds the applicant capable of performing his duties in the fire department, the board may refuse to recommend his retirement. If, after the expiration of six months from the date of his disability, the board deems it for the good of the fire department or the pension fund it may recommend the retirement of a fireman disabled as a result of the performance of duty without any request for the same by him, and after having been given by the board a thirty days' written notice of such recommendation he shall be retired.

[1955 c 382 § 5.]

RCW 41.18.060 Disablement in line of duty--Inactive period--Allowance--Medical, hospital, nursing care.

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

[1992 c 22 § 1; 1969 ex.s. c 209 § 30; 1961 c 255 § 4; 1955 c 382 § 6.]

Notes:

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.18.080 Payment upon disablement not in line of duty.

Any fireman who has completed his or her probationary period and has been permanently appointed, and sustains a disability not in the performance of his or her duty which renders him or her unable to continue his or her service, may request to be retired by filing a written request with his or her retirement board within sixty days from the date of his or her disability. The board may, upon such request being filed, consult such medical advice as it deems fit and proper. If the board finds the fireman capable of performing his or her duties, it may refuse to recommend retirement and order the fireman back to duty. If no request for retirement has been received after the expiration of sixty days from the date of his or her disability, the board may recommend retirement of the fireman. The board shall give the fireman a thirty day written notice of its recommendation, and he or she shall be retired upon expiration of said notice. Upon retirement he shall receive a pension equal to fifty percent of his or her basic salary. For a period of ninety days following such disability the fireman shall receive an allowance from the fund equal to his or her basic salary. He or she shall during said ninety days be provided with such

medical, hospital, and nursing care as the board deems proper. No funds shall be expended for such disability if the board determines that the fireman was gainfully employed or engaged for compensation in other than fire department duty when the disability occurred, or if such disability was the result of dissipation or abuse. Whenever any fireman shall die as a result of a disability sustained not in the line of duty, his widow or her widower shall receive a monthly pension equal to one-third of his or her basic salary until remarried; if such widow or widower has dependent upon her or him for support a child or children of such deceased fireman, he or she shall receive an additional pension as follows: One child, one-eighth of the deceased's basic salary; two children, one-seventh; three or more children, one-sixth. If there be no widow or widower, monthly payments equal to one-third of the deceased fireman's basic salary shall be made to his or her child or children. The widow or widower may elect at any time in writing to receive a cash settlement, and if the board after hearing finds it financially beneficial to the pension fund, he or she may receive the sum of five thousand dollars cash in lieu of all future monthly pension payments, and other benefits, including benefits to any child and/or children.

[1973 1st ex.s. c 154 § 72; 1965 c 109 § 1; 1961 c 255 § 5; 1955 c 382 § 9.]

Notes:

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

RCW 41.18.090 Examination of disability pensioners--Restoration to active duty.

The board shall require all firemen receiving disability pensions to be examined every six months: PROVIDED, That no such examinations shall be required if upon certification by physicians the board shall formally enter upon its records a finding of fact that the disability is and will continue to be of such a nature that return to active duty can never reasonably be expected. All examinations shall be made by physicians duly appointed by the board. If a fireman shall wilfully fail to present himself for examination, within thirty days after being ordered so to do, he shall forfeit all rights under this chapter. If such fireman, upon examination as aforesaid, shall be found fit for service, he shall be restored to duty in the same rank held at the time of his retirement, or if unable to perform the duties of said rank then, at his request, in such other like or lesser rank as may be or become open and available, the duties of which he is then able to perform. The board shall thereupon so notify the fireman and shall require him to resume his duties as a member of the fire department. If, upon being so notified, such member shall wilfully fail to report for employment within ten days, he shall forfeit all rights to any benefit under this chapter.

[1955 c 382 § 15.]

RCW 41.18.100 Payment on death in line of duty or while retired on account of service connected disability.

In the event a fireman is killed in the performance of duty, or in the event a fireman retired on account of service connected disability shall die from any cause, his widow or her

widower shall receive a monthly pension under one of the following applicable provisions: (1) If a fireman is killed in the line of duty his widow or her widower shall receive a monthly pension equal to fifty percent of his or her basic salary at the time of his or her death; (2) if a fireman who has retired on account of a service connected disability dies, his widow or her widower shall receive a monthly pension equal to the amount of the monthly pension such retired fireman was receiving at the time of his or her death. If she or he at any time so elects in writing and the board after hearing finds it to be financially beneficial to the pension fund, he or she may receive in lieu of all future monthly pension and other benefits, including benefits to child or children, the sum of five thousand dollars in cash. If there be no widow or widower at the time of such fireman's death or upon the widow's or widower's death the monthly pension benefits hereinabove provided for shall be paid to and divided among his or her child or children share and share alike, until they reach the age of eighteen or are married, whichever occurs first. The widow's or widower's monthly pension benefit, including increased benefits to his or her children shall cease if and when he or she remarries: PROVIDED, That no pension payable under the provisions of this section shall be less than that specified under RCW 41.18.200.

[1975 1st ex.s. c 178 § 4; 1973 1st ex.s. c 154 § 73; 1969 ex.s. c 209 § 28; 1965 ex.s. c 45 § 4; 1955 c 382 § 8.]

Notes:

Construction--Severability--1975 1st ex.s. c 178: See RCW 41.16.911, 41.16.921.

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

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.18.102 Applicability of RCW 41.18.040 and 41.18.100.

The provisions of RCW 41.18.040 and 41.18.100 shall be applicable to all firemen employed prior to March 1, 1970, but shall not apply to any former fireman who has terminated his employment prior to July 1, 1969.

[1969 ex.s. c 209 § 32.]

Notes:

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.18.104 Annual increase in benefits payable on retirement for service or disability--Appeals.

The amount of all benefits payable under the provisions of RCW 41.18.040, 41.18.080, 41.18.100 and 41.18.200 as now or hereafter amended, shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purpose of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index:

PROVIDED, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased as authorized by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative. The increased benefits authorized by this section shall not affect any benefit payable under the provisions of chapter 41.18 RCW in which the benefit payment is attached to a current salary of the rank held at time of retirement. A beneficiary of benefit increases provided for pursuant to this section is hereby authorized to appeal a decision on such increases or the failure of the local pension board to order such increased benefits or the amount of such benefits to the Washington law enforcement officers' and fire fighters' system retirement board provided for in *RCW 41.26.050.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor.

[1975-'76 2nd ex.s. c 44 § 2; 1975 1st ex.s. c 178 § 2; 1974 ex.s. c 190 § 2; 1970 ex.s. c 37 § 1; 1969 ex.s. c 209 § 33.]

Notes:

***Reviser's note:** RCW 41.26.050 was repealed by 1982 c 163 § 23. Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.

Construction--Severability--1975 1st ex.s. c 178: See RCW 41.16.911, 41.16.921.

Construction--1970 ex.s. c 37: "This 1970 amendatory act shall be null and void and of no further force and effect if the 1970 extraordinary session of the Legislature does not pass legislation authorizing cities and counties to levy additional taxes or appropriate at least ten million dollars for distribution to cities and towns for the remainder of the 1969-71 fiscal biennium." [1970 ex.s. c 37 § 4.]

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.18.130 Payment on separation--With less than twenty-five years service or less than fifty years of age--Option to be classified as vested fireman.

Any fireman who shall have served for a period of less than twenty-five years, or who shall be less than fifty years of age, and shall resign, or be dismissed from the fire department for a reason other than conviction for a felony, shall be paid the amount of his contributions to the fund plus earned interest: PROVIDED, That in the case of any fireman who has completed twenty years of service, such fireman, upon termination for any cause except for a conviction of a felony, shall have the option of electing, in lieu of recovery of his contributions as herein provided, to be classified as a vested fireman in accordance with the following provisions:

(1) Written notice of such election shall be filed with the board within thirty days after the effective date of such fireman's termination;

(2) During the period between the date of his termination and the date upon which he becomes a retired fireman as hereinafter provided, such vested fireman and his spouse or

dependent children shall be entitled to all benefits available under chapter 41.18 RCW to a retired fireman and his spouse or dependent children with the exception of the service retirement allowance as herein provided for: PROVIDED, That any claim for medical coverage under RCW 41.18.060 shall be attributable to service connected illness or injury;

(3) Any fireman electing to become a vested fireman shall be entitled at such time as he otherwise would have completed twenty-five years of service had he not terminated, to receive a service retirement allowance computed on the following basis: Two percent of the amount of salary attached to the position held by the vested fireman for the year preceding the date of his termination, for each year of service rendered prior to the date of his termination.

[1969 ex.s. c 209 § 31; 1961 c 255 § 6; 1955 c 382 § 11.]

Notes:

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.18.140 Funeral expenses.

The board shall pay from the firemen's pension fund upon the death of any active or retired fireman the sum of five hundred dollars, to assist in defraying the funeral expenses of such fireman.

[1961 c 255 § 7; 1955 c 382 § 13.]

RCW 41.18.150 Credit for military service.

Every person who was a member of the fire department at the time he entered and served in the armed forces of the United States in time of war, whether as a draftee, or inductee, and who shall have been discharged from such armed forces under conditions other than dishonorable, shall have added and accredited to his period of employment as a fireman his period of war or peacetime service in the armed forces: PROVIDED, That such added and accredited service shall not as to any individual exceed five years.

[1955 c 382 § 14.]

RCW 41.18.160 Certain firemen may elect to be covered under other law.

Every fireman as defined in this chapter heretofore employed as a member of a fire department, whether or not as a prior fireman as defined in chapter 41.16 RCW, who desires to make the contributions and avail himself of the pension and other benefits of said chapter 41.16 RCW, can do so by handing to and leaving with the firemen's pension board of his municipality a written notice of such intention within sixty days of the effective date of this chapter, or if he was on disability retirement under chapter 41.16 RCW, at the effective date of this chapter and has been recalled to active duty by the retirement board, shall give such notice within sixty days of his return to active duty, and not otherwise.

[1955 c 382 § 17.]

Notes:

Reviser's note: Effective date of chapter 41.18 RCW is midnight June 8, 1955; see preface 1955 session laws.

RCW 41.18.165 Credit for membership in private organization acquired by municipality.

Every person who was a member of a fire-fighting organization operated by a private enterprise, which fire-fighting organization shall be hereafter acquired before September 1, 1959, by a municipality as its fire department as a matter of public convenience or necessity, where it is in the public interest to retain the trained personnel of such fire-fighting organization, shall have added and accredited to his period of employment as a fireman his period of service with said private enterprise, except that this shall apply only to those persons who are in the service of such fire-fighting organization at the time of its acquisition by the municipality and who remain in the service of that municipality until this chapter shall become applicable to such persons.

No such person shall have added and accredited to his period of employment as a fireman his period of service with said private enterprise unless he or a third party shall pay to the municipality his contribution for the period of such service with the private enterprise at the rate provided in RCW 41.18.030, or, if he shall be entitled to any private pension or retirement benefits as a result of such service with the private enterprise, unless he agrees at the time of his employment by the municipality to accept a reduction in the payment of any benefits payable under this chapter that are based in whole or in part on such added and accredited service by the amount of those private pension or retirement benefits received. For the purposes of RCW 41.18.030, the date of entry of service shall be deemed the date of entry into service with the private enterprise, which service is accredited by this section, and the amount of contributions for the period of accredited service shall be based on the wages or salary of such person during that added and accredited period of service with the private enterprise.

The city may receive payments for these purposes from a third party and shall make from such payments contributions with respect to such prior service as may be necessary to enable the fund to assume its obligations.

[1959 c 69 § 1.]

RCW 41.18.170 Application of chapter.

The provisions of this chapter governing contributions, pensions, and benefits shall have exclusive application (1) to firemen as defined in this chapter hereafter becoming members of a fire department, (2) to firemen as defined in this chapter heretofore employed in a department who have not otherwise elected as provided for in RCW 41.18.160, and (3) to firemen on disability retirement under chapter 41.16 RCW, at the effective date of this chapter, who thereafter shall have been returned to active duty by the retirement board, and who have not otherwise elected as provided for in RCW 41.18.160 within sixty days after return to active duty.

[1955 c 382 § 16.]

RCW 41.18.180 Fireman contributor under prior law may obtain benefits of chapter--Refunds.

Any fireman who has made contributions under any prior act may elect to avail himself of the benefits provided by this chapter or under such prior act by filing written notice with the board within sixty days from the effective date of this 1961 amendatory act: PROVIDED, That any fireman who has received refunds by reason of selecting the benefits of prior acts shall return the amount of such refunds as a condition to coverage under this 1961 amendatory act.

[1961 c 255 § 12.]

Notes:

Reviser's note: "this 1961 amendatory act" [1961 c 255] consists of RCW 41.16.020, 41.16.050, 41.16.060, 41.18.010, 41.18.015, 41.18.030, 41.18.040, 41.18.060, 41.18.080, 41.18.130, 41.18.140, and 41.18.180, and the repeal of RCW 41.18.070, 41.18.110, and 41.18.120. The act became effective at midnight June 7, 1961 (see preface, 1961 session laws).

RCW 41.18.190 Transfer of membership authorized.

Any fireman as defined in RCW 41.18.010 who has prior to July 1, 1969 been employed as a member of a fire department and who desires to make contributions and avail himself of the pension and other benefits of chapter 41.18 RCW as now law or hereafter amended, may transfer his membership from any other pension fund, except the Washington law enforcement officers' and fire fighters' retirement system, to the pension fund provided in chapter 41.18 RCW: PROVIDED, That such fireman transmits written notice of his intent to transfer to the pension board of his municipality prior to September 1, 1969.

[1969 ex.s. c 209 § 41.]

Notes:

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

Law enforcement officers' and fire fighters' retirement system: Chapter 41.26 RCW.

RCW 41.18.200 Minimum pension.

All retirees and survivors receiving a pension under the provisions of this chapter shall from and after April 25, 1973 receive a minimum pension of three hundred dollars per month.

[1973 1st ex.s. c 181 § 2.]

RCW 41.18.210 Transfer of credit from city employees' retirement system to firemen's pension system.

Any former employee of a department of a city of the first class, who (1) was a member of the employees' retirement system of such city, and (2) is now employed within the fire department of such city, may transfer his former membership credit from the city employees'

retirement system to the fireman's pension system created by chapters 41.16 and 41.18 RCW by filing a written request with the board of administration and the municipal fireman's pension board, respectively.

Upon the receipt of such request, the transfer of membership to the city's fireman's pension system shall be made, together with a transfer of all accumulated contributions credited to such member. The board of administration shall transmit to the municipal fireman's pension board a record of service credited to such member which shall be computed and credited to such member as a part of his period of employment in the city's fireman's pension system. For the purpose of the transfer contemplated by this section, those affected individuals who have formerly withdrawn funds from the city employees' retirement system shall be allowed to restore contributions withdrawn from that retirement system directly to the fireman's pension system and receive credit in the fireman's pension system for their former membership service in the prior system.

Any employee so transferring shall have all the rights, benefits, and privileges that he would have been entitled to had he been a member of the city's fireman's pension system from the beginning of his employment with the city.

No person so transferring shall thereafter be entitled to any other public pension, except that provided by chapter 41.26 RCW or social security, which is based upon such service with the city.

The right of any employee to file a written request for transfer of membership as set forth in this section shall expire December 31, 1974.

[1974 ex.s. c 148 § 1.]

Chapter 41.20 RCW

POLICE RELIEF AND PENSIONS IN FIRST CLASS CITIES

Sections

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RCW 41.20.005 Definitions.

As used in chapter 41.20 RCW:

- (1) "Rank" means civil service rank.
- (2) "Position" means the particular employment held at any particular time, which may or may not be the same as civil service rank.
- (3) Words importing masculine gender shall extend to females also.
- (4) "Salary" means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages.

[1969 ex.s. c 209 § 39; 1959 c 78 § 1.]

Notes:

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.20.010 Board of trustees--Composition.

(1) The mayor or his designated representative who shall be an elected official of the city, and the clerk, treasurer, president of the city council or mayor pro tem of each city of the first class, or in case any such city has no city council, the commissioner who has supervision of the police department, together with three active or retired members of the police department, to be elected as herein provided, in addition to the duties now required of them, are constituted a board of trustees of the relief and pension fund of the police department of each such city, and shall provide for the disbursement of the fund, and designate the beneficiaries thereof.

(2) The police department and the retired law enforcement officers of each city of the first class shall elect three members to act as members of the board. Members shall be elected for three year terms. Existing members shall continue in office until replaced as provided for in this section.

(3) Such election shall be held in the following manner. Not more than thirty nor less than fifteen days preceding the first day of June in each year, written notice of the nomination of any member or retired member of the department for membership on the board may be filed with

the secretary of the board. Each notice of nomination shall be signed by not less than five members or retired members of the department, and nothing herein contained shall prevent any member or retired member of the department from signing more than one notice of nomination. The election shall be held on a date to be fixed by the secretary during the month of June. Notice of the dates upon which notice of nomination may be filed and of the date fixed for the election of such members of the board shall be given by the secretary of the board by posting written notices thereof in a prominent place in the police headquarters. For the purpose of such election, the secretary of the board shall prepare and furnish printed or typewritten ballots in the usual form, containing the names of all persons regularly nominated for membership and shall furnish a ballot box for the election. Each member and each retired member of the police department shall be entitled to vote at the election for one nominee as a member of the board. The chief of the department shall appoint two members to act as officials of the election, who shall be allowed their regular wages for the day, but shall receive no additional compensation therefor. The election shall be held in the police headquarters of the department and the polls shall open at 7:30 a.m. and close at 8:30 p.m. The one nominee receiving the highest number of votes shall be declared elected to the board and his term shall commence on the first day of July succeeding the election. In the first election the nominee receiving the greatest number of votes shall be elected to the three year term, the second greatest to the two year term and the third greatest to the one year term. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. Ballots shall contain all names of those nominated, both active and retired. Notice of nomination and voting by retired members shall be conducted by the board.

[1988 c 164 § 3; 1973 1st ex.s. c 16 § 1; 1955 c 69 § 1; 1911 c 18 § 1; 1909 c 39 § 1; RRS § 9579.]

RCW 41.20.020 Officers of board--Annual report.

The mayor, or his designated representative, shall be ex officio chairman, the clerk shall be ex officio secretary, and the treasurer shall be ex officio treasurer of said board. The secretary of said board, at the time of making his annual reports as said city clerk, shall annually report the condition of said fund, the receipts and disbursements on account of the same, together with a complete list of the beneficiaries of said fund, and the amounts paid to each of them.

[1973 1st ex.s. c 16 § 2; 1909 c 39 § 2; RRS § 9580.]

RCW 41.20.030 Meetings--Disbursements of fund--Quorum.

The board herein provided for shall hold monthly meetings on the first Mondays of each month and upon the call of its president. It shall issue warrants, signed by its president and secretary, to the persons entitled thereto under provisions of this chapter other than RCW 41.20.050, 41.20.060, 41.20.080 and 41.20.085 for the amounts of money ordered paid to such persons from such fund by said board, which warrants shall state for what purpose such payments are made; it shall keep a record of its proceedings, which record shall be a public record; it shall, at each monthly meeting, send to the treasurer of such city a written or printed

list of all persons entitled to payment under provisions of this chapter other than RCW 41.20.050, 41.20.060, 41.20.080 and 41.20.085 from the fund herein provided for, stating the amount of such payments and for what granted, which list shall be certified to and signed by the president and secretary of such board, attested under oath. The treasurer of such city shall thereupon enter a copy of said list upon a book to be kept for that purpose and which shall be known as "the police relief and pension fund book", and the said board shall direct payment of the amounts named therein to the persons entitled thereto, out of such fund. The treasurer shall prepare and enter into such book an additional list showing those persons entitled to payment under RCW 41.20.050, 41.20.060, 41.20.080 and 41.20.085 and shall on the last day of each month issue warrants in the appropriate amounts to such persons. A majority of all the members of said board herein provided for shall constitute a quorum, and have power to transact business.

[1973 c 143 § 1; 1911 c 18 § 5; 1909 c 39 § 11; RRS § 9589.]

RCW 41.20.040 Additional powers of board.

The board shall, in addition to other powers herein granted, have power:

(1) To compel witnesses to attend and testify before it upon all matters connected with the administration of this chapter, in the same manner as provided by law for the taking of testimony in courts of record in this state, and its president or any member of the board may administer oaths to such witnesses.

(2) To provide for the payment from the fund of all necessary expenses and printing.

No compensation or emolument shall be paid to any member of the board for any duty required or performed under this chapter.

Each board may make all needful rules and regulations for its guidance in the administration of and in conformity with the provisions of this chapter.

[1955 c 69 § 2; 1909 c 39 § 12; RRS § 9590.]

RCW 41.20.050 Pension on retirement for years of service.

Whenever a person has been duly appointed, and has served honorably for a period of twenty-five years, as a member, in any capacity, of the regularly constituted police department of a city subject to the provisions of this chapter, the board, after hearing, if one is requested in writing, may order and direct that such person be retired, and the board shall retire any member so entitled, upon his written request therefor. The member so retired *hereafter shall be paid from the fund during his lifetime a pension equal to fifty percent of the amount of salary *at any time hereafter attached to the position held by the retired member for the year preceding the date of his retirement: PROVIDED, That, except as to a position higher than that of captain held for at least three calendar years prior to date of retirement, no such pension shall exceed an amount equivalent to fifty percent of the salary of captain, and all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973: PROVIDED FURTHER, That a person *hereafter retiring who has served as a member for more than twenty-five years, shall have his pension payable under this section increased by two percent of his salary per year

for each full year of such additional service to a maximum of five additional years.

Any person who has served in a position higher than the rank of captain for a minimum of three years may elect to retire at such higher position and receive for his lifetime a pension equal to fifty percent of the amount of the salary *at any time hereafter attached to the position held by such retired member for the year preceding his date of retirement: PROVIDED, That such person make the said election to retire at a higher position by September 1, 1969 and at the time of making the said election, pay into the relief and pension fund in addition to the contribution required by RCW 41.20.130: (1) an amount equal to six percent of that portion of all monthly salaries previously received upon which a sum equal to six percent has not been previously deducted and paid into the police relief and pension fund; (2) and such person agrees to continue paying into the police relief and pension fund until the date of retirement, in addition to the contributions required by RCW 41.20.130, an amount equal to six percent of that portion of monthly salary upon which a six percent contribution is not currently deducted pursuant to RCW 41.20.130.

Any person affected by this chapter who at the time of entering the armed services was a member of such police department and is a veteran as defined in RCW 41.04.005, shall have added to his period of employment as computed under this chapter, his period of war service in the armed forces, but such credited service shall not exceed five years and such period of service shall be automatically added to each member's service upon payment by him of his contribution for the period of his absence at the rate provided in RCW 41.20.130.

[1973 1st ex.s. c 181 § 3; 1969 ex.s. c 269 § 6; 1969 ex.s. c 219 § 1; 1969 ex.s. c 209 § 36; 1969 c 123 § 1; 1961 c 191 § 1; 1959 c 78 § 3; 1959 c 6 § 1. Prior: 1957 c 84 § 1; 1955 c 69 § 3; 1945 c 45 § 1; 1937 c 24 § 1; 1915 c 40 § 2; 1911 c 18 § 2; 1909 c 39 § 4; Rem. Supp. 1945 § 9582.]

Notes:

***Reviser's note:** The words "hereafter" and "at any time hereafter" first appear in the 1961 amendment.

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.20.060 Pension on retirement for duty connected disability.

Whenever any person, while serving as a policeman in any such city becomes physically disabled by reason of any bodily injury received in the immediate or direct performance or discharge of his duties as a policeman, or becomes incapacitated for service on account of any duty connected disability, such incapacity not having been caused or brought on by dissipation or abuse, of which the board shall be judge, the board may, upon his written request filed with the secretary, or without such written request, if it deems it to be for the benefit of the public, retire such person from the department, and order and direct that he be paid from the fund during his lifetime, a pension equal to fifty percent of the amount of salary *at any time hereafter attached to the position which he held in the department at the date of his retirement, but not to exceed an amount equivalent to fifty percent of the salary of captain except as to a position higher than that of captain held for at least three calendar years prior to the date of retirement in which case as to such position the provisions of RCW 41.20.050 shall apply, and all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973:

PROVIDED, That where, at the time of retirement hereafter for duty connected disability under this section, such person has served honorably for a period of more than twenty-five years as a member, in any capacity, of the regularly constituted police department of a city subject to the provisions of this chapter, the foregoing percentage factors to be applied in computing the pension payable under this section shall be increased by two percent of his salary per year for each full year of such additional service to a maximum of five additional years.

Whenever such disability ceases, the pension shall cease, and such person shall be restored to active service at the same rank he held at the time of his retirement, and at the current salary attached to said rank at the time of his return to active service.

Disability benefits provided for by this chapter shall not be paid when the policeman is disabled while he is engaged for compensation in outside work not of a police or special police nature.

[1998 c 157 § 3; 1973 1st ex.s. c 181 § 4; 1969 ex.s. c 219 § 2; 1969 ex.s. c 209 § 37; 1969 c 123 § 2; 1961 c 191 § 2; 1959 c 78 § 4; 1959 c 6 § 2; 1957 c 84 § 2; 1955 c 69 § 5; 1937 c 24 § 2; 1911 c 18 § 3; 1909 c 39 § 5; RRS § 9583.]

Notes:

***Reviser's note:** The words "at any time hereafter" first appear in the 1961 amendment.

Application--1998 c 157 § 3: "The provisions of section 3 of this act apply retrospectively to all line of duty disability retirement allowances heretofore granted under chapter 41.20 RCW." [1998 c 157 § 5.]

Purpose--1998 c 157 §§ 2-5: "The purpose of sections 2 through 5 of this act is to clarify that the intent of the legislature in enacting RCW 41.20.060, insofar as that section provides benefits to members for disabilities incurred in the line of duty, was to provide a statute in the nature of a workers' compensation act that provides compensation to employees for personal injuries incurred in the course of employment. Accordingly this act amends and divides RCW 41.20.060 into two separate sections. Section 3 of this act clarifies and emphasizes the legislature's intent that the disability benefits granted by RCW 41.20.060, as amended, are granted only to those members who become disabled by any injury or incapacity that is incurred in the line of duty. Section 4 of this act continues to provide disability retirement benefits to members who become disabled by an injury or incapacity not incurred in the line of duty." [1998 c 157 § 2.]

Effective date--1998 c 157: See note following RCW 41.40.0931.

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.20.061 Increase in presently payable benefits for service or disability authorized.

See RCW 41.26.250.

RCW 41.20.065 Pension on retirement for nonduty disability.

Whenever any person, while serving as a policeman in any such city becomes physically disabled by reason of any bodily injury not incurred in the line of duty, or becomes incapacitated for service, such incapacity not having been caused or brought on by dissipation or abuse, of which the board shall be judge, the board may, upon his written request filed with the secretary, or without such written request, if it deems it to be for the benefit of the public, retire such person from the department, and order and direct that he be paid from the fund during his

lifetime, a pension equal to fifty percent of the amount of salary at any time hereafter attached to the position which he held in the department at the date of his retirement, but not to exceed an amount equivalent to fifty percent of the salary of captain, except as to a position higher than that of captain held for at least three calendar years prior to the date of retirement, in which case as to such position the provisions of RCW 41.20.050 shall apply, and all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973: PROVIDED, That where, at the time of retirement hereafter for disability under this section, such person has served honorably for a period of more than twenty-five years as a member, in any capacity, of the regularly constituted police department of a city subject to the provisions of this chapter, the foregoing percentage factors to be applied in computing the pension payable under this section shall be increased by two percent of his salary per year for each full year of such additional service, to a maximum of five additional years.

Whenever such disability ceases, the pension shall cease, and such person shall be restored to active service at the same rank he held at the time of his retirement, and at the current salary attached to said rank at the time of his return to active service.

Disability benefits provided for by this chapter shall not be paid when the policeman is disabled while he is engaged for compensation in outside work not of a police or special police nature.

[1998 c 157 § 4.]

Notes:

Purpose--1998 c 157 §§ 2-5: See note following RCW 41.20.060.

Effective date--1998 c 157: See note following RCW 41.40.0931.

RCW 41.20.070 Certificate of disability.

No person shall be retired, as provided in RCW 41.20.060, or receive any benefit from said fund, unless there shall be filed with said board certificate of his disability, which certificate shall be subscribed and sworn to by said person, and by the city physician (if there be one) and two regularly licensed and practicing physicians of such city, and such board may require other evidence of disability before ordering such retirement and payment as aforesaid.

[1909 c 39 § 6; RRS § 9584.]

RCW 41.20.080 Pension on death before or after retirement.

Whenever any member of the police department of any such city loses his life while actually engaged in the performance of duty, or as the proximate result thereof, leaving a surviving spouse or child or children under the age of eighteen years, upon satisfactory proof of such facts made to it, the board shall order and direct that a pension, equal to one-half of the amount of the salary *at any time hereafter attached to the position which such member held in the police department at the time of his death, shall be paid to the surviving spouse for life, or if there is no surviving spouse, or if the surviving spouse shall die, then to the child or children until they are eighteen years of age: PROVIDED, That if such spouse or child or children marry,

the person so marrying shall thereafter receive no further pension from the fund: PROVIDED FURTHER, That all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973.

If any member so losing his life, leaves no spouse, or child or children under the age of eighteen years, the board shall pay the sum of two hundred dollars toward the funeral expenses of such member.

[1973 1st ex.s. c 181 § 5; 1961 c 191 § 3; 1959 c 78 § 5; 1959 c 6 § 3; 1957 c 84 § 3; 1955 c 69 § 6; 1937 c 24 § 3; 1915 c 40 § 3; 1909 c 39 § 7; RRS § 9585.]

Notes:

***Reviser's note:** The words "at any time hereafter" first appear in the 1961 amendment.

RCW 41.20.085 Pension on death before or after retirement--Surviving spouse not formerly covered--"Surviving spouse" defined.

Whenever any member of the police department of any such city shall die, or shall have heretofore died, or whenever any such member who has been heretofore retired or who is hereafter retired for length of service or a disability, shall have died, or shall die, leaving a surviving spouse or child or children under the age of eighteen years, upon satisfactory proof of such facts made to it, the board shall order and direct that a pension equal to one-third of the amount of salary at any time hereafter attached to the position held by such member in the police department at the time of his death or retirement, not to exceed one-third of the salary of captain, shall be paid to the surviving spouse during the surviving spouse's life, and in addition, to the child or children, until they are eighteen years of age, as follows: For one child, one-eighth of the salary on which such pension is based; for two children, a total of one-seventh of said salary; and for three or more children, a total of one-sixth of said salary: PROVIDED, If such spouse or child or children marry, the person so marrying shall receive no further pension from the fund. In case there is no surviving spouse, or if the surviving spouse shall die, the child or children shall be entitled to the spouse's share in addition to the share specified herein until they reach eighteen years of age. No spouse shall be entitled to any payments on the death of a retired officer unless such surviving spouse has been married to such officer for a period of at least five years prior to the date of his retirement.

As of April 25, 1973, a surviving spouse not otherwise covered by the provisions of section 2, chapter 78, Laws of 1959, shall be entitled to a pension of three hundred dollars per month.

"Surviving spouse" as used in this section means surviving female or male spouse.

[1973 1st ex.s. c 181 § 6; 1969 ex.s. c 209 § 26; 1961 c 140 § 1; 1959 c 78 § 2.]

Notes:

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.20.086 Increase in certain presently payable death benefits authorized.
See RCW 41.26.260.

RCW 41.20.090 Lump sum payment on death before or after retirement.

Whenever any member of the police department of such city shall, after five years of service in said department, die, his surviving spouse or, if there is no surviving spouse, the child or children under the age of eighteen years, or if there is no surviving spouse or child or children, then his parents or unmarried sister or sisters, minor brother or brothers, dependent upon him for support, shall be entitled to the sum of one thousand dollars from such fund. This section to apply to members who shall have been retired, for any reason, from active service under the provisions of this chapter.

[1959 c 78 § 6; 1937 c 24 § 4; 1915 c 40 § 4; 1911 c 18 § 4; 1909 c 39 § 8; RRS § 9586.]

Notes:

Construction--1937 c 24: "Nothing contained in this act shall affect or be construed as affecting the validity of any act done, obligation entered into, or rights accrued, or any proceedings had or pending under the act of which this act is amendatory." [1937 c 24 § 6; RRS § 9592-1.]

Severability--1937 c 24: "If any section or part of this act shall be held to be unconstitutional and void, such holding shall not effect [affect] the remaining portions of the act." [1937 c 24 § 7; RRS § 9592-2.]

RCW 41.20.100 Examination of disability pensioners--Emergency duty.

Any person retired for disability under this chapter may be summoned before the board herein provided for, at any time thereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of said board with reference thereto; and all members of such police force who may be retired under the provisions of this chapter, shall report to the chief of police of such city where so retired on the first Mondays of April, July, October and January of each year; and in cases of emergency, may be assigned to and shall perform such duty as said chief of police may direct, and such persons shall have no claim against such city for payment for such duty so performed.

[1909 c 39 § 9; RRS § 9587.]

RCW 41.20.110 Withdrawal of pension--Grounds.

Whenever any person who shall have received any benefit from said fund shall be convicted of any felony, or shall become an habitual drunkard, or shall fail to report himself for examination for duty as required herein, unless excused by the board, or shall disobey the requirements of said board then such board shall order and direct that such pension or allowance that may have been granted to such person shall immediately cease, and such person shall receive no further pension or allowance or benefit under this chapter, but in lieu thereof the said pension or allowance or benefit may, at the discretion of the board, be paid to those immediately dependent upon him, or to his legally appointed guardian.

[1937 c 24 § 5; 1909 c 39 § 10; RRS § 9588.]

Notes:

Construction--Severability--1937 c 24: See notes following RCW 41.20.090.

RCW 41.20.120 Sick benefits.

Whenever any active member of the police department, or any member *hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the board shall be judge, is confined in any hospital or in his or her home and, whether or not so confined, requires nursing, care, or attention, the board shall pay for the active member the necessary hospital, care, and nursing expenses of the member out of the fund; and the board may pay for the retired member hospital, care, and nursing expenses as are reasonable, in the board's discretion. The board may, at its discretion, elect, in lieu of paying some or all such expenses for the retired member, to reimburse the retired member for premiums the member has paid for medical insurance that supplements medicare, including premiums the member has paid for medicare part B coverage. The salary of the active member shall continue while he or she is necessarily confined to the hospital or home or elsewhere during the period of recuperation, as determined by the board, for a period not exceeding six months; after which period the other provisions of this chapter shall apply: PROVIDED, That the board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all his or her rights to benefits under this section: PROVIDED FURTHER, That the board shall designate the hospital and medical services available to the sick or disabled policeman.

[1992 c 22 § 2; 1961 c 191 § 4; 1959 c 78 § 7; 1955 c 69 § 7; 1915 c 40 § 5; 1911 c 18 § 6; 1909 c 39 § 13; RRS § 9591.]

Notes:

***Reviser's note:** The words "hereafter retired" first appear in the 1961 amendment.

RCW 41.20.130 Fund created.

There is created in each city subject to the provisions of this chapter a police relief and pension fund. The fund shall be constituted as follows:

A sum equal to six percent thereof shall be deducted monthly from the salary of each police officer by the city treasurer and placed in the fund, but the maximum deduction shall not exceed six percent of the monthly salary of captain.

At the time the annual tax levy of the city is made, the city council, or other legislative body, shall order the transfer of an amount of money into the fund, sufficient with the salary deductions, to meet the financial requirements thereof:

- (1) From moneys collected or received from all licenses issued;
- (2) From fines and forfeitures collected or received in money for violation of city

ordinances.

[1959 c 78 § 8; 1955 c 69 § 8; 1933 c 30 § 1; 1929 c 101 § 3; 1923 c 54 § 1; 1915 c 40 § 1; 1909 c 39 § 3; RRS § 9581.]

RCW 41.20.140 Pension payments monthly--Surplus to general fund.

Payments provided for in this chapter shall be made monthly upon proper vouchers. If at any time there is more money in the fund provided for in this chapter than is necessary for the purposes of this chapter, then such surplus shall be transferred from such fund to the general fund of the city: PROVIDED, That at all times enough money shall be kept in said fund to meet all payments provided for in this chapter.

[1911 c 18 § 7; 1909 c 39 § 14; RRS § 9592.]

RCW 41.20.150 Return of member's contributions--Option to be classified as vested member.

Whenever any member affected by this chapter terminates his employment prior to the completion of twenty-five years of service he shall receive seventy-five percent of his contributions made after *the effective date of this act and he shall not receive any contributions made prior thereto: PROVIDED, That in the case of any member who has completed twenty years of service, such member, upon termination for any cause except for a conviction of a felony, shall have the option of electing, in lieu of recovery of his contributions as herein provided, to be classified as a vested member in accordance with the following provisions:

(1) Written notice of such election shall be filed with the board within thirty days after the effective date of such member's termination;

(2) During the period between the date of his termination and the date upon which he becomes a retired member as hereinafter provided, such vested member and his spouse or dependent children shall be entitled to all benefits available under chapter 41.20 RCW to a retired member and his spouse or dependent children with the exception of the service retirement allowance as herein provided for: PROVIDED, That any claim for medical coverage under RCW 41.20.120 shall be attributable to service connected illness or injury;

(3) Any member electing to become a vested member shall be entitled at such time as he otherwise would have completed twenty-five years of service had he not terminated, to receive a service retirement allowance computed on the following basis: Two percent of the amount of salary at any time hereafter attached to the position held by the vested member for the year preceding the date of his termination, for each year of service rendered prior to the date of his termination. At such time the vested member shall be regarded as a retired member and, in addition to the retirement allowance herein provided for, shall continue to be entitled to all such other benefits as are by chapter 41.20 RCW made available to retired members.

[1969 c 123 § 3; 1955 c 69 § 4.]

Notes:

***Reviser's note:** The words "the effective date of this act" first appear in 1955 c 69 § 4, which became effective midnight June 8, 1955.

RCW 41.20.155 Return of member's contributions--Applicability.

The provisions of RCW 41.20.050, 41.20.060 and 41.20.150 shall be applicable to all members employed on June 12, 1969, and to those who shall thereafter become members, but shall not apply to any former member who has terminated his employment prior to June 12, 1969.

[1969 c 123 § 4.]

RCW 41.20.160 Credit for membership in private organization acquired by city of first class.

Any person affected by this chapter who was a member of a police organization operated by a private enterprise which police organization shall be hereafter acquired before September 1, 1959, by a city of the first class as its police department as a matter of public convenience or necessity, where it is in the public interest to retain the trained personnel of such police organization, shall have added to his period of employment as computed under this chapter his period of service with said private enterprise, except that this shall apply only to those persons who are in the service of such police organization at the time of its acquisition by the city of the first class and who remain in the service of that city until this chapter shall become applicable to such persons.

No such person shall have added to his period of employment as computed under this chapter his period of service with said private enterprise unless he or a third party shall pay to the city his contribution for the period of such service with the private enterprise, or, if he shall be entitled to any private pension or retirement benefits as a result of such service with the private enterprise, unless he agrees at the time of his employment by the city to accept a reduction in the payment of any benefits payable under this chapter that are based in whole or in part on such added service by the amount of those private pension or retirement benefits received. The rate of such contribution shall be two percent of the wage or salary of such person during that added period of service with the private enterprise before midnight, June 8, 1955, and four and one-half percent of such wage or salary after midnight, June 8, 1955. Such contributions shall be paid into the police relief and pension fund and shall be held subject to the provisions of RCW 41.20.150, except that all such contributions shall be deemed to have been made after June 8, 1955. Such contributions may be invested in investments permitted under chapter 35.39 RCW and may be kept invested until required to meet payments of benefits to such persons.

The city may receive payments for these purposes from a third party and shall make from such payments contributions with respect to such prior service as may be necessary to enable the police relief and pension fund to assume its obligations.

[1983 c 3 § 92; 1959 c 71 § 1.]

Notes:

Severability--1959 c 71: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1959 c 71 § 2.]

RCW 41.20.170 Transfer of membership.

Any former employee of a department of a city of the first class who (1) was a member of the employees' retirement system of such city, and (2) is now employed within the police department of such city, may transfer his membership from the city employees' retirement system to the city's police relief and pension fund system by filing a written request with the board of administration and the board of trustees, respectively, of the two systems.

Upon the receipt of such request, the transfer of membership to the city's police relief and pension fund system shall be made, together with a transfer of all accumulated contributions credited to such member. The board of administration of the city's employees' retirement system shall transmit to the board of trustees of the city's police relief and pension fund system a record of service credited to such member which shall be computed and credited to such member as a part of his period of employment in the city's police relief and pension fund system. For the purpose of the transfer contemplated by this section, the affected individuals shall be allowed to restore withdrawn contributions to the city employees' retirement system and reinstate their membership service records.

Any employee so transferring shall have all the rights, benefits and privileges that he would have been entitled to had he been a member of the city's police relief and pension fund system from the beginning of his employment with the city.

No person so transferring shall thereafter be entitled to any other public pension, except that provided by chapter 41.26 RCW or social security, which is based upon service with the city.

The right of any employee to file a written request for transfer of membership as set forth herein shall expire December 31, 1973.

[1973 c 143 § 2; 1969 ex.s. c 209 § 27; 1963 c 82 § 1.]

Notes:

Effective date--Severability--Construction--1969 ex.s. c 209: See RCW 41.26.3901, 41.26.3902, and 41.26.3903.

RCW 41.20.175 Transfer of service credit from firemen's pension system to city's police pension system.

A former employee of a fire department of a city of the first class who (1) was a member of the fireman's pension system created by chapters 41.16 or 41.18 RCW, and (2) is now employed within the police department of such city, will be regarded as having received membership service credit for such service to the fire department in the city's police and relief pension system at the time he recovers such service credit by paying withdrawn contributions to the Washington law enforcement officers' and fire fighters' retirement system pursuant to RCW 41.26.030(14).

[1974 ex.s. c 148 § 2.]

RCW 41.20.180 Exemption from taxation and judicial process--Exception--Assignability.

The right of a person to a pension, an annuity, or retirement allowance, or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any person under the provisions of this chapter, and any fund created hereby, and all moneys and investments and income thereof, are exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable: PROVIDED, That benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

[1979 ex.s. c 205 § 2; 1965 c 33 § 1.]

RCW 41.20.900 Construction--1959 c 6--Benefits retroactively authorized.

The provisions of *this act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as a part of *this act.

[1959 c 6 § 4.]

Notes:

***Reviser's note:** "this act" appears in chapter 6, Laws of 1959, which reenacted RCW 41.20.050, 41.20.060, and 41.20.080. These sections were subsequently amended by chapter 78, Laws of 1959.

RCW 41.20.910 Severability--1959 c 6.

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

[1959 c 6 § 5.]

**Chapter 41.22 RCW
LAW ENFORCEMENT CHAPLAINS**

Sections

41.22.010	Legislative findings.
41.22.020	Washington state patrol--Volunteer chaplain authorized.
41.22.030	Local law enforcement agencies--Volunteer chaplains authorized.
41.22.040	Volunteer chaplains--Duties.

41.22.900 Severability--1985 c 223.

Notes:

State-employed chaplains--Housing allowance: RCW 41.04.360.

RCW 41.22.010 Legislative findings.

The career of a police officer is highly stressful, resulting in unacceptable rates of divorce, alcoholism, low morale and suicide. The nature of law enforcement work requires that much information be kept confidential, unfairly burdening the emotional capacity of law enforcement personnel. Police officers may become the hidden victims of society because of their daily work with crisis.

The legislature finds that law enforcement chaplains can provide emotional support for law enforcement personnel, including counseling, stress management, and family life counseling. The legislature also finds that law enforcement chaplains can serve as a crisis intervention resource for personnel of police, fire, and corrections departments, and medical examiners or coroners.

[1985 c 223 § 1.]

RCW 41.22.020 Washington state patrol--Volunteer chaplain authorized.

The Washington state patrol may utilize the services of a volunteer chaplain.

[1985 c 223 § 2.]

RCW 41.22.030 Local law enforcement agencies--Volunteer chaplains authorized.

The legislature authorizes local law enforcement agencies to use the services of volunteer chaplains associated with an agency.

[1985 c 223 § 3.]

RCW 41.22.040 Volunteer chaplains--Duties.

The duties of a volunteer law enforcement chaplain include counseling, training, and crises intervention for law enforcement personnel, their families and the general public.

[1985 c 223 § 4.]

RCW 41.22.900 Severability--1985 c 223.

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

[1985 c 223 § 5.]

Chapter 41.24 RCW
VOLUNTEER FIRE FIGHTERS' AND RESERVE OFFICERS' RELIEF AND PENSIONS

(Formerly: Volunteer fire fighters' relief and pensions)

Sections	
41.24.010	Definitions.
41.24.020	Enrollment of fire fighters--Death, disability, retirement benefits.
41.24.030	Volunteer fire fighters' and reserve officers' relief and pension principal fund created--Composition--Investment--Use--Treasurer's report.
41.24.035	Legal, medical expenses--May be paid from earnings of the principal fund and administrative fund.
41.24.040	Fees, when payable--Interest--Effect of nonpayment.
41.24.050	Limitation of membership of volunteer fire departments--Emergency first aid and ambulance service personnel.
41.24.060	Board of trustees--How constituted.
41.24.070	Officers of board--Record of proceedings--Forms.
41.24.080	Duties of board and state board--Disbursements.
41.24.090	Meetings.
41.24.100	Compelling attendance of witnesses--Oaths--Rules and regulations.
41.24.110	Reimbursement of physicians and medical staff.
41.24.120	Hearing of application for benefits--Appeal to state board.
41.24.130	Quorum--Vote on allowance of claims.
41.24.140	Guardian may be appointed.
41.24.150	Disability payments.
41.24.160	Death benefits.
41.24.170	Retirement pensions.
41.24.172	Retirement pensions--Options--Election.
41.24.175	Disability or retirement payments--Computation according to latest legislative expression.
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41.24.180	Lump sum payments.
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41.24.245	Payments to spouse or ex spouse pursuant to court order.
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41.24.260	State board for volunteer fire fighters and reserve officers--Meetings--Quorum.
41.24.270	State board for volunteer fire fighters and reserve officers--Compensation--Travel expenses.
41.24.280	State board for volunteer fire fighters and reserve officers--Attorney general is legal advisor.
41.24.290	State board for volunteer fire fighters and reserve officers--Powers and duties.

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41.24.300	State board for volunteer fire fighters and reserve officers--Vouchers, warrants.
41.24.310	State board for volunteer fire fighters and reserve officers--Secretary, duties, compensation.
41.24.320	State board for volunteer fire fighters and reserve officers--State actuary to provide actuarial services.
41.24.330	Emergency medical service districts--Board of trustees--Creation.
41.24.340	Emergency medical service districts--Board of trustees--Officers--Annual report.
41.24.400	Reserve officers--Enrollment--Limitations.
41.24.410	Reserve officers--Credit for service.
41.24.430	Reserve officers--Eligibility for benefit.
41.24.450	Reserve officers--Municipality adoption of relief benefits.
41.24.460	Reserve officers--Board of trustees.

Notes:

Prior acts relating to volunteer firemen's relief and pensions: (1) 1935 c 121 (repealed by 1945 c 261 § 27).

(2) Benefits extended to volunteer firemen of fire protection districts: 1943 c 137.

Fire protection districts: Title 52 RCW.

Firemen's relief and pensions: Chapters 41.16, 41.18 RCW.

RCW 41.24.010 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Municipal corporation" or "municipality" includes any county, city, town or combination thereof, fire protection district, local law enforcement agency, or any emergency medical service district or other special district, authorized by law to protect life or property within its boundaries through a fire department, emergency workers, or reserve officers.

(2) "Fire department" means any regularly organized fire department or emergency medical service district consisting wholly of volunteer fire fighters, or any part-paid and part-volunteer fire department duly organized and maintained by any municipality: PROVIDED, That any such municipality wherein a part-paid fire department is maintained may by appropriate legislation permit the full-paid members of its department to come under the provisions of chapter 41.16 RCW.

(3) "Fire fighter" includes any fire fighter or emergency worker who is a member of any fire department of any municipality but shall not include full time, paid fire fighters who are members of the Washington law enforcement officers' and fire fighters' retirement system, with respect to periods of service rendered in such capacity.

(4) "Emergency worker" means any emergency medical service personnel, regulated by chapters 18.71 and 18.73 RCW, who is a member of an emergency medical service district but shall not include full-time, paid emergency medical service personnel who are members of the Washington public employees' retirement system, with respect to periods of service rendered in such capacity.

(5) "Performance of duty" or "performance of service" shall be construed to mean and include any work in and about company quarters, any fire station, any law enforcement office or

precinct, or any other place under the direction or general orders of the chief or other officer having authority to order such member to perform such work; responding to, working at, or returning from an alarm of fire, emergency call, or law enforcement duties; drill or training; or any work performed of an emergency nature in accordance with the rules and regulations of the fire department or local law enforcement agency.

(6) "State board" means the state board for volunteer fire fighters and reserve officers.

(7) "Board of trustees" or "local board" means: (a) For matters affecting fire fighters, a fire fighter board of trustees created under RCW 41.24.060; (b) for matters affecting an emergency worker, an emergency medical service district board of trustees created under RCW 41.24.330; or (c) for matters affecting reserve officers, a reserve officer board of trustees created under RCW 41.24.460.

(8) "Appropriate legislation" means an ordinance when an ordinance is the means of legislating by any municipality, and resolution in all other cases.

(9) "Reserve officer" means the same as defined by the Washington state criminal justice training commission under chapter 43.101 RCW, but shall not include full-time, paid law enforcement officers who are members of the Washington law enforcement officers' and fire fighters' retirement system, with respect to periods of service rendered in such capacity.

(10) "Participant" means: (a) For purposes of relief, any reserve officer who is or may become eligible for relief under this chapter or any fire fighter or emergency worker; and (b) for purposes of retirement pension, any fire fighter, emergency worker, or reserve officer who is or may become eligible to receive a benefit of any type under the retirement provisions of this chapter, or whose beneficiary may be eligible to receive any such benefit.

(11) "Relief" means all medical, death, and disability benefits available under this chapter that are made necessary from death, sickness, injury, or disability arising in the performance of duty, including benefits provided under RCW 41.24.110, 41.24.150, 41.24.160, 41.24.175, 41.24.220, and 41.24.230, but does not include retirement pensions provided under this chapter.

(12) "Retirement pension" means retirement payments for the performance of service, as provided under RCW 41.24.170, 41.24.172, 41.24.175, 41.24.180, and 41.24.185.

(13) "Principal fund" means the volunteer fire fighters' and reserve officers' relief and pension principal fund created under RCW 41.24.030.

(14) "Administrative fund" means the volunteer fire fighters' and reserve officers' administrative fund created under RCW 41.24.030.

[1999 c 148 § 1; 1995 c 11 § 1; 1993 c 331 § 1; 1989 c 91 § 8; 1970 ex.s. c 6 § 18; 1955 c 263 § 1; 1945 c 261 § 1; Rem. Supp. 1945 § 9578-15.]

Notes:

Effective date--1989 c 91: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 91 § 27.]

Construction--Saving--1955 c 263: "Any provisions of chapter 41.24 RCW inconsistent with the provisions of this act are hereby repealed: PROVIDED, That such repeal shall not affect any act or proceeding had or pending, under such provision repealed, but the same shall be construed and prosecuted as though such provision had not been repealed." [1955 c 263 § 12.]

Severability--1945 c 261: "If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, clause and phrase thereof irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses and phrases be declared unconstitutional." [1945 c 261 § 26.]

Construction--Saving--1945 c 261: "Chapter 121, Laws of 1935 (sections 9578-1 to 9578-11, inclusive, Remington's Revised Statutes, also Pierce's Perpetual Code 773-37 to -57), is hereby repealed: PROVIDED, That such repeal shall not be construed as affecting any act done or right acquired, or obligation incurred, or proceedings had or pending, under said act repealed, but the same shall be continued and prosecuted as though such act had not been repealed." [1945 c 261 § 27.]

Fire protection district having full paid fire department: RCW 41.16.240.

RCW 41.24.020 Enrollment of fire fighters--Death, disability, retirement benefits.

(1) Every municipal corporation maintaining and operating a regularly organized fire department shall make provision by appropriate legislation for the enrollment of every fire fighter under the relief provisions of this chapter for the purpose of providing protection for all its fire fighters and their families from death, sickness, injury, or disability arising in the performance of their duties as fire fighters. Nothing in this chapter shall prohibit any municipality from providing such additional protection for relief as it may deem proper.

(2) Any municipal corporation maintaining and operating a regularly organized fire department may make provision by appropriate legislation allowing any member of its fire department to enroll under the retirement pension provisions of this chapter.

(3) Every municipal corporation shall make provisions for the collection and payment of the fees provided under this chapter, and shall continue to make such provisions for all fire fighters who come under this chapter as long as they shall continue to be members of its fire department.

[1999 c 148 § 2; 1989 c 91 § 9; 1945 c 261 § 2; Rem. Supp. 1945 § 9578-16.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.030 Volunteer fire fighters' and reserve officers' relief and pension principal fund created--Composition--Investment--Use--Treasurer's report.

(1) The volunteer fire fighters' and reserve officers' relief and pension principal fund is created in the state treasury as a trust fund for the benefit of the participants covered by this chapter consisting of:

(a) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.

(b) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording relief provided in this chapter for fire fighters as follows:

(i) Ten dollars for each volunteer or part-paid member of its fire department;

(ii) A sum equal to one and one-half of one percent of the annual salary attached to the

rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.

(c) An annual fee for each emergency worker of an emergency medical service district paid by the district that is sufficient to pay the full costs of covering the emergency worker under the relief provisions of this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system.

(d) Where a municipal corporation has elected to make relief provisions of this chapter available to its reserve officers, an annual fee for each reserve officer paid by the municipal corporation that is sufficient to pay the full costs of covering the reserve officer under the relief provisions of this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system.

(e) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to members of its fire department, an annual fee of sixty dollars for each of its fire fighters electing to enroll, thirty dollars of which shall be paid by the municipality and thirty dollars of which shall be paid by the fire fighter. However, nothing in this section prohibits any municipality from voluntarily paying the fire fighters' fee for this retirement pension coverage.

(f) Where an emergency medical service district has elected to make the retirement pension provisions of this chapter available to its emergency workers, for each emergency worker electing to enroll: (i) An annual fee of thirty dollars shall be paid by the emergency worker; and (ii) an annual fee paid by the emergency medical service district that, together with the thirty-dollar fee per emergency worker, is sufficient to pay the full costs of covering the emergency worker under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system. However, nothing in this section prohibits any emergency medical service district from voluntarily paying the emergency workers' fees for this retirement pension coverage.

(g) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to its reserve officers, for each reserve officer electing to enroll: (i) An annual fee of thirty dollars shall be paid by the reserve officer; and (ii) an annual fee paid by the municipal corporation that, together with the thirty-dollar fee per reserve officer, is sufficient to pay the full costs of covering the reserve officer under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system. However, nothing in this section prohibits any municipal corporation from voluntarily paying the reserve officers' fees for this retirement pension coverage.

(h) Moneys transferred from the administrative fund, as provided under subsection (4) of this section, which may only be used to pay relief and retirement pensions for fire fighters.

(i) Earnings from the investment of moneys in the principal fund.

(2) The state investment board, upon request of the state treasurer shall have full power to invest, reinvest, manage, contract, sell, or exchange investments acquired from that portion of the amounts credited to the principal fund as is not, in the judgment of the state board, required

to meet current withdrawals. Investments shall be made in the manner prescribed by RCW 43.84.150 and not otherwise.

All bonds, investments, or other obligations purchased by the state investment board shall be placed in the custody of the state treasurer, and he or she shall collect the principal thereof and interest thereon when due.

The state investment board may sell any of the bonds, investments, or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

(3) The interest, earnings, and proceeds from the sale and redemption of any investments held by the principal fund and invested by the state investment board shall be credited to and form a part of the principal fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160.

Subject to restrictions contained in this chapter, all amounts credited to the principal fund shall be available for making the benefit payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund.

(4) The volunteer fire fighters' and reserve officers' administrative fund is created in the state treasury. Moneys in the fund, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation, and may be used only for operating expenses of the volunteer fire fighters' and reserve officers' relief and pension principal fund, the operating expenses of the volunteer fire fighters' and reserve officers' administrative fund, or for transfer from the administrative fund to the principal fund.

(a) Forty percent of all moneys received by the state from taxes on fire insurance premiums shall be paid into the state treasury and credited to the administrative fund.

(b) The state board shall compute a percentage of the amounts credited to the administrative fund to be paid into the principal fund.

(c) For the purpose of providing amounts to be used to defray the cost of administration of the principal and administrative funds, the state board shall ascertain at the beginning of each biennium and request from the legislature an appropriation from the administrative fund sufficient to cover estimated expenses for the biennium.

[1999 c 148 § 3. Prior: 1995 c 45 § 1; 1995 c 11 § 3; 1992 c 97 § 1; 1991 sp.s. c 13 § 98; prior: 1989 c 194 § 1; 1989 c 91 § 1; 1986 c 296 § 4; 1982 1st ex.s. c 35 § 17; 1981 c 3 § 26; 1973 1st ex.s. c 170 § 1; 1970 ex.s. c 6 § 19; 1967 c 160 § 2; 1957 c 116 § 1; 1955 c 223 § 1; 1945 c 261 § 3; Rem. Supp. 1945 § 9578-17; prior: 1935 c 121 § 1; RRS § 9578-1.]

Notes:

Effective date--1992 c 97: "This act shall take effect July 1, 1992." [1992 c 97 § 3.]

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1989 c 194 §§ 1, 2, and 3: "Sections 1, 2, and 3 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 194 § 4.]

Effective date--1989 c 91: See note following RCW 41.24.010.

Severability--Effective date--1986 c 296: See notes following RCW 48.14.020.

Severability--Effective dates--1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

Effective date--1973 1st ex.s. c 170: "This 1973 amendatory act shall take effect on July 1, 1973." [1973

1st ex.s. c 170 § 5.]

Insurance premium taxes: RCW 48.14.020.

RCW 41.24.035 Legal, medical expenses--May be paid from earnings of the principal fund and administrative fund.

The state board is authorized to pay from the earnings of the principal fund and administrative fund lawful obligations of the system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the principal fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings.

[1999 c 148 § 4; 1989 c 194 § 2.]

Notes:

Effective date--1989 c 194 §§ 1, 2, and 3: See note following RCW 41.24.030.

RCW 41.24.040 Fees, when payable--Interest--Effect of nonpayment.

On or before the first day of March of each year, every municipality shall pay such amount as shall be due from it to the principal fund, together with the amounts collected from the participants. A participant shall not forfeit his or her right to participate in the relief provisions of this chapter by reason of the municipal corporation failing to pay the amount due from it. A participant shall not forfeit his or her right to participate in the retirement pension provisions of this chapter until after March 1st of the year in which the municipality fails to make the required payments. Where a municipality has failed to pay or remit the annual fees required within the time provided, such delinquent payment shall bear interest at the rate of one percent per month from March 1st until paid or remitted. Where a participant has forfeited his or her right to participate in the retirement provisions of this chapter that participant may be reinstated so as to participate to the same extent as if all fees had been paid by the payment of all back fees with interest at the rate of one percent per month provided he or she has at all times been otherwise eligible.

[1999 c 148 § 5; 1995 c 11 § 5; 1989 c 91 § 10; 1945 c 261 § 4; Rem. Supp. 1945 § 9578-18. Prior: 1935 c 121 § 10; RRS § 9578-10.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.050 Limitation of membership of volunteer fire departments--Emergency first aid and ambulance service personnel.

Each municipal corporation shall by appropriate legislation limit the membership of its

volunteer fire department to not to exceed twenty-five fire fighters for each one thousand population or fraction thereof: PROVIDED, That any fire department maintaining and operating an emergency first aid and ambulance service requiring emergency medical training under chapter 18.73 RCW shall be permitted to increase its membership by the number of fire fighters obtaining and maintaining such qualification: PROVIDED FURTHER, That no person serving as an emergency medical technician or first aid vehicle operator under chapter 18.73 RCW shall be permitted to join the law enforcement officers' and fire fighters' retirement system solely on the basis of such service: PROVIDED FURTHER, That in no case shall the membership of any fire department coming under the provisions of this chapter be limited to less than fifteen fire fighters.

[1989 c 91 § 11; 1975-'76 2nd ex.s. c 67 § 1; 1945 c 261 § 5; Rem. Supp. 1945 § 9578-19. Prior: 1935 c 121 § 9; RRS § 9578-9.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.060 Board of trustees--How constituted.

A fire fighter board of trustees is created and established to administer this chapter in every municipal corporation maintaining a regularly organized fire department. A fire fighter board of trustees shall consist of the mayor, city clerk or comptroller, and one councilmember of such municipality, the chief of the fire department, and one member of the fire department to be elected by the members of such fire department for a term of one year and annually thereafter. Where a municipality is governed by a board, the chair, one member of the board, and the secretary or clerk thereof shall serve as members of the fire fighter board of trustees in lieu of the mayor, clerk or comptroller, and councilmember.

[1999 c 148 § 6; 1981 c 213 § 7; 1945 c 261 § 6; 1943 c 137 § 2; Rem. Supp. 1945 § 9578-20. Prior: 1935 c 121 § 2; RRS § 9578-2.]

RCW 41.24.070 Officers of board--Record of proceedings--Forms.

The mayor or chair of the board or commission of any municipality with a fire department, or his or her designee, shall be chair of the fire fighter board of trustees, and the clerk or comptroller or secretary of any such municipality, board, or commission, or his or her designee, shall be the secretary-treasurer of the board of trustees.

The secretary shall keep a public record of all proceedings and of all receipts and disbursements made by the board of trustees, shall make an annual report of its expenses and disbursements with a full list of the beneficiaries of the principal fund in the municipality, and shall make all required reports to the state board. The state board shall provide all necessary forms to fire fighter boards of trustees.

[1999 c 148 § 7; 1969 c 118 § 1; 1945 c 261 § 7; Rem. Supp. 1945 § 9578-21. Prior: 1935 c 121 § 3; RRS § 9578-3.]

RCW 41.24.080 Duties of board and state board--Disbursements.

The board of trustees of each municipal corporation shall provide for enrollment of all members of its fire department under the relief provisions of this chapter; provide for enrollment of all its reserve officers under the relief provisions of this chapter if it has extended these relief provisions to its reserve officers; receive all applications for the enrollment under the retirement pension provisions of this chapter when the municipality has extended these retirement pension provisions to its fire fighters or reserve officers; provide for disbursements of relief; determine the eligibility of fire fighters and reserve officers for retirement pensions; and pass on all claims and direct payment thereof from the principal fund to those entitled thereto. Vouchers shall be issued to the persons entitled thereto by the local board. It shall send to the state board, after each meeting, a voucher for each person entitled to payment from the principal fund, stating the amount of such payment and for what granted, which voucher shall be certified and signed by the chair and secretary of the local board. The state board, after review and approval, shall cause a warrant to be issued on the principal fund for the amount specified and approved on each voucher. However, in retirement pension cases after the applicant's eligibility for pension is verified, the state board shall authorize the regular issuance of monthly warrants or electronic transfers of funds in payment of the retirement pension without further action of the board of trustees of any such municipality.

[1999 c 148 § 8; 1989 c 91 § 12; 1969 c 118 § 2; 1955 c 263 § 9; 1945 c 261 § 8; Rem. Supp. 1945 § 9578-22. Prior: 1935 c 121 § 2; RRS § 9578-2.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.090 Meetings.

A board of trustees shall meet on the call of its chair on a regular monthly meeting day when there is business to come before it. The chair shall be required to call a meeting on any regular meeting day at the request of any member of the fund or his or her beneficiary claiming any relief or retirement pension.

[1999 c 148 § 9; 1945 c 261 § 9; Rem. Supp. 1945 § 9578-23.]

RCW 41.24.100 Compelling attendance of witnesses--Oaths--Rules and regulations.

The board of trustees herein, in addition to other powers herein granted, shall have power to compel the attendance of witnesses to testify before it on all matters connected with the operation of this chapter, and its chairman or any member of said board may administer oaths to such witnesses; to make all necessary rules and regulations for its guidance in conformity with the provisions of this chapter: PROVIDED, HOWEVER, That no compensation or emoluments shall be paid to any member of said board of trustees for any duties performed under this chapter as such trustees.

[1945 c 261 § 10; Rem. Supp. 1945 § 9578-24. Prior: 1935 c 121 § 2; RRS § 9578-2.]

RCW 41.24.110 Reimbursement of physicians and medical staff.

The local board shall make provisions for reimbursing regularly licensed practicing physicians and other medical staff who examine participants making application for membership. Physicians and other medical staff shall perform such services and operations and render all medical aid and care necessary for the recovery and treatment of participants on account of injury, sickness, or disability received while in the performance of duties and shall be paid for these services from the principal fund, but not in excess of the schedule of fees for like services approved by the director of labor and industries under Title 51 RCW. A physician or other medical staff, who is not approved by the local board, shall not receive or be entitled to any compensation from the principal fund as the private or attending physician or other private or attending medical staff of any participant. A person shall not have any right of action against the local board for the negligence of any physician or other medical staff who is reimbursed from the principal fund. Any physician or other medical staff who is reimbursed from the principal fund for providing service or care for a participant shall report his or her findings in writing to the local board and the state board.

[1999 c 148 § 10; 1989 c 91 § 13; 1953 c 253 § 6; 1949 c 145 § 1; 1945 c 261 § 11; Rem. Supp. 1949 § 9578-25. Prior: 1935 c 121 § 2; RRS § 9578-2.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.120 Hearing of application for benefits--Appeal to state board.

The local board shall initially hear and decide all applications for relief or retirement pensions under this chapter, subject to review by, or appeal by the proper person to, the state board where decision on such review or appeal shall be final and conclusive.

[1999 c 148 § 11; 1969 c 118 § 3; 1955 c 263 § 10; 1945 c 261 § 12; Rem. Supp. 1945 § 9578-27. Prior: 1935 c 121 § 2; RRS § 9578-2.]

RCW 41.24.130 Quorum--Vote on allowance of claims.

A majority of the board of trustees shall constitute a quorum, and no business shall be transacted when a majority is not present, and no claim shall be allowed where a majority of the board has not voted favorably thereon.

[1945 c 261 § 13; Rem. Supp. 1945 § 9578-27. Prior: 1935 c 121 § 2; RRS § 9578-2.]

RCW 41.24.140 Guardian may be appointed.

A local board may appoint a guardian whenever and wherever the claim of a participant or his or her beneficiary would, in the opinion of the local board, be best served by the appointment. The local board shall have full power to make and direct the payments under this chapter to any person entitled to the payments without the necessity of any guardianship or

administration proceedings, when in its judgment, it shall determine it to be for the best interests of the beneficiary.

[1999 c 148 § 12; 1989 c 91 § 14; 1945 c 261 § 14; Rem. Supp. 1945 § 9578-28. Prior: 1935 c 121 § 2; RRS § 9578-2.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.150 Disability payments.

(1)(a) Whenever a participant becomes physically or mentally disabled, injured, or sick, in consequence or as the result of the performance of his or her duties, so as to be wholly prevented from engaging in each and every duty of his or her regular occupation, business, or profession, he or she shall be paid from the principal fund monthly, an amount (i) equal to his or her monthly wage as certified by the local board or (ii) two thousand five hundred fifty dollars, whichever is less, for a period not to exceed six months, or an amount equal to his or her daily wage as certified by the local board or eighty-five dollars, whichever is less, per day for such period as is part of a month, after which period, if the member is incapacitated to such an extent that he or she is thereby prevented from engaging in any occupation or performing any work for compensation or profit or if the member sustained an injury after October 1, 1978, which resulted in the loss or paralysis of both legs or arms, or one leg and one arm, or total loss of eyesight, but such injury has not prevented the member from engaging in an occupation or performing work for compensation or profit, he or she is entitled to draw from the fund monthly, the sum of one thousand two hundred seventy-five dollars so long as the disability continues, except as *provided. However, if the participant has a wife or husband and/or a child or children unemancipated or under eighteen years of age, he or she is entitled to draw from the fund monthly the additional sums of two hundred fifty-five dollars because of the fact of his wife or her husband, and one hundred ten dollars because of the fact of each child unemancipated or under eighteen years of age, all to a total maximum amount of two thousand five hundred fifty dollars.

(b) Beginning on July 1, 2001, and each July 1st thereafter, the compensation amounts specified in (a)(ii) of this subsection shall be readjusted to reflect the percentage change in the consumer price index, calculated as follows: The index for the calendar year preceding the year in which the July calculation is made, to be known as "calendar year A," is divided by the index for the calendar year preceding calendar year A, and the resulting ratio is multiplied by the compensation amount in effect on June 30th immediately preceding the July 1st on which the respective calculation is made. For the purposes of this subsection, "index" means the same as the definition in RCW 2.12.037(1).

(2) The state board may at any time reopen the grant of such disability pension if the pensioner is gainfully employed, and may reduce it in the proportion that the annual income from such gainful employment bears to the annual income received by the pensioner at the time of his or her disability.

(3) Where a participant sustains a permanent partial disability the state board may

provide that the injured participant receive a lump sum compensation therefor to the same extent as is provided for permanent partial disability under the workers' compensation act under Title 51 RCW in lieu of such monthly disability payments.

[2001 c 134 § 1; 1999 c 148 § 13; 1996 c 57 § 1; 1989 c 91 § 2; 1987 c 185 § 10; 1986 c 163 § 1; 1981 c 21 § 1; 1975-'76 2nd ex.s. c 76 § 1; 1969 c 118 § 4; 1965 c 86 § 1; 1957 c 159 § 1; 1953 c 253 § 1; 1945 c 261 § 15; Rem. Supp. 1945 § 9578-29. Prior: 1935 c 121 § 4; RRS § 9578-4.]

NOTES:

***Reviser's note:** 1999 c 148 § 13 deleted "hereinafter."

Effective date--2001 c 134: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 2, 2001]." [2001 c 134 § 3.]

Effective date--1996 c 57: "This act shall take effect July 1, 1996." [1996 c 57 § 3.]

Effective date--1989 c 91: See note following RCW 41.24.010.

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Effective date--1981 c 21: "This amendatory act shall take effect July 1, 1981." [1981 c 21 § 6.]

Severability--1981 c 21: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 21 § 5.]

RCW 41.24.160 Death benefits.

(1)(a) Whenever a participant dies as the result of injuries received, or sickness contracted in consequence or as the result of the performance of his or her duties, the board of trustees shall order and direct the payment from the principal fund of (i) the sum of one hundred fifty-two thousand dollars to his widow or her widower, or if there is no widow or widower, then to his or her dependent child or children, or if there is no dependent child or children, then to his or her dependent parents or either of them, or if there are no dependent parents or parent, then the death benefit shall be paid to the member's estate, and (ii)(A) the sum of one thousand two hundred seventy-five dollars per month to his widow or her widower during his or her life together with the additional monthly sum of one hundred ten dollars for each child of the member, unemancipated or under eighteen years of age, dependent upon the member for support at the time of his or her death, (B) to a maximum total of two thousand five hundred fifty dollars per month.

(b) Beginning on July 1, 2001, and each July 1st thereafter, the compensation amount specified in (a)(ii)(B) of this subsection shall be readjusted to reflect the percentage change in the consumer price index, calculated as follows: The index for the calendar year preceding the year in which the July calculation is made, to be known as "calendar year A," is divided by the index for the calendar year preceding calendar year A, and the resulting ratio is multiplied by the compensation amount in effect on June 30th immediately preceding the July 1st on which the respective calculation is made. For the purposes of this subsection, "index" means the same as the definition in RCW 2.12.037(1).

(2) If the widow or widower does not have legal custody of one or more dependent children of the deceased participant or if, after the death of the participant, legal custody of such child or children passes from the widow or widower to another person, any payment on account

of such child or children not in the legal custody of the widow or widower shall be made to the person or persons having legal custody of such child or children. Such payments on account of such child or children shall be subtracted from the amount to which such widow or widower would have been entitled had such widow or widower had legal custody of all the children and the widow or widower shall receive the remainder after such payments on account of such child or children have been subtracted. If there is no widow or widower, or the widow or widower dies while there are children, unemancipated or under eighteen years of age, then the amount of one thousand two hundred seventy-five dollars per month shall be paid for the youngest or only child together with an additional one hundred ten dollars per month for each additional of such children to a maximum of two thousand five hundred fifty dollars per month until they become emancipated or reach the age of eighteen years; and if there are no widow or widower, child, or children entitled thereto, then to his or her parents or either of them the sum of one thousand two hundred seventy-five dollars per month for life, if it is proved to the satisfaction of the board that the parents, or either of them, were dependent on the deceased for their support at the time of his or her death. In any instance in subsections (1) and (2) of this section, if the widow or widower, child or children, or the parents, or either of them, marries while receiving such pension the person so marrying shall thereafter receive no further pension from the fund.

(3) In the case provided for in this section, the monthly payment provided may be converted in whole or in part into a lump sum payment, not in any case to exceed twelve thousand dollars, equal or proportionate, as the case may be, to the actuarial equivalent of the monthly payment in which event the monthly payments shall cease in whole or in part accordingly or proportionately. Such conversion may be made either upon written application to the state board and shall rest in the discretion of the state board; or the state board is authorized to make, and authority is given it to make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due to dependents. Within the rule under this subsection the amount and value of the lump sum payment may be agreed upon between the applicant and the state board.

[2001 c 134 § 2. Prior: 1999 c 148 § 14; 1999 c 117 § 5; 1998 c 151 § 1; 1996 c 57 § 2; 1989 c 91 § 3; 1986 c 163 § 2; 1981 c 21 § 2; 1975-'76 2nd ex.s. c 76 § 2; 1973 1st ex.s. c 154 § 74; 1965 c 86 § 2; 1961 c 57 § 1; 1957 c 159 § 2; 1953 c 253 § 2; 1951 c 103 § 2; 1945 c 261 § 16; Rem. Supp. 1945 § 9578-30; prior: 1935 c 121 § 6; RRS § 9578-6.]

NOTES:

Effective date--2001 c 134: See note following RCW 41.24.150.

Effective date--1998 c 151: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 1998]." [1998 c 151 § 2.]

Effective date--1996 c 57: See note following RCW 41.24.150.

Effective date--1989 c 91: See note following RCW 41.24.010.

Effective date--Severability--1981 c 21: See notes following RCW 41.24.150.

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

RCW 41.24.170 Retirement pensions.

Except as provided in RCW 41.24.410, whenever any participant has been a member and

served honorably for a period of ten years or more as an active member in any capacity, of any regularly organized fire department or law enforcement agency of any municipality in this state, and which municipality has adopted appropriate legislation allowing its fire fighters or reserve officers to enroll in the retirement pension provisions of this chapter, and the participant has enrolled under the retirement pension provisions and has reached the age of sixty-five years, the board of trustees shall order and direct that he or she be retired and be paid a monthly pension from the principal fund as provided in this section.

Whenever a participant has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and he or she has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of twenty-five years, the board of trustees shall order and direct that he or she be retired and such participant be paid a monthly pension of two hundred eighty dollars from the fund for the balance of that participant's life.

Whenever any participant has been a member, and served honorably for a period of twenty-five years or more as an active member in any capacity, of any regularly organized volunteer fire department or law enforcement agency of any municipality in this state, and the participant has reached the age of sixty-five years, and the annual retirement fee has been paid for a period of less than twenty-five years, the board of trustees shall order and direct that he or she be retired and that such participant shall receive a minimum monthly pension of thirty dollars increased by the sum of ten dollars each month for each year the annual fee has been paid, but not to exceed the maximum monthly pension provided in this section, for the balance of the participant's life.

No pension provided in this section may become payable before the sixty-fifth birthday of the participant, nor for any service less than twenty-five years: PROVIDED, HOWEVER, That:

(1) Any participant, who is older than fifty-nine years of age, less than sixty-five years of age, and has completed twenty-five years or more of service may irrevocably elect a reduced monthly pension in lieu of the pension that participant would be entitled to under this section at age sixty-five. The participant who elects this option shall receive the reduced pension for the balance of his or her life. The reduced monthly pension is calculated as a percentage of the pension the participant would be entitled to at age sixty-five. The percentage used in the calculation is based upon the age of the participant at the time of retirement as follows:

Age 60	Sixty percent
Age 61	Sixty-eight percent
Age 62	Seventy-six percent
Age 63	Eighty-four percent
Age 64	Ninety-two percent

(2) If a participant is age sixty-five or older but has less than twenty-five years of service, the participant is entitled to a reduced benefit. The reduced benefit shall be computed as follows:

(a) Upon completion of ten years, but less than fifteen years of service, a monthly pension equal to twenty percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service;

(b) Upon completion of fifteen years, but less than twenty years of service, a monthly pension equal to thirty-five percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service; and

(c) Upon completion of twenty years, but less than twenty-five years of service, a monthly pension equal to seventy-five percent of such pension as the participant would have been entitled to receive at age sixty-five after twenty-five years of service.

(3) If a participant with less than twenty-five years of service elects to retire after turning age sixty but before turning age sixty-five, the participant's retirement allowance is subject:

(a) First to the reduction under subsection (2) of this section based upon the participant's years of service; and

(b) Second to the reduction under subsection (1) of this section based upon the participant's age.

[1999 c 148 § 15; 1999 c 117 § 4; 1995 c 11 § 7; 1992 c 97 § 2; 1989 c 91 § 4; 1981 c 21 § 4; 1979 ex.s. c 157 § 1; 1973 1st ex.s. c 170 § 2; 1969 c 118 § 5; 1961 c 57 § 2; 1953 c 253 § 3; 1951 c 103 § 1; 1945 c 261 § 17; Rem. Supp. 1945 § 9578-31.]

Notes:

Reviser's note: This section was amended by 1999 c 117 § 4 and by 1999 c 148 § 15, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1992 c 97: See note following RCW 41.24.030.

Effective date--1989 c 91: See note following RCW 41.24.010.

Effective date--Severability--1981 c 21: See notes following RCW 41.24.150.

Effective date--1973 1st ex.s. c 170: See note following RCW 41.24.030.

RCW 41.24.172 Retirement pensions--Options--Election.

Before beginning to receive the retirement pension provided for in RCW 41.24.170, the participant shall elect, in a writing filed with the state board, to have the retirement pension paid under either option 1 or 2, with option 2 calculated so as to be actuarially equivalent to option 1.

(1) Option 1. A participant electing this option shall receive a monthly pension payable throughout the participant's life. However, if the participant dies before the total retirement pension paid to the participant equals the amount paid on behalf of the participant into the principal fund, then the balance shall be paid to the participant's surviving spouse, or if there be no surviving spouse, then to the participant's legal representatives.

(2) Option 2. A participant electing this option shall receive a reduced monthly pension, which upon the participant's death shall be continued throughout the life of and paid to the participant's surviving spouse named in the written election filed with the state board, however, in the event that the surviving spouse dies before the participant, the participant's monthly retirement allowance shall increase, effective the first day of the following month, to the monthly amount that would have been received had the participant elected option 1.

[1999 c 148 § 16; 1999 c 117 § 6; 1995 c 11 § 9; 1989 c 91 § 6.]

Notes:

Reviser's note: This section was amended by 1999 c 117 § 6 and by 1999 c 148 § 16, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.175 Disability or retirement payments--Computation according to latest legislative expression.

Payments to persons who are now receiving, or who may hereafter receive any disability or retirement payments under the provisions of chapter 41.24 RCW shall be computed in accordance with the last act enacted by the legislature relative thereto: PROVIDED HOWEVER, That nothing herein contained shall be construed as reducing the amount of any pension to which any fire fighter shall have been eligible to receive under the provisions of section 1, chapter 103, Laws of 1951.

[1989 c 91 § 15; 1959 c 9 § 1.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.176 Disability or retirement payments--Construction.

The provisions of *this act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as part of *this act.

[1959 c 9 § 2.]

Notes:

***Reviser's note:** "this act" appears in 1959 c 9, which is codified as RCW 41.24.175 and 41.24.176.

RCW 41.24.180 Lump sum payments.

The board of trustees of any municipal corporation shall direct payment from the principal fund in the following cases:

(1) To any participant, upon his or her request, upon attaining the age of sixty-five years, who, for any reason, is not qualified to receive the monthly retirement pension provided under this chapter and who was enrolled in the retirement provisions and on whose behalf annual fees for retirement pension were paid, a lump sum amount equal to the amount paid into the fund by the participant.

(2) If any participant who has not completed at least ten years of service dies without having requested a lump sum payment under subsection (1) or (3) of this section, there shall be paid to the participant's surviving spouse, or if there be no surviving spouse, then to such participant's legal representatives, a lump sum amount equal to the amount paid into the fund by the participant. If any participant who has completed at least ten years of service dies other than as the result of injuries received or sickness contracted in consequence or as the result of the

performance of his or her duties, without having requested a lump sum payment under subsection (1) or (3) of this section and before beginning to receive the monthly pension provided for in this chapter, the participant's surviving spouse shall elect to receive either:

(a) A monthly pension computed as provided for in RCW 41.24.170 actuarially adjusted to reflect option 2 of RCW 41.24.172 and further actuarially reduced to reflect the difference in the number of years between the participant's age at death and age sixty-five; or

(b) A lump sum amount equal to the amount paid into the principal fund by the participant and the municipality or municipalities in whose department he or she has served.

If there be no such surviving spouse, then there shall be paid to the participant's legal representatives a lump sum amount equal to the amount paid into the fund by the participant.

(3) If any participant retires from service before attaining the age of sixty-five years, the participant may make application for the return in a lump sum of the amount paid into the fund by himself or herself.

[1999 c 148 § 17; 1989 c 91 § 5; 1975-'76 2nd ex.s. c 76 § 3; 1974 ex.s. c 26 § 1. Prior: 1973 1st ex.s. c 170 § 3; 1973 1st ex.s. c 154 § 75; 1961 c 57 § 3; 1945 c 261 § 18; Rem. Supp. 1945 § 9578-22.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

Effective date--1973 1st ex.s. c 170: See note following RCW 41.24.030.

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

Conversion of death benefits to lump sum: RCW 41.24.160.

RCW 41.24.185 Lump sum payments--Monthly pension under twenty-five dollars.

Any monthly pension, payable under this chapter, which will not amount to twenty-five dollars may be converted into a lump sum payment equal to the actuarial equivalent of the monthly pension. The conversion may be made either upon written application to the state board and shall rest at the discretion of the state board; or the state board may make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due. Any person receiving a monthly payment of less than twenty-five dollars at the time of September 1, 1979, may elect, within two years, to convert such payments into a lump sum payment as herein provided.

[1989 c 91 § 7.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.190 Proof of service.

The filing of reports of enrollment shall be prima facie evidence of the service of the participants therein listed for the year of such report as to service rendered subsequent to July 6, 1945. Proof of service of fire fighters [participants] prior to that date shall be by documentary evidence, or such other evidence reduced to writing and sworn to under oath, as shall be submitted to the state board and certified by it as sufficient.

[1995 c 11 § 11; 1989 c 91 § 16; 1969 c 118 § 6; 1953 c 253 § 4; 1945 c 261 § 19; Rem. Supp. 1945 § 9578-33.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.200 Service need not be continuous nor in a single department or agency.

The aggregate term of service of any participant need not be continuous nor need it be confined to a single fire department or law enforcement agency nor a single municipality in this state to entitle such participant to a retirement pension if the participant has been duly enrolled in a fire department or law enforcement agency of a municipality which has elected to extend the retirement pension provisions of this chapter to its fire fighters or reserve officers at the time he or she becomes eligible for the retirement pension and has paid all fees prescribed. To be eligible to the full pension a participant must have an aggregate of twenty-five years service, have made twenty-five annual payments into the fund, and be sixty-five years of age at the time the participant commences drawing the pension provided for by this chapter, all of which twenty-five years service must have been in the fire department or law enforcement agency of a municipality or municipalities which have elected to extend the retirement pension provisions of this chapter to its fire fighters or reserve officers. Nothing in this chapter shall require any participant having twenty-five years active service to continue as a fire fighter or reserve officer and no participant who has completed twenty-five years of active service for which annual retirement pension fees have been paid and who continues as a fire fighter or reserve officer shall be required to pay any additional annual pension fees.

[1999 c 148 § 18; 1995 c 11 § 12; 1989 c 91 § 17; 1973 1st ex.s. c 170 § 4; 1961 c 57 § 4; 1953 c 253 § 5; 1945 c 261 § 20; Rem. Supp. 1945 § 9578-34.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

Effective date--1973 1st ex.s. c 170: See note following RCW 41.24.030.

RCW 41.24.210 Report of accident--Time limitation for filing report and claim.

A participant shall not receive relief for disability, sickness, or injuries received in the performance of his or her duties, unless there is filed with the board of trustees a report of accident, which report shall be subscribed to by the claimant, the head of the department, and the authorized attending physician, if there is one. A claim for benefits arising from disability, sickness, or injuries incurred in consequence or as a result of the performance of duties shall not be allowed by the state board unless there has been filed with it a report of accident within ninety days after its occurrence and a claim based thereon within one year after the occurrence of the accident on which such claim is based. The state board may require such other or further evidence as it deems advisable before ordering any relief.

[1999 c 148 § 19; 1989 c 91 § 18; 1969 c 118 § 7; 1957 c 159 § 3; 1945 c 261 § 21; Rem. Supp. 1945 § 9578-35.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.220 Hospitalization, surgery, etc.

Whenever any participant becomes injured, disabled, or sick in consequence or as the result of the performance of his or her duties by reason of which he or she is confined to any hospital or other medical facility, an amount not exceeding the daily ward rate of the hospital or regular fees for such service shall be allowed and paid from the principal fund. This allowance shall not be in lieu of but in addition to any other allowance provided in this chapter. In addition, the costs of surgery, medicine, laboratory fees, x-ray, special therapies, and similar additional costs shall be paid. When extended treatment, not available in the injured, disabled, or sick participant's home area, is required, the participant may be reimbursed for actual mileage to and from the place of extended treatment pursuant to RCW 43.03.060.

[1999 c 148 § 20; 1989 c 91 § 19; 1975-'76 2nd ex.s. c 76 § 4; 1965 c 86 § 3; 1961 c 57 § 5; 1957 c 159 § 4; 1953 c 253 § 7; 1951 c 103 § 3; 1949 c 145 § 2; 1945 c 261 § 22; Rem. Supp. 1949 § 9578-36. Prior: 1935 c 121 § 5; RRS § 9578-5.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.230 Funeral and burial expenses.

Upon the death of any participant resulting from injuries or sickness in consequence or as the result of the performance of his or her duties, the board of trustees shall authorize the issuance of a voucher for the sum of two thousand dollars, and upon the death of any participant who is receiving any disability payments provided for in this chapter, the board of trustees shall authorize the issuance of a voucher for the sum of five hundred dollars, to help defray the funeral expenses and burial of the participant, which voucher shall be paid in the manner provided for payment of other charges against the principal fund.

[1999 c 148 § 21; 1989 c 91 § 20; 1986 c 163 § 3; 1981 c 21 § 3; 1975-'76 2nd ex.s. c 76 § 5; 1961 c 57 § 6; 1957 c 159 § 5; 1951 c 103 § 4; 1945 c 261 § 23; Rem. Supp. 1945 § 9578-37. Prior: 1935 c 121 § 7; RRS § 9578-7.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

Effective date--Severability--1981 c 21: See notes following RCW 41.24.150.

RCW 41.24.240 Benefits not transferable or subject to legal process--Exceptions--Chapter not exclusive.

The right of any person to any future payment under the provisions of this chapter shall not be transferable or assignable at law or in equity, and none of the moneys paid or payable or the rights existing under this chapter, shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. This section shall not be applicable to any child support collection action taken under chapter 26.18, 26.23, or 74.20A RCW. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

Nothing in this chapter shall be construed to deprive any participant, eligible to receive a pension hereunder, from receiving a pension under any other act to which that participant may become eligible by reason of services other than or in addition to his or her services under this chapter.

[1995 c 11 § 13. Prior: 1989 c 360 § 26; 1989 c 91 § 21; 1979 ex.s. c 205 § 3; 1957 c 159 § 6; 1945 c 261 § 24; Rem. Supp. 1945 § 9578-38.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.245 Payments to spouse or ex spouse pursuant to court order.

(1) If the state board or the secretary makes payments to a spouse or ex spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to a court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the state board, the secretary, or the principal fund for the state board or secretary to show that the payments were made pursuant to a court decree.

(2) All payments made to a nonmember spouse or ex spouse pursuant to RCW 41.24.240 shall cease upon the death of such a nonmember spouse or ex spouse. Upon such a death, the state board and the secretary shall pay to the member his or her full monthly entitlement of benefits.

(3) The provisions of RCW 41.24.240 and this section shall apply to all court decrees of dissolution or legal separation and court-approved property settlement agreements, regardless of when entered, but shall apply only to those persons who have actually retired or who have requested withdrawal of any or all of their contributions to the principal fund: PROVIDED, That the state board or secretary shall not be responsible for making court-ordered divisions of withdrawals unless the order is filed with the state board at least thirty days before the withdrawal payment date.

[1999 c 148 § 22; 1987 c 326 § 19.]

Notes:

Effective date--1987 c 326: See RCW 41.50.901.

Mandatory assignment of retirement benefits to spouse or ex spouse: RCW 41.50.500 through 41.50.660.

RCW 41.24.250 State board for volunteer fire fighters and reserve officers--Composition--Terms--Vacancies--Oath.

The state board for volunteer fire fighters and reserve officers is created to consist of three members of a fire department covered by this chapter, no two of whom shall be from the same congressional district, to be appointed by the governor to serve overlapping terms of six years. Of members first appointed, one shall be appointed for a term of six years, one for four years, and one for two years. Upon the expiration of a term, a successor shall be appointed by the governor for a term of six years. Any vacancy shall be filled by the governor for the unexpired

term. Each member of the state board, before entering on the performance of his or her duties, shall take an oath that he or she will not knowingly violate or willingly permit the violation of any provision of law applicable to this chapter, which oath shall be filed with the secretary of state.

The state board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

[1999 c 148 § 23; 1989 c 91 § 22; 1982 1st ex.s. c 30 § 11; 1955 c 263 § 2.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.260 State board for volunteer fire fighters and reserve officers--Meetings--Quorum.

The state board shall hold regular semiannual meetings in April and October of each year, and special meetings not more than once monthly at such times and places as may be called by the chairman or by two of its members. No action shall be taken by the state board without the approval of two members.

[1955 c 263 § 3.]

RCW 41.24.270 State board for volunteer fire fighters and reserve officers--Compensation--Travel expenses.

Each member of the state board shall be compensated in accordance with RCW 43.03.240. Each member shall also receive travel expenses, including going to and from meetings of the state board or other authorized business of the state board, in accordance with RCW 43.03.050 and 43.03.060.

[1984 c 287 § 70; 1975-'76 2nd ex.s. c 34 § 87; 1969 c 118 § 8; 1955 c 263 § 4.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 41.24.280 State board for volunteer fire fighters and reserve officers--Attorney general is legal advisor.

The attorney general shall be the legal advisor for the state board.

[1999 c 148 § 24; 1955 c 263 § 5.]

RCW 41.24.290 State board for volunteer fire fighters and reserve officers--Powers and duties.

The state board shall:

- (1) Generally supervise and control the administration of this chapter;
- (2) Promulgate, amend, or repeal rules and regulations not inconsistent with this chapter for the purpose of effecting a uniform and efficient manner of carrying out the provisions of this chapter and the purposes to be accomplished thereby, and for the government of boards of trustees of the municipalities of this state in the discharge of their functions under this chapter;
- (3) Review any action, and hear and determine any appeal which may be taken from the decision of the board of trustees of any municipality made pursuant to this chapter;
- (4) Take such action as may be necessary to secure compliance of the municipalities governed by this chapter and to provide for the collection of all fees and penalties which are, or may be, due and delinquent from any such municipality;
- (5) Review the action of the board of trustees of any municipality authorizing any pension as provided by this chapter; and authorize the regular issuance of monthly warrants in payment thereof without further action of the board of trustees of such municipality;
- (6) Require periodic reports from the recipient of any benefits under this chapter for the purpose of determining their continued eligibility therefor;
- (7) Maintain such records as may be necessary and proper for the proper maintenance and operation of the principal fund, including records of the names of every person enrolled under this chapter, and provide all necessary forms to enable local boards of trustees to effectively carry out their duties as provided by this chapter;
- (8) Compel the taking of testimony from witnesses under oath before the state board, or any member or the secretary thereof, or before the local board of trustees or any member thereof, for the purpose of obtaining evidence, at any time, in connection with any claim or pension pending or authorized for payment. For such purpose the state board shall have the same power of subpoena as prescribed in RCW 51.52.100. Failure of any claimant to appear and give any testimony as herein provided shall suspend any rights or eligibility to receive payments for the period of such failure to appear and testify;
- (9) Appoint a secretary to hold office at the pleasure of the state board, fix the secretary's compensation at such sum as it shall deem appropriate, and prescribe the secretary's duties not otherwise provided by this chapter.

[1999 c 148 § 25; 1989 c 91 § 23; 1955 c 263 § 6.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.300 State board for volunteer fire fighters and reserve officers--Vouchers, warrants.

All expenses incurred by the state board shall be accomplished by vouchers signed by the secretary and one member of the state board and issued to the persons entitled thereto and sent to the proper state agency. The proper state agency shall issue a warrant on the principal fund or administrative fund for the amount specified.

[1999 c 148 § 26; 1979 ex.s. c 157 § 2; 1969 c 118 § 9; 1955 c 263 § 7.]

RCW 41.24.310 State board for volunteer fire fighters and reserve officers--Secretary, duties, compensation.

The secretary shall maintain an office at Olympia at a place to be provided, wherein the secretary shall:

- (1) Keep a record of all proceedings of the state board, which shall be public;
- (2) Maintain a record of all members of the pension fund, including such pertinent information relative thereto as may be required by law or rule of the state board;
- (3) Receive and promptly remit to the state treasurer all moneys received for the principal fund;
- (4) Transmit periodically to the proper state agency for payment all claims payable from the principal fund, stating the amount and purpose of such payment;
- (5) Certify monthly for payment a list of all persons approved for retirement pensions and the amount to which each is entitled; and
- (6) Perform such other and further duties as shall be prescribed by the state board.

The secretary shall receive such compensation as shall be fixed by the state board, together with travel expenses in carrying out his or her duties authorized by the state board in accordance with RCW 43.03.050 and 43.03.060.

[1999 c 148 § 27; 1989 c 91 § 24; 1975-'76 2nd ex.s. c 34 § 88; 1969 c 118 § 10; 1955 c 263 § 8.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 41.24.320 State board for volunteer fire fighters and reserve officers--State actuary to provide actuarial services.

The state actuary shall provide actuarial services for the state board.

[1999 c 148 § 28; 1989 c 91 § 25.]

Notes:

Effective date--1989 c 91: See note following RCW 41.24.010.

RCW 41.24.330 Emergency medical service districts--Board of trustees--Creation.

An emergency medical service district board of trustees is created to administer this chapter in every county maintaining a regularly organized emergency medical service district. The emergency medical service district board shall consist of two of the members of the county legislative authority or their designees, the county auditor or the auditor's designee, the head of the emergency medical service district, and one emergency worker from the emergency medical service district to be elected by the emergency workers of the emergency medical service district for a term of one year and annually thereafter.

The emergency medical service district shall make provisions for the collection and payment of the fees provided under this chapter and shall continue to make such provisions for all emergency workers who come under this chapter as long as they shall continue to be

members of the fire department.

[1999 c 148 § 29; 1993 c 331 § 2.]

RCW 41.24.340 Emergency medical service districts--Board of trustees--Officers--Annual report.

The chair of the county legislative authority, or the chair's designee, shall be chair of the emergency medical service district board of trustees, and the county auditor, or the auditor's designee, shall be the secretary-treasurer of the emergency medical service district board of trustees.

The secretary shall keep a public record of all proceedings and of all receipts and disbursements made by the emergency medical service district board of trustees, shall make an annual report of its expenses and disbursements with a full list of the beneficiaries of the principal fund in the county, and shall make all required reports to the state board. The state board shall provide all necessary forms to emergency worker boards of trustees.

[1999 c 148 § 30; 1993 c 331 § 3.]

RCW 41.24.400 Reserve officers--Enrollment--Limitations.

(1) Except as provided in subsection (2) of this section, any municipality may make provision by appropriate legislation and payment of fees required by RCW 41.24.030(1) solely for the purpose of enabling any reserve officer to enroll under the retirement pension provisions of this chapter or fees required under RCW 41.24.030(1) to pay for the costs of extending the relief provisions of this chapter to its reserve officers.

(2) A reserve officer is not eligible to receive a benefit under the retirement provisions of this chapter for service under chapter 41.26, 41.32, or 41.40 RCW.

(3) Every municipality shall make provisions for the collection and payment of the fees required under this chapter, and shall continue to make provisions for all reserve officers who come under this chapter as long as they continue to be employed as reserve officers.

(4) Except as provided under RCW 41.24.450, a reserve officer is not eligible to receive a benefit under the relief provisions of this chapter.

[1999 c 148 § 31; 1998 c 307 § 4; 1995 c 11 § 2.]

RCW 41.24.410 Reserve officers--Credit for service.

Credit for service as a reserve officer shall not be counted for purposes of RCW 41.24.170 except as stated in this section: Within one year of an election to cover reserve officers under the retirement provisions of this chapter, the municipality must elect, on a one-time basis, one of the following:

- (1)(a) To count credit for service only after July 23, 1995;
- (b) To pay annual fees only for service after July 23, 1995; or

(2)(a) To count credit for all service as a reserve officer, but only if the actuarial cost, as determined by the state board, is paid by the municipality. The municipality may charge reserve officers for any portion of the cost; and

(b) To pay annual fees only for service after July 23, 1995; or

(3)(a) To count credit for all service as a reserve officer, but only if the actuarial cost, as determined by the state board, is paid by the municipality. The municipality may charge reserve officers for any portion of the cost; and

(b) To pay annual fees for service prior to July 23, 1995, if:

(i) The reserve officer elects, within one year of the municipality's election under this section, to pay the annual fee plus one percent per month interest for each year of past service counted; and

(ii) The municipality pays the actuarial cost, as determined by the state board, of the benefit provided in (b) of this subsection. The municipality may charge reserve officers for any portion of the cost.

Payments under this section may be made in a lump sum or in a manner prescribed by the state board.

[1995 c 11 § 4.]

RCW 41.24.430 Reserve officers--Eligibility for benefit.

A reserve officer shall not receive a retirement benefit under this chapter unless he or she completes at least three years of service after July 23, 1995.

[1995 c 11 § 8.]

RCW 41.24.450 Reserve officers--Municipality adoption of relief benefits.

A municipality employing reserve officers may adopt appropriate legislation extending the relief provisions of this chapter to its reserve officers. The relief provisions of this chapter may not be extended to reserve officers if the municipality has extended industrial insurance coverage to its reserve officers under RCW 51.12.140 or 51.12.035(2), or any other provision of law. A municipality that adopts appropriate legislation extending the relief provisions of this chapter to its reserve officers shall enjoy the same extent of immunity from civil actions for personal injuries to its reserve officers that arises if the reserve officers were covered under Title 51 RCW.

[1999 c 148 § 32; 1998 c 307 § 1.]

RCW 41.24.460 Reserve officers--Board of trustees.

A municipality that adopts appropriate legislation extending the relief provisions of this chapter to its reserve officers shall create a reserve officer board of trustees to administer this chapter composed as follows:

(1) A county reserve officer board of trustees shall consist of the following five members: (a) Two members of the county legislative authority and the county auditor, or their designees; (b) the sheriff; and (c) one reserve officer who is elected by reserve officers of the county for an annual one-year term.

(2) Any other reserve officer board of trustees shall consist of the following five members: (a) The mayor, if one exists for the municipality, and one member of the municipality's legislative authority, or two members of the municipality's legislative authority if a mayor does not exist for the municipality, or their designees; (b) the clerk, comptroller, or chief fiscal officer of the municipality; (c) the head of the law enforcement agency; and (d) one reserve officer who is elected by reserve officers of the municipality for an annual term of one year.

(3) The secretary of the board of trustees shall keep a public record of all proceedings and of all receipts and disbursements made by the board of trustees, shall make an annual report of its expenses and disbursements with a full list of the beneficiaries of the principal fund in the municipality, and shall make all required reports to the state board. The state board shall provide the boards of trustees with all necessary forms.

[1999 c 148 § 33; 1998 c 307 § 2.]

Chapter 41.26 RCW

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

Sections

"PROVISIONS APPLICABLE TO PLAN 1 AND PLAN 2"

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41.26.921	Effective date--1977 ex.s. c 294.

Notes:

Reviser's note: Throughout chapter 41.26 RCW, the phrase "this act" has been changed to "this chapter." 1969 ex.s. c 209 consists of this chapter and RCW 41.16.145, 41.18.010, 41.18.040, 41.18.045, 41.18.060, 41.18.100, 41.18.102, 41.18.104, 41.18.130, 41.18.190, 41.20.005, 41.20.085, 41.20.170, 41.20.050, and 41.20.060.

Numerical designations--1998 c 341: "(1) The legislature declares that changing the numerical designation of the different retirement plans within the retirement systems from Roman numerals to Arabic numerals is of no substantive importance.

(2) The code reviser, under RCW 1.08.025, is directed to change the numerical designation of the retirement plans as follows:

(a) Where "I" is used, replace with "1";

(b) Where "II" is used, replace with "2"; and

(c) Where "III" is used, replace with "3." [1998 c 341 § 709.] This section takes effect September 1, 2000.

Emergency medical technician or first aid vehicle operator prohibited from joining system solely on basis of such service: RCW 41.24.050.

"PROVISIONS APPLICABLE TO PLAN 1 AND PLAN 2"

RCW 41.26.005 Provisions applicable to "plan 1" and "plan 2."

RCW 41.26.010 through 41.26.062 shall apply to members of plan 1 and plan 2.

[1992 c 72 § 2; 1991 c 35 § 12; 1989 c 273 § 10; 1985 c 102 § 5; 1979 ex.s. c 249 § 1; 1977 ex.s. c 294 § 18.]

Notes:

Recodification ratified--Correction of statutory references--1992 c 72: "(1) The recodification of retirement provisions adopted by the code reviser pursuant to the directives of chapter 35, Laws of 1991, is hereby ratified.

(2) The code reviser shall correct all statutory references to sections recodified pursuant to chapter 35, Laws of 1991." [1992 c 72 § 1.]

Intent--1991 c 35: "(1) The legislature intends to reorganize chapter 41.26 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the Washington law enforcement officers' and fire fighters' retirement system plan 1, the Washington law enforcement officers' and fire fighters' retirement system plan 2, and those provisions relating to both plan 1 and plan 2 into three separate subchapters within chapter 41.26 RCW; (b) decodify or repeal obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.26 RCW or other statutory

provisions or rules adopted under those provisions.

(2) The legislature intends to reorganize chapter 41.32 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the Washington teachers' retirement system plan 1, the Washington teachers' retirement system plan 2, and both plan 1 and plan 2 into three separate subchapters within chapter 41.32 RCW; (b) decodify or repeal obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.32 RCW or other statutory provisions or rules adopted under those provisions.

(3) The legislature intends to reorganize chapter 41.40 RCW. The goals of this reorganization are to: (a) Arrange provisions relating to the public employees' retirement system plan 1, the public employees' retirement system plan 2, and both plan 1 and plan 2 into three separate subchapters within chapter 41.40 RCW; (b) decodify obsolete statutes; (c) update references to the retirement board to refer to either the department of retirement systems or the director of that department, as appropriate; (d) make all references gender neutral; and (e) recodify administrative provisions. The legislature does not intend to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of chapter 41.40 RCW or other statutory provisions or rules adopted under those provisions.

(4) This act is technical in nature and shall not have the effect of terminating or in any way modifying any rights, proceedings, or liabilities, civil or criminal, which exist on July 28, 1991." [1991 c 35 § 1.]

Severability--1989 c 273: See RCW 41.45.900.

Purpose--Retrospective application--1985 c 102: See notes following RCW 41.26.120.

RCW 41.26.010 Short title.

This chapter shall be known and cited as the "Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act".

[1969 ex.s. c 209 § 1.]

RCW 41.26.020 Purpose of chapter.

The purpose of this chapter is to provide for an actuarial reserve system for the payment of death, disability, and retirement benefits to law enforcement officers and fire fighters, and to beneficiaries of such employees, thereby enabling such employees to provide for themselves and their dependents in case of disability or death, and effecting a system of retirement from active duty.

[1969 ex.s. c 209 § 2.]

RCW 41.26.030 Definitions.

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

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and,

except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or fire fighter:

(i) The legislative authority of any city, town, county, or district;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency; or

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996.

(3) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2)) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (3)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(4) "Fire fighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) Supervisory fire fighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (4)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (4)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fire fighter; and

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

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

(6) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

(7)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically handicapped as determined by the department, except a handicapped person in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in

subsections (3) and (4) of this section.

(11)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(14)(a) "Service" for plan 1 members, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW

41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's

future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(20) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a

hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

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

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

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

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

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

(28) "Plan 1" means the law enforcement officers' and fire fighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(29) "Plan 2" means the law enforcement officers' and fire fighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

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

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

(32) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources, fish and wildlife, and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

[1996 c 178 § 11; 1996 c 38 § 2. Prior: 1994 c 264 § 14; 1994 c 197 § 5; prior: 1993 c 502 § 1; 1993 c 322 § 1;

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1991 sp.s. c 12 § 1; prior: (1991 sp.s. c 11 § 3 repealed by 1991 sp.s. c 12 § 3); 1991 c 365 § 35; 1991 c 343 § 14; 1991 c 35 § 13; 1987 c 418 § 1; 1985 c 13 § 5; 1984 c 230 § 83; 1981 c 256 § 4; 1979 ex.s. c 249 § 2; 1977 ex.s. c 294 § 17; 1974 ex.s. c 120 § 1; 1972 ex.s. c 131 § 1; 1971 ex.s. c 257 § 6; 1970 ex.s. c 6 § 1; 1969 ex.s. c 209 § 3.]

Notes:

Reviser's note: This section was amended by 1996 c 38 § 2 and by 1996 c 178 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1996 c 178: See note following RCW 18.35.110.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Effective date--1993 c 502: "This act shall take effect January 1, 1994." [1993 c 502 § 6.]

Application--1993 c 322 § 1: "Section 1 of this act shall apply retroactively to January 1, 1993." [1993 c 322 § 2.]

Effective date--1993 c 322: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 322 § 3.]

Severability--1991 c 365: See note following RCW 41.50.500.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Purpose--Application--Retrospective application--1985 c 13: See notes following RCW 41.04.445.

Purpose--1981 c 256: "It is the primary purpose of this act to assure that the provisions of RCW 41.04.250 and 41.04.260 and of any deferred compensation plan established thereunder, are in conformity with the requirements of 26 U.S.C. Sec. 457 and any other requirements of federal law relating to such a deferred compensation plan. This act shall be construed in such a manner as to accomplish this purpose." [1981 c 256 § 1.]

Severability--1981 c 256: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 256 § 7.]

Severability--1974 ex.s. c 120: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 120 § 15.]

Severability--1972 ex.s. c 131: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 131 § 12.]

Purpose--1971 ex.s. c 257: "It is the purpose of this act to provide minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act, for the improvement of the public service, and to safeguard the integrity and actuarial soundness of their pension systems, and to improve their retirement and pension systems and related provisions." [1971 ex.s. c 257 § 1.]

Severability--1971 ex.s. c 257: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 257 § 22.]

RCW 41.26.035 "Minimum medical and health standards" defined.

The term "minimum medical and health standards" means minimum medical and health standards adopted by the department under this chapter.

[1991 c 35 § 14; 1971 ex.s. c 257 § 2.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.040 System created--Membership--Funds.

The Washington law enforcement officers' and fire fighters' retirement system is hereby created for fire fighters and law enforcement officers.

(1) Notwithstanding RCW 41.26.030(8), all fire fighters and law enforcement officers employed as such on or after March 1, 1970, on a full time fully compensated basis in this state shall be members of the retirement system established by this chapter with respect to all periods of service as such, to the exclusion of any pension system existing under any prior act.

(2) Any employee serving as a law enforcement officer or fire fighter on March 1, 1970, who is then making retirement contributions under any prior act shall have his membership transferred to the system established by this chapter as of such date. Upon retirement for service or for disability, or death, of any such employee, his retirement benefits earned under this chapter shall be computed and paid. In addition, his benefits under the prior retirement act to which he was making contributions at the time of this transfer shall be computed as if he had not transferred. For the purpose of such computations, the employee's creditability of service and eligibility for service or disability retirement and survivor and all other benefits shall continue to be as provided in such prior retirement act, as if transfer of membership had not occurred. The excess, if any, of the benefits so computed, giving full value to survivor benefits, over the benefits payable under this chapter shall be paid whether or not the employee has made application under the prior act. If the employee's prior retirement system was the Washington public employees' retirement system, payment of such excess shall be made by that system; if the employee's prior retirement system was the state-wide city employees' retirement system, payment of such excess shall be made by the employer which was the member's employer when his transfer of membership occurred: PROVIDED, That any death in line of duty lump sum benefit payment shall continue to be the obligation of that system as provided in RCW 41.44.210; in the case of all other prior retirement systems, payment of such excess shall be made by the employer which was the member's employer when his transfer of membership occurred.

(3) All funds held by any firemen's or policemen's relief and pension fund shall remain in that fund for the purpose of paying the obligations of the fund. The municipality shall continue to levy the dollar rate as provided in RCW 41.16.060, and this dollar rate shall be used for the purpose of paying the benefits provided in chapters 41.16 and 41.18 RCW. The obligations of chapter 41.20 RCW shall continue to be paid from whatever financial sources the city has been using for this purpose.

[1991 c 35 § 15; 1989 c 273 § 11; 1979 ex.s. c 45 § 1; 1974 ex.s. c 120 § 7; 1973 1st ex.s. c 195 § 44; 1970 ex.s. c 6 § 2; 1969 ex.s. c 209 § 4.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1989 c 273: See RCW 41.45.900.

Effective date--1979 ex.s. c 45: "This amendatory act is necessary for the immediate preservation of the

public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979." [1979 ex.s. c 45 § 8.]

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 41.26.045 Minimum medical and health standards.

(1) Notwithstanding any other provision of law after February 19, 1974 no law enforcement officer or fire fighter, may become eligible for coverage in the pension system established by this chapter, until the individual has met and has been certified as having met minimum medical and health standards: PROVIDED, That an elected sheriff or an appointed chief of police or fire chief, shall not be required to meet the age standard: PROVIDED FURTHER, That in cities and towns having not more than two law enforcement officers and/or not more than two fire fighters and if one or more of such persons do not meet the minimum medical and health standards as required by the provisions of this chapter, then such person or persons may join any other pension system that the city has available for its other employees: AND PROVIDED FURTHER, That for one year after February 19, 1974 any such medical or health standard now existing or hereinafter adopted, insofar as it establishes a maximum age beyond which an applicant is to be deemed ineligible for coverage, shall be waived as to any applicant for employment or reemployment who is otherwise eligible except for his age, who has been a member of any one or more of the retirement systems created by chapter 41.20 of the Revised Code of Washington and who has restored all contributions which he has previously withdrawn from any such system or systems.

(2) This section shall not apply to persons who initially establish membership in the retirement system on or after July 1, 1979.

[1979 ex.s. c 249 § 3; 1977 ex.s. c 294 § 20; 1974 ex.s. c 120 § 8; 1971 ex.s. c 257 § 3.]

Notes:

Reviser's note: "this 1971 act" [1971 ex.s. c 257] translated to "this chapter." The act consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, and 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030, and 41.48.050.

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.046 Minimum medical and health standards--Board to adopt--Publication and distribution--Employer certification procedures.

By July 31, 1971, the *retirement board shall adopt minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act. In adopting such standards the *retirement board shall consider existing standards recommended by the international association of chiefs of police and the international association of fire fighters, and shall adopt equal or higher standards, together with

appropriate standards and procedures to insure uniform compliance with this chapter. The standards when adopted shall be published and distributed to each employer, and each employer shall adopt certification procedures and such other procedures as are required to insure that no law enforcement officer or fire fighter receives membership coverage unless and until he has actually met minimum medical and health standards: PROVIDED, That an elected sheriff or an appointed chief of police, fire chief, or director of public safety shall not be required to meet the age standard. The *retirement board may amend the minimum medical and health standards as experience indicates, even if the standards as so amended are lower or less rigid than those recommended by the international associations mentioned above. The cost of the medical examination contemplated by this section is to be paid by the employer.

[1987 c 418 § 2; 1977 ex.s. c 294 § 21; 1974 ex.s. c 120 § 12; 1972 ex.s. c 131 § 2; 1971 ex.s. c 257 § 4.]

Notes:

Reviser's note: (1) "this 1971 act" [1971 ex.s. c 257] translated to "this chapter." The act consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, and 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030, and 41.48.050.

*(2) Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

Severability--1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.047 Minimum medical and health standards--Exemptions--Employer may adopt higher standards.

Nothing in RCW 41.26.035, 41.26.045 and 41.26.046 shall apply to any fire fighters or law enforcement officers who are employed as such on or before August 1, 1971, as long as they continue in such employment; nor to promotional appointments after becoming a member in the police or fire department of any employer nor to the reemployment of a law enforcement officer or fire fighter by the same or a different employer within six months after the termination of his employment, nor to the reinstatement of a law enforcement officer or fire fighter who has been on military or disability leave, disability retirement status, or leave of absence status. Nothing in this chapter shall be deemed to prevent any employer from adopting higher medical and health standards than those which are adopted by the *retirement board.

[1972 ex.s. c 131 § 3; 1971 ex.s. c 257 § 5.]

Notes:

Reviser's note: (1) "this act" [1971 ex.s. c 257] translated to "this chapter." The act consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, and 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030, and 41.48.050.

*(2) Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board were transferred to the director of retirement systems by RCW 41.26.051, which has been decodified. See

Table of Disposition of Former RCW Sections, Volume 0.

Severability--1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.048 Special death benefit--Death in the course of employment.

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

[1996 c 226 § 1.]

Notes:

Effective date--1996 c 226: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 28, 1996]." [1996 c 226 § 4.]

RCW 41.26.053 Exemption from judicial process, taxes--Exceptions--Deduction for insurance upon request.

(1) Subject to subsections (2) and (3) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, to the return of accumulated contributions, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable.

(2) On the written request of any person eligible to receive benefits under this section, the department may deduct from such payments the premiums for life, health, or other insurance. The request on behalf of any child or children shall be made by the legal guardian of such child or children. The department may provide for such persons one or more plans of group insurance, through contracts with regularly constituted insurance carriers or health care service contractors.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay

benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

[1991 c 365 § 20; 1991 c 35 § 25; 1989 c 360 § 24; 1987 c 326 § 22; 1979 ex.s. c 205 § 4; 1971 ex.s. c 257 § 12; 1970 ex.s. c 6 § 15; 1969 ex.s. c 209 § 23. Formerly RCW 41.26.180.]

Notes:

Reviser's note: This section was amended by 1991 c 35 § 25 and by 1991 c 365 § 20, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1991 c 365: See note following RCW 41.50.500.

Intent--1991 c 35: See note following RCW 41.26.005.

Effective date--1987 c 326: See RCW 41.50.901.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.056 No bond required on appeal to court.

No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a decision of the director affecting such claimant's right to retirement or disability benefits.

[1984 c 184 § 18; 1971 c 81 § 103; 1969 ex.s. c 209 § 21. Formerly RCW 41.26.230.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.26.057 Benefit calculation--Limitation.

(1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section.

[1995 c 145 § 1.]

RCW 41.26.059 Establishing, restoring service credit.

Notwithstanding any provision to the contrary, persons who fail to:

(1) Establish allowable membership service not previously credited;

(2) Restore all or a part of that previously credited membership service represented by withdrawn contributions; or

(3) Restore service credit represented by a lump sum payment in lieu of benefits, before the deadline established by statute, may do so under the conditions set forth in RCW 41.50.165.

[1998 c 17 § 1.]

RCW 41.26.061 Disability retirement--Criminal conduct.

A member shall not receive a disability retirement benefit under RCW 41.26.120, 41.26.125, 41.26.130, or 41.26.470 if the disability is the result of criminal conduct by the member committed after April 21, 1997.

[1997 c 103 § 1.]

Notes:

Severability--1997 c 103: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 103 § 4.]

Effective date--1997 c 103: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 21, 1997]." [1997 c 103 § 5.]

RCW 41.26.062 Falsification--Penalty.

Any employer, member or beneficiary who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement system in an attempt to defraud the retirement system, shall be guilty of a felony.

[1972 ex.s. c 131 § 10. Formerly RCW 41.26.300.]

Notes:

Severability--1972 ex.s. c 131: See note following RCW 41.26.030.

"PLAN 1"

RCW 41.26.075 Provisions applicable to plan 1.

RCW 41.26.080 through 41.26.3903 shall apply only to members of plan 1.

[1992 c 72 § 3; 1991 c 35 § 101.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.26.080 Funding total liability of plan 1 system.

(1) Except as set forth under subsection (2) of this section, the total liability of the plan 1 system shall be funded as follows:

(a) Every plan 1 member shall have deducted from each payroll a sum equal to six percent of his or her basic salary for each pay period.

(b) Every employer shall contribute monthly a sum equal to six percent of the basic salary of each plan 1 employee who is a member of this retirement system. The employer shall transmit the employee and employer contributions with a copy of the payroll to the retirement system monthly.

(c) The remaining liabilities of the plan 1 system shall be funded as provided in chapter 41.45 RCW.

(d) Every member shall be deemed to consent and agree to the contribution made and provided for herein, and shall receipt in full for his or her salary or compensation. Payment less said contributions shall be a complete discharge of all claims and demands whatsoever for the services rendered by such person during the period covered by such payments, except his or her claim to the benefits to which he or she may be entitled under the provisions of this chapter.

(2) No employer or member contribution is required after June 30, 2000, unless the most recent valuation study for law enforcement officers' and fire fighters' retirement system plan 1 indicates the plan has unfunded liabilities.

[2000 2nd sp.s. c 1 § 907; 1991 c 35 § 17; 1989 c 273 § 13; 1969 ex.s. c 209 § 8.]

Notes:

Severability--Effective date--2000 2nd sp.s. c 1: See notes following RCW 41.05.143.

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1989 c 273: See RCW 41.45.900.

RCW 41.26.090 Retirement for service.

Retirement of a member for service shall be made by the department as follows:

(1) Any member having five or more service credit years of service and having attained the age of fifty years shall be eligible for a service retirement allowance and shall be retired upon the member's written request effective the first day following the date upon which the member is separated from service.

(2) Any member having five or more service credit years of service, who terminates his or her employment with any employer, may leave his or her contributions in the fund. Any employee who so elects, upon attaining age fifty, shall be eligible to apply for and receive a service retirement allowance based on his or her years of service, commencing on the first day following his or her attainment of age fifty.

(3) Any member selecting optional vesting under subsection (2) of this section with less than twenty service credit years of service shall not be covered by the provisions of RCW 41.26.150, and the member's survivors shall not be entitled to the benefits of RCW 41.26.160 unless his or her death occurs after he or she has attained the age of fifty years. Those members selecting this optional vesting with twenty or more years service shall not be covered by the provisions of RCW 41.26.150 until the attainment of the age of fifty years. A member selecting this optional vesting, with less than twenty service credit years of service credit, who dies prior to attaining the age of fifty years, shall have paid from the Washington law enforcement officers' and fire fighters' retirement fund, to such member's surviving spouse, if any, otherwise to such beneficiary as the member shall have designated in writing, or if no such designation has been made, to the personal representative of his or her estate, a lump sum which is equal to the amount of such member's accumulated contributions plus accrued interest. If the vested member has twenty or more service credit years of service credit the surviving spouse or children shall then become eligible for the benefits of RCW 41.26.160 regardless of the member's age at the

time of his or her death, to the exclusion of the lump sum amount provided by this subsection.

(4) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty and may not thereafter be employed as a law enforcement officer or fire fighter: PROVIDED, That for any member who is elected or appointed to the office of sheriff, chief of police, or fire chief, his or her election or appointment shall be considered as a waiver of the age sixty provision for retirement and nonemployment for whatever number of years remain in his or her present term of office and any succeeding periods for which he or she may be so elected or appointed. The provisions of this subsection shall not apply to any member who is employed as a law enforcement officer or fire fighter on March 1, 1970.

[1991 sp.s. c 11 § 4. Prior: 1991 c 343 § 15; 1991 c 35 § 18; 1977 ex.s. c 294 § 22; 1972 ex.s. c 131 § 6; 1971 ex.s. c 257 § 8; 1970 ex.s. c 6 § 4; 1969 ex.s. c 209 § 9.]

Notes:

Purpose--1991 sp.s. c 11: "The purpose of this act is to correct certain double amendments created during the 1991 regular session that the code reviser's office is unable to merge under RCW 1.12.025. The session laws repealed by section 2 of this act are strictly technical in nature and affect no policy. Sections *3 through 6 of this act are being reenacted to effectuate a legislative directive contained in 1991 c 35 s 2." [1991 sp.s. c 11 § 1.]

***Reviser's note:** 1991 sp.s. c 11 § 3 was repealed by 1991 sp.s. c 12 § 3.

Effective dates--1991 sp.s. c 11: "(1) Sections *3 through 5 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect September 1, 1991.

(2) Sections 1, 2, and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately." [1991 sp.s. c 11 § 7.]

***Reviser's note:** 1991 sp.s. c 11 § 3 was repealed by 1991 sp.s. c 12 § 3.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.100 Allowance on retirement for service.

A member upon retirement for service shall receive a monthly retirement allowance computed according to his or her completed creditable service credit years of service as follows: Five years but under ten years, one-twelfth of one percent of his or her final average salary for each month of service; ten years but under twenty years, one-twelfth of one and one-half percent of his or her final average salary for each month of service; and twenty years and over one-twelfth of two percent of his or her final average salary for each month of service: PROVIDED, That the recipient of a retirement allowance who shall return to service as a law enforcement officer or fire fighter shall be considered to have terminated his or her retirement status and he or she shall immediately become a member of the retirement system with the status of membership he or she had as of the date of retirement. Retirement benefits shall be suspended during the period of his or her return to service and he or she shall make contributions and receive service credit. Such a member shall have the right to again retire at any time and his or

her retirement allowance shall be recomputed, and paid, based upon additional service rendered and any change in final average salary: PROVIDED FURTHER, That no retirement allowance paid pursuant to this section shall exceed sixty percent of final average salary, except as such allowance may be increased by virtue of RCW 41.26.240, as now or hereafter amended.

[1991 c 343 § 16; 1974 ex.s. c 120 § 3; 1972 ex.s. c 131 § 7; 1971 ex.s. c 257 § 9; 1970 ex.s. c 6 § 5; 1969 ex.s. c 209 § 10.]

Notes:

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

Severability--1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

**RCW 41.26.110 City and county disability boards
authorized--Composition--Terms--Reimbursement for travel expenses--Duties.**

(1) All claims for disability shall be acted upon and either approved or disapproved by either type of disability board hereafter authorized to be created.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by said cities and composed of the following five members: Two members of the city legislative body to be appointed by the mayor, one active or retired fire fighter to be elected by the fire fighters employed by or retired from the city, one active or retired law enforcement officer to be elected by the law enforcement officers employed by or retired from the city and one member from the public at large who resides within the city to be appointed by the other four members heretofore designated in this subsection. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. Each of the elected members shall serve a two year term. The members appointed pursuant to this subsection shall serve for two year terms: PROVIDED, That cities of the first class only, shall retain existing firemen's pension boards established pursuant to RCW 41.16.020 and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by fire fighters or law enforcement officers as provided under the Washington law enforcement officers' and fire fighters' retirement system act.

(b) Each county shall establish a disability board having jurisdiction over all members residing in the county and not employed by a city in which a disability board is established. The county disability board so created shall be composed of five members to be chosen as follows: One member of the legislative body of the county to be appointed by the county legislative body, one member of a city or town legislative body located within the county which does not contain a city disability board established pursuant to subsection (1)(a) of this section to be chosen by a majority of the mayors of such cities and towns within the county which does not contain a city disability board, one fire fighter or retired fire fighter to be elected by the fire fighters employed or retired in the county who are not employed by or retired from a city in which a disability

board is established, one law enforcement officer or retired law enforcement officer to be elected by the law enforcement officers employed in or retired from the county who are not employed by or retired from a city in which a disability board is established, and one member from the public at large who resides within the county but does not reside within a city in which a city disability board is established, to be appointed by the other four members heretofore designated in this subsection. However, in counties with a population less than sixty thousand, the member of the disability board appointed by a majority of the mayors of the cities and towns within the county that do not contain a city disability board must be a resident of one of the cities and towns but need not be a member of a city or town legislative body. Retired members who are subject to the jurisdiction of the board have both the right to elect and the right to be elected under this section. All members appointed or elected pursuant to this subsection shall serve for two year terms.

(2) The members of both the county and city disability boards shall not receive compensation for their service upon the boards but said members shall be reimbursed by their respective county or city for all expenses incidental to such service as to the amount authorized by law.

(3) The disability boards authorized for establishment by this section shall perform all functions, exercise all powers, and make all such determinations as specified in this chapter.

[2000 c 234 § 1; 1988 c 164 § 1; 1982 c 12 § 1; 1974 ex.s. c 120 § 9; 1970 ex.s. c 6 § 6; 1969 ex.s. c 219 § 3; 1969 ex.s. c 209 § 11.]

Notes:

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

RCW 41.26.115 Director of retirement systems to adopt rules governing disability boards--Remand of orders not in accordance with rules.

(1) The director of retirement systems shall adopt rules, in accordance with chapter 34.05 RCW, under which each disability board shall execute its disability retirement duties under this chapter. The rules shall include, but not be limited to, the following:

(a) Standards governing the type and manner of presentation of medical, employability, and other evidence before disability boards; and

(b) Standards governing the necessity and frequency of medical and employability reexaminations of persons receiving disability benefits.

(2) If the director determines that an order or determination of a disability board was not processed in accordance with the rules established under this section, the director may remand the order or determination for further proceedings consistent with the rules.

[1981 c 294 § 1.]

Notes:

Severability--1981 c 294: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 294 § 16.]

RCW 41.26.120 Retirement for disability incurred in the line of duty.

Any member, regardless of age or years of service may be retired by the disability board, subject to approval by the director as hereinafter provided, for any disability incurred in the line of duty which has been continuous since his or her discontinuance of service and which renders the member unable to continue service. No disability retirement allowance shall be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of his or her application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the full monthly salary and shall continue to receive all other benefits provided to active employees from the employer for such period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the beneficiary at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he or she is or is believed to be physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of said member, or a person acting in his or her behalf, stating that said member is disabled, either physically or mentally: PROVIDED, That no such application shall be considered unless said member or someone in his or her behalf, in case of the incapacity of a member, shall have filed the application within a period of one year from and after the discontinuance of service of said member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability has been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter as now or hereafter amended, granting the member a disability retirement allowance; otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: PROVIDED, That in any order granting a duty disability retirement allowance, the disability board shall make a finding that the disability was incurred in line of duty.

(3) Every order of a disability board granting a duty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or

- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish, to the disability board, that he or she is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability will be in existence for a period of at least six months may waive the six-month period of disability leave and be immediately granted a duty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section.

[1991 c 35 § 19; 1986 c 176 § 5; 1985 c 102 § 2; 1981 c 294 § 2; 1974 ex.s. c 120 § 10; 1972 ex.s. c 131 § 8; 1970 ex.s. c 6 § 7; 1969 ex.s. c 209 § 12.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Purpose--1985 c 102: "As expressed in RCW 41.26.270, the intent of the legislature in enacting the law enforcement officers' and fire fighters' retirement system was to provide in RCW 41.26.120 a statute in the nature of a workers' compensation act which provides compensation to employees for personal injuries or sickness incurred in the course of employment. The sole purpose of this 1985 act is to clarify that intent." [1985 c 102 § 1.]

Retrospective application--1985 c 102: "The provisions of this 1985 act apply retrospectively to all disability leave and disability retirement allowances granted under chapter 41.26 RCW on or after March 1, 1970." [1985 c 102 § 7.]

Severability--1981 c 294: See note following RCW 41.26.115.

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

Severability--1972 ex.s. c 131: See note following RCW 41.26.030.

Disability leave supplement for law enforcement officers and fire fighters: RCW 41.04.500 through 41.04.550.

RCW 41.26.125 Retirement for disability not incurred in the line of duty.

Any member, regardless of age or years of service, may be retired by the disability board, subject to approval by the director as provided in this section, for any disability not incurred in the line of duty which has been continuous since discontinuance of service and which renders the member unable to continue service. No disability retirement allowance may be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of the member's application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the member's full monthly salary and shall continue to receive all other benefits provided to active employees from the member's employer for the period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the member at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

- (1) Any member who believes he or she is, or is believed to be, physically or mentally

disabled shall be examined by such medical authority as the disability board shall employ, upon application of the member, or a person acting in the member's behalf, stating that the member is disabled, either physically or mentally: PROVIDED, That no such application shall be considered unless the member or someone acting in the member's behalf, in case of the incapacity of a member, has filed the application within a period of one year from and after the discontinuance of service of the member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability had been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter, granting the member a disability retirement allowance. Otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: PROVIDED, That in any order granting a nonduty disability retirement allowance, the disability board shall make a finding that the disability was not incurred in the line of duty.

(3) Every order of a disability board granting a nonduty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was not incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish to the disability board that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability will be in existence for a period of at least six months, may waive the six-month period of disability leave and be immediately granted a nonduty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section.

[1986 c 176 § 6; 1985 c 102 § 3.]

Notes:

Purpose--Retrospective application--1985 c 102: See notes following RCW 41.26.120.

RCW 41.26.130 Allowance on retirement for disability.

(1) Upon retirement for disability a member shall be entitled to receive a monthly

retirement allowance computed as follows: (a) A basic amount of fifty percent of final average salary at time of disability retirement, and (b) an additional five percent of final average salary for each child as defined in RCW 41.26.030(7), (c) the combined total of (a) and (b) of this subsection shall not exceed a maximum of sixty percent of final average salary.

(2) A disabled member shall begin receiving the disability retirement allowance as of the expiration of his or her six month period of disability leave or, if his or her application was filed after the sixth month of discontinuance of service but prior to the one year time limit, the member's disability retirement allowance shall be retroactive to the end of the sixth month.

(3) Benefits under this section will be payable until the member recovers from the disability or dies. If at the time that the disability ceases the member is over the age of fifty, he or she shall then receive either disability retirement allowance or retirement for service allowance, whichever is greater.

(4) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the member receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability.

(5) A member retired for disability shall be subject to periodic examinations by a physician approved by the disability board prior to attainment of age fifty, pursuant to rules adopted by the director under RCW 41.26.115. Examinations of members who retired for disability prior to July 26, 1981, shall not exceed two medical examinations per year.

[1991 c 35 § 20; 1987 c 185 § 11; 1981 c 294 § 3; 1970 ex.s. c 6 § 8; 1969 ex.s. c 209 § 13.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Severability--1981 c 294: See note following RCW 41.26.115.

RCW 41.26.135 Cessation of disability--Determination.

(1) A disabled member who believes that his or her disability has ceased in accordance with RCW 41.26.130(3) may make application to the disability board which originally found the member to be disabled, for a determination that the disability has ceased.

(2) Every order of a disability board determining that a member's disability has ceased pursuant to RCW 41.26.130(3) shall forthwith be reviewed by the director. The director may affirm the decision of the disability board or remand the case for further proceedings if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(3) Determinations of whether a disability has ceased under RCW 41.26.130(3) and this section shall be made in accordance with the same procedures and standards governing other cancellations of disability retirement.

[1985 c 103 § 1.]

RCW 41.26.140 Reexaminations of disability beneficiaries--Reentry--Appeal.

(1) Upon the basis of reexaminations of members on disability retirement as provided in RCW 41.26.130, the disability board shall determine whether such disability beneficiary is still unable to perform his or her duties either physically or mentally for service in the department where he or she was employed.

(2) If the disability board shall determine that the beneficiary is not so incapacitated the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the beneficiary at the time of his or her retirement or if unable to perform the duties of said rank, then, at his or her request, in such other like or lesser rank as may be or become open and available, the duties of which he or she is then able to perform. In no event, shall a beneficiary previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the said beneficiary at the date of retirement for disability. If the disability board determines that the beneficiary is able to return to service he or she shall be entitled to notice and a hearing, both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, as now or hereafter amended.

(3) Should a disability beneficiary reenter service and be eligible for membership in the retirement system, the retirement allowance shall be canceled and he or she shall immediately become a member of the retirement system.

(4) Should any disability beneficiary under age fifty refuse to submit to examination, the retirement allowance shall be discontinued until withdrawal of such refusal, and should such refusal continue for one year or more, the retirement allowance shall be canceled.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

(6) Any person feeling aggrieved by an order of a disability board determining that a beneficiary's disability has not ceased, pursuant to RCW 41.26.130(3) has the right to appeal the order or determination to the director. The director shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the director within thirty days following the rendition of the order by the disability board. A copy of the notice of appeal shall be served upon the director and the applicable disability board and, within ninety days thereof, the disability board shall certify its decision and order which shall include findings of fact and conclusions of law, together with a transcript of all proceedings in connection therewith, to the director for review. Upon review of the record, the director may affirm the order of the disability board or may remand the case for further proceedings if the director finds that the disability board's

findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

[1991 c 35 § 21; 1985 c 103 § 2; 1981 c 294 § 4; 1974 ex.s. c 120 § 4; 1970 ex.s. c 6 § 9; 1969 ex.s. c 209 § 14.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1981 c 294: See note following RCW 41.26.115.

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

RCW 41.26.150 Sickness or disability benefits--Medical services.

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

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

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

(2) The medical services payable under this section will be reduced by any amount received or eligible to be received by the member under workers' compensation, social security including the changes incorporated under Public Law 89-97, insurance provided by another employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making the payments provided for in subsection (1) of this section, the

employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for payment of the cost of medical services in connection with a member's sickness or disability to the extent necessary to recover the amount of payments made by the employer.

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

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

[1992 c 22 § 3; 1991 c 35 § 22; 1987 c 185 § 12; 1983 c 106 § 23; 1974 ex.s. c 120 § 11; 1971 ex.s. c 257 § 10; 1970 ex.s. c 6 § 10; 1969 ex.s. c 219 § 4; 1969 ex.s. c 209 § 15.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.160 Death benefits--Duty connected.

(1) In the event of the duty connected death of any member who is in active service, or who has vested under the provisions of RCW 41.26.090 with twenty or more service credit years of service, or who is on duty connected disability leave or retired for duty connected disability, the surviving spouse shall become entitled to receive a monthly allowance equal to fifty percent of the final average salary at the date of death if active, or the amount of retirement allowance the vested member would have received at age fifty, or the amount of the retirement allowance such retired member was receiving at the time of death if retired for duty connected disability. The amount of this allowance will be increased five percent of final average salary for each child as defined in RCW 41.26.030(7), subject to a maximum combined allowance of sixty percent of final average salary: PROVIDED, That if the child or children is or are in the care of a legal guardian, payment of the increase attributable to each child will be made to the child's legal guardian or, in the absence of a legal guardian and if the member has created a trust for the benefit of the child or children, payment of the increase attributable to each child will be made to the trust.

(2) If at the time of the duty connected death of a vested member with twenty or more service credit years of service as provided in subsection (1) of this section or a member retired for duty connected disability, the surviving spouse has not been lawfully married to such member for one year prior to retirement or separation from service if a vested member, the surviving spouse shall not be eligible to receive the benefits under this section: PROVIDED, That if a member dies as a result of a disability incurred in the line of duty, then if he or she was married at the time he or she was disabled, the surviving spouse shall be eligible to receive the benefits under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's duty connected death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment, under this subsection, of sixty percent of final average salary. When there cease to be any eligible children as defined in RCW 41.26.030(7), there shall be paid to the legal heirs of the member the excess, if any, of accumulated contributions of the member at the time of death over all payments made to survivors on his or her behalf under this chapter: PROVIDED, That payments under this subsection to children shall be prorated equally among the children, if more than one. If the member has created a trust for the benefit of the child or children, the payment shall be made to the trust.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then the accumulated contributions shall be paid to the estate of the member.

(5) If a surviving spouse receiving benefits under the provisions of this section thereafter dies and there are children as defined in RCW 41.26.030(7), payment to the spouse shall cease and the child or children shall receive the benefits as provided in subsection (3) of this section.

(6) The payment provided by this section shall become due the day following the date of death and payments shall be retroactive to that date.

[1999 c 134 § 2; 1991 sp.s. c 11 § 5. Prior: 1991 c 343 § 17; 1991 c 35 § 23; 1986 c 176 § 7; 1977 ex.s. c 294 § 23; 1974 ex.s. c 120 § 5; 1972 ex.s. c 131 § 9; 1971 ex.s. c 257 § 11; 1970 ex.s. c 6 § 12; 1969 ex.s. c 209 § 17.]

Notes:

Purpose--1999 c 134: "The purpose of sections 1 through 4 of this act is to clarify that the intent of the legislature in enacting RCW 41.26.160, insofar as that section provides benefits to members or surviving spouses for deaths incurred in the line of duty, was to provide a statute in the nature of a workers' compensation act that provides compensation to employees or surviving spouses for personal injuries or deaths incurred in the course of employment. Accordingly, this act amends and divides RCW 41.26.160 into two separate sections. Section 2 of this act clarifies and emphasizes the legislature's intent that the death benefits granted by RCW 41.26.160, as amended, are granted only to those members who die or become disabled by any injury or incapacity that is incurred in the line of duty. Section 3 of this act continues to provide death retirement benefits to members or surviving spouses for deaths not incurred in the line of duty." [1999 c 134 § 1.]

Retroactive application--1999 c 134 § 2: "The provisions of section 2 of this act apply retrospectively to all line of duty death retirement allowances granted under chapter 41.26 RCW prior to April 28, 1999." [1999 c 134 § 4.]

Effective date--1999 c 134: "This act is necessary for the immediate preservation of the public peace,

health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 28, 1999]." [1999 c 134 § 5.]

Purpose--Effective dates--1991 sp.s. c 11: See notes following RCW 41.26.090.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

Severability--1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.161 Death benefits--Nonduty connected.

(1) In the event of the nonduty connected death of any member who is in active service, or who has vested under the provisions of RCW 41.26.090 with twenty or more service credit years of service, or who is on disability leave or retired, whether for nonduty connected disability or service, the surviving spouse shall become entitled to receive a monthly allowance equal to fifty percent of the final average salary at the date of death if active, or the amount of retirement allowance the vested member would have received at age fifty, or the amount of the retirement allowance such retired member was receiving at the time of death if retired for service or nonduty connected disability. The amount of this allowance will be increased five percent of final average salary for each child as defined in RCW 41.26.030(7), subject to a maximum combined allowance of sixty percent of final average salary: PROVIDED, That if the child or children is or are in the care of a legal guardian, payment of the increase attributable to each child will be made to the child's legal guardian or, in the absence of a legal guardian and if the member has created a trust for the benefit of the child or children, payment of the increase attributable to each child will be made to the trust.

(2) If at the time of the death of a vested member with twenty or more service credit years of service as provided in subsection (1) of this section or a member retired for service or disability, the surviving spouse has not been lawfully married to such member for one year prior to retirement or separation from service if a vested member, the surviving spouse shall not be eligible to receive the benefits under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment, under this subsection, of sixty percent of final average salary. When there cease to be any eligible children as defined in RCW 41.26.030(7), there shall be paid to the legal heirs of the member the excess, if any, of accumulated contributions of the member at the time of death over all payments made to survivors on his or her behalf under this chapter: PROVIDED, That payments under this subsection to children shall be prorated equally among the children, if more than one. If the member has created a trust for the benefit of the child or children, the payment shall be made to the trust.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then

the accumulated contributions shall be paid to the estate of said member.

(5) If a surviving spouse receiving benefits under the provisions of this section thereafter dies and there are children as defined in RCW 41.26.030(7), payment to the spouse shall cease and the child or children shall receive the benefits as provided in subsection (3) of this section.

(6) The payment provided by this section shall become due the day following the date of death and payments shall be retroactive to that date.

[1999 c 134 § 3.]

Notes:

Purpose--Effective date--1999 c 134: See notes following RCW 41.26.160.

RCW 41.26.162 Ex spouse qualifying as surviving spouse--When.

(1) An ex spouse of a law enforcement officers' and fire fighters' retirement system retiree shall qualify as surviving spouse under RCW 41.26.160 if the ex spouse:

(a) Has been provided benefits under any currently effective court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation entered after the member's retirement and prior to December 31, 1979; and

(b) Was married to the retiree for at least thirty years, including at least twenty years prior to the member's retirement or separation from service if a vested member.

(2) If two or more persons are eligible for a surviving spouse benefit under this subsection, benefits shall be divided between the surviving spouses based on the percentage of total service credit the member accrued during each marriage.

(3) This section shall apply retroactively.

[1991 sp.s. c 12 § 2.]

RCW 41.26.170 Refund of contributions on discontinuance of service--Reentry.

(1) Should service of a member be discontinued except by death, disability, or retirement, the member shall, upon application therefor, be paid the accumulated contributions within sixty days after the day of application and the rights to all benefits as a member shall cease: PROVIDED, That any member with at least five years' service may elect the provisions of RCW 41.26.090(2).

(2) Any member whose contributions have been paid in accordance with subsection (1) of this section and who reenters the service of an employer shall upon the restoration of withdrawn contributions, which restoration must be completed within a total period of five years of service following resumption of employment, then receive credit toward retirement for the period of previous service which these contributions are to cover.

(3) If the member fails to meet the time limitations of subsection (2) of this section, the member may make the payment required under RCW 41.50.165(2) prior to retirement. The member shall then receive credit toward retirement for the period of previous service that the

withdrawn contributions cover.

[1994 c 197 § 6; 1991 c 35 § 24; 1970 ex.s. c 6 § 14; 1969 ex.s. c 209 § 22.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.26.190 Credit for military service.

Each person affected by this chapter who at the time of entering the armed services was a member of this system, and has honorably served in the armed services of the United States, shall have added to the period of service as computed under this chapter, the period of service in the armed forces: PROVIDED, That such credited service shall not exceed five years.

[1991 c 35 § 26; 1970 ex.s. c 6 § 13; 1969 ex.s. c 209 § 18.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.26.192 Credit for service under prior pension system--Restoration of withdrawn contributions.

If a member of plan 1 served as a law enforcement officer or fire fighter under a prior pension system and that service is not creditable to plan 1 because the member withdrew his or her contributions plus accrued interest from the prior pension system, the member's prior service as a law enforcement officer shall be credited to plan 1 if the member pays to the retirement system the amount under RCW 41.50.165(2) prior to retirement.

[1994 c 197 § 7; 1992 c 157 § 1.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

RCW 41.26.194 Credit for service under prior pension system--Service not covered under prior system.

If a plan 1 member's prior service as a law enforcement officer or fire fighter under a prior pension system is not creditable because, although employed in a position covered by a prior pension act, the member had not yet become a member of the pension system governed by the act, the member's prior service as a law enforcement officer or fire fighter shall be creditable under plan 1, if the member pays to the plan the amount set forth under RCW 41.50.165(2) prior to retirement.

[1994 c 197 § 8; 1992 c 157 § 2.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

RCW 41.26.195 Transfer of service credit from other retirement system--Irrevocable election allowed.

Any member of the teachers' retirement system plans 1, 2, or 3, the public employees' retirement system plans 1 or 2, or the Washington state patrol retirement system who has previously established service credit in the law enforcement officers' and fire fighters' retirement system plan 1 may make an irrevocable election to have such service transferred to their current retirement system and plan subject to the following conditions:

(1) If the individual is employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than July 1, 1998. If the individual is not employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than one year from the date they are employed by an employer in an eligible position.

(2) An individual transferring service under this section forfeits the rights to all benefits as a member of the law enforcement officers' and fire fighters' retirement system plan 1 and will be permanently excluded from membership.

(3) Any individual choosing to transfer service under this section will have transferred to their current retirement system and plan: (a) All the individual's accumulated contributions; (b) an amount sufficient to ensure that the employer contribution rate in the individual's current system and plan will not increase due to the transfer; and (c) all applicable months of service, as defined in RCW 41.26.030(14)(a).

(4) If an individual has withdrawn contributions from the law enforcement officers' and fire fighters' retirement system plan 1, the individual may restore the contributions, together with interest as determined by the director, and recover the service represented by the contributions for the sole purpose of transferring service under this section. The contributions must be restored before the transfer can occur and the restoration must be completed within the time limitations specified in subsection (1) of this section.

(5) Any service transferred under this section does not apply to the eligibility requirements for military service credit as defined in RCW 41.40.170(3) or 43.43.260(3).

(6) If an individual does not meet the time limitations of subsection (1) of this section, the individual may elect to restore any withdrawn contributions and transfer service under this section by paying the amount required under subsection (3)(b) of this section less any employee contributions transferred.

[1997 c 122 § 1.]

RCW 41.26.197 Service credit for paid leave of absence--Application to elected officials of labor organizations.

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided under the provisions of RCW 41.26.080 through 41.26.3903.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

[1993 c 95 § 3.]

Notes:

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

RCW 41.26.200 Appeal to director of retirement systems.

Any person feeling aggrieved by any order or determination of a disability board denying disability leave or disability retirement, or canceling a previously granted disability retirement allowance, shall have the right to appeal the order or determination to the director. The director shall have no jurisdiction to entertain the appeal unless a notice of appeal is filed with the director within thirty days following the rendition of the order by the applicable disability board. A copy of the notice of appeal shall be served upon the director and the applicable disability board and, within ninety days thereof, the disability board shall certify its decision and order which shall include findings of fact and conclusions of law, together with a transcript of all proceedings in connection therewith, to the director for review. Upon review of the record, the director may affirm the order of the disability board or may remand the case for such further proceedings as he or she may direct, in accordance with such rules of procedure as the director shall promulgate.

[1981 c 294 § 5; 1974 ex.s. c 120 § 6; 1971 ex.s. c 257 § 13; 1970 ex.s. c 6 § 11; 1969 ex.s. c 209 § 16.]

Notes:

Severability--1981 c 294: See note following RCW 41.26.115.

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.211 Notice for hearing required prior to petitioning for judicial review.

Any person aggrieved by any final decision of the director must, before petitioning for judicial review, file with the director of the retirement system by mail or personally within sixty days from the day such decision was communicated to such person, a notice for a hearing. The notice of hearing shall set forth in full detail the grounds upon which such person considers such decision unjust or unlawful and shall include every issue to be considered, and it must contain a detailed statement of facts upon which such person relies in support thereof. Such persons shall be deemed to have waived all objections or irregularities concerning the matter on which such

appeal is taken other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system.

[1984 c 184 § 16; 1981 c 294 § 6; 1969 ex.s. c 209 § 19. Formerly RCW 41.26.052, 41.26.210.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

Severability--1981 c 294: See note following RCW 41.26.115.

RCW 41.26.221 Hearing--Conduct.

A hearing shall be held by the director, or the director's duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be de novo and shall conform to the provisions of chapter 34.05 RCW, as now or hereafter amended. The disability board and the department shall be entitled to appear in all such proceedings and introduce testimony in support of the decision. Judicial review of any final decision by the director shall be governed by the provisions of chapter 34.05 RCW as now law or hereafter amended.

[1984 c 184 § 17; 1981 c 294 § 7; 1969 ex.s. c 209 § 20. Formerly RCW 41.26.054, 41.26.220.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

Severability--1981 c 294: See note following RCW 41.26.115.

RCW 41.26.240 Increases or decreases in retirement allowances to be determined by department in accordance with consumer price index.

For purposes of this section:

(1) "Index" shall mean, for any calendar year, that year's average Consumer Price Index--Seattle, Washington area for urban wage earners and clerical workers, all items (1957-1959=100), compiled by the Bureau of Labor Statistics, United States Department of Labor;

(2) "Retirement allowance" shall mean the retirement allowance provided for in RCW 41.26.100 and 41.26.130, and the monthly allowance provided for in RCW 41.26.160.

Effective April 1 of 1971, and of each succeeding year, every retirement allowance which has been in effect for more than one year shall be adjusted to that dollar amount which exceeds its original dollar amount by the percentage difference which the department finds to exist between the index for the previous calendar year and the index for the calendar year prior to the effective retirement date of the person to whom, or on behalf of whom, such retirement allowance is being paid.

For the purposes of this section, basic allowance shall mean that portion of a total retirement allowance, and any cost of living adjustment thereon, attributable to a member (individually) and shall not include the increased amounts attributable to the existence of a child or children. In those cases where a child ceases to be qualified as an eligible child, so as to lessen

the total allowance, the allowance shall, at that time, be reduced to the basic allowance plus the amount attributable for the appropriate number of eligible children. In those cases where a child qualifies as an eligible child subsequent to the retirement of a member so as to increase the total allowance payable, such increased allowance shall at the time of the next and appropriate subsequent cost of living adjustments, be considered the original dollar amount of the allowance.

[1991 c 35 § 27; 1974 ex.s. c 120 § 13; 1970 ex.s. c 6 § 16; 1969 ex.s. c 209 § 24.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1974 ex.s. c 120: See note following RCW 41.26.030.

RCW 41.26.250 Increase in presently payable benefits for service or disability authorized.

All benefits presently payable pursuant to the provisions of RCW 41.20.050, 41.20.060 and 41.20.080 as such RCW sections existed prior to the effective date of the amendment of such RCW sections by sections 1, 2, 3, chapter 191, Laws of 1961 to persons who retired prior to the effective date of the said 1961 amendatory act, shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purpose of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: PROVIDED, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased as authorized by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor.

[1975 1st ex.s. c 178 § 3; 1974 ex.s. c 190 § 3; 1970 ex.s. c 37 § 2; 1969 ex.s. c 209 § 34.]

Notes:

Construction--Severability--1975 1st ex.s. c 178: See RCW 41.16.911, 41.16.921.

Construction--1970 ex.s. c 37: See note following RCW 41.18.104.

RCW 41.26.260 Increase in certain presently payable death benefits authorized.

All benefits presently payable pursuant to the provisions of RCW 41.20.085 which are not related to the amount of current salary attached to the position held by the deceased member,

shall be increased annually in the same manner and to the same extent as provided for pursuant to RCW 41.26.250.

[1974 ex.s. c 190 § 4; 1969 ex.s. c 209 § 35.]

RCW 41.26.270 Declaration of policy respecting benefits for injury or death--Civil actions abolished.

The legislature of the state of Washington hereby declares that the relationship between members of the law enforcement officers' and fire fighters' retirement system and their governmental employers is similar to that of workers to their employers and that the sure and certain relief granted by this chapter is desirable, and as beneficial to such law enforcement officers and fire fighters as workers' compensation coverage is to persons covered by Title 51 RCW. The legislature further declares that removal of law enforcement officers and fire fighters from workers' compensation coverage under Title 51 RCW necessitates the (1) continuance of sure and certain relief for personal injuries incurred in the course of employment or occupational disease, which the legislature finds to be accomplished by the provisions of this chapter and (2) protection for the governmental employer from actions at law; and to this end the legislature further declares that the benefits and remedies conferred by this chapter upon law enforcement officers and fire fighters covered hereunder, shall be to the exclusion of any other remedy, proceeding, or compensation for personal injuries or sickness, caused by the governmental employer except as otherwise provided by this chapter; and to that end all civil actions and civil causes of actions by such law enforcement officers and fire fighters against their governmental employers for personal injuries or sickness are hereby abolished, except as otherwise provided in this chapter.

[1989 c 12 § 13; 1987 c 185 § 13; 1985 c 102 § 4; 1971 ex.s. c 257 § 14.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Purpose--Retrospective application--1985 c 102: See notes following RCW 41.26.120.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.281 Cause of action for injury or death, when.

If injury or death results to a member from the intentional or negligent act or omission of a member's governmental employer, the member, the widow, widower, child, or dependent of the member shall have the privilege to benefit under this chapter and also have cause of action against the governmental employer as otherwise provided by law, for any excess of damages over the amount received or receivable under this chapter.

[1991 c 35 § 28; 1971 ex.s. c 257 § 15. Formerly RCW 41.26.058, 41.26.280.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.26.3901 Severability--1969 ex.s. c 209.

If any provision of *this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1969 ex.s. c 209 § 42. Formerly RCW 41.26.900.]

Notes:

***Reviser's note:** "this 1969 amendatory act," see note following chapter digest.

RCW 41.26.3902 Act to control inconsistencies.

To the extent that the provisions of *this 1969 amendatory act are inconsistent with the provisions of any other law, the provisions of *this 1969 amendatory act shall be controlling.

[1969 ex.s. c 209 § 43. Formerly RCW 41.26.910.]

Notes:

***Reviser's note:** "this 1969 amendatory act," see note following chapter digest.

RCW 41.26.3903 Effective date--1969 ex.s. c 209.

*This 1969 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1969.

[1969 ex.s. c 209 § 45. Formerly RCW 41.26.920.]

Notes:

***Reviser's note:** "This 1969 amendatory act," see note following chapter digest.

"PLAN 2"

RCW 41.26.410 Provisions applicable to plan 2.

RCW 41.26.420 through 41.26.550 shall apply only to plan 2 members.

[1991 c 35 § 29; 1977 ex.s. c 294 § 2.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement--1977 ex.s. c 294: "Sections 1 through 16 of this 1977 amendatory act shall be added to chapter 41.26 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 294 § 25.]

Section headings--1977 ex.s. c 294: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 294 § 24.]

RCW 41.26.420 Computation of the retirement allowance.

Except as provided in RCW 41.26.530, a member of the retirement system shall receive a retirement allowance equal to two percent of such member's final average salary for each year of

service.

[1993 c 517 § 2; 1979 ex.s. c 249 § 4; 1977 ex.s. c 294 § 3.]

Notes:

Purpose--1993 c 517: "The legislature recognizes the demanding, physical nature of law enforcement and fire fighting, and the resulting need to allow law enforcement officers and fire fighters to make transitions into other careers when these employees feel they can no longer pursue law enforcement or fire fighting. The legislature also recognizes the challenge and cost of maintaining the viability of a retired employee's benefit over longer periods of retirement as longevity increases, and that this problem is compounded for employees who leave a career before they retire from the work force.

Therefore, the purpose of this act is to: (1) Provide full retirement benefits to law enforcement officers and fire fighters at an appropriate age that reflects the unique and physically demanding nature of their work; (2) provide a fair and reasonable value from the retirement system for those who leave the law enforcement or fire fighting profession before retirement; (3) increase flexibility for law enforcement officers and fire fighters to make transitions into other public or private sector employment; (4) increase employee options for addressing retirement needs, personal financial planning, and career transitions; and (5) continue the legislature's established policy of having employees pay a fifty percent share of the contributions toward their retirement benefits and any enhancements." [1993 c 517 § 1.]

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.425 Lump sum retirement allowance--Reentry--Conditions for reinstatement of service.

(1) On or after June 10, 1982, the director may pay a beneficiary, subject to the provisions of subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.26.420 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, subject to the provisions of subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations set forth under subsection (3) of this section, the member may reinstate all previous service under RCW 41.50.165(2) prior to retirement. The sum deposited shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under RCW 41.26.420 or an earned disability allowance under RCW 41.26.470 qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system.

[1994 c 197 § 9; 1982 c 144 § 1.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

RCW 41.26.430 Retirement for service.

(1) NORMAL RETIREMENT. Any member with at least five service credit years of service who has attained at least age fifty-three shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years of service and has attained age fifty shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age fifty-three.

(3) ALTERNATE EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age fifty-three.

[2000 c 247 § 904; 1993 c 517 § 3; 1991 c 343 § 18; 1977 ex.s. c 294 § 4.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Purpose--1993 c 517: See note following RCW 41.26.420.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.440 Post-retirement cost-of-living.

Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(1) The original dollar amount of the retirement allowance;

(2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(3) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index--Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

[1977 ex.s. c 294 § 5.]

Notes:

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.450 Plan 2 employer, member, and state contributions. (*Effective until March 1, 2002.*)

(1) The required contribution rates to the plan 2 system for members, employers, and the state of Washington shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates.

(2) Except as provided in subsection (3) of this section, the member, the employer and the state shall each contribute the following shares of the cost of the retirement system:

Member	50%
Employer	30%
State	20%

(3) Port districts established under Title 53 RCW and institutions of higher education as defined in RCW 28B.10.016 shall contribute both the employer and state shares of the cost of the retirement system for any of their employees who are law enforcement officers. Institutions of higher education shall contribute both the employer and the state shares of the cost of the retirement system for any of their employees who are fire fighters.

(4) Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit.

(5) Any adjustments in contribution rates required from time to time for future costs shall likewise be shared proportionally by the members, employers, and the state.

(6) Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section shall be borne in full by the

state or by that employer not making the contribution.

(7) The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

(8) Members' contributions required by this section shall be deducted from the members basic salary each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends. The state's contribution required by this section shall be transferred to the plan 2 fund from the total contributions transferred by the state treasurer under RCW 41.45.060 and 41.45.070.

[1996 c 38 § 3; 1993 c 502 § 2; 1989 c 273 § 14; 1986 c 268 § 1; 1984 c 184 § 10; 1977 ex.s. c 294 § 6.]

Notes:

Effective date--1993 c 502: See note following RCW 41.26.030.

Severability--1989 c 273: See RCW 41.45.900.

Severability--1984 c 184: See note following RCW 41.50.150.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.450 Port districts and institutions of higher education--Must make both employer and state contributions. (Effective March 1, 2002.)

Port districts established under Title 53 RCW and institutions of higher education as defined in RCW 28B.10.016 shall contribute both the employer and state shares of the cost of the retirement system for any of their employees who are law enforcement officers. Institutions of higher education shall contribute both the employer and the state shares of the cost of the retirement system for any of their employees who are fire fighters.

[2000 c 247 § 801; 1996 c 38 § 3; 1993 c 502 § 2; 1989 c 273 § 14; 1986 c 268 § 1; 1984 c 184 § 10; 1977 ex.s. c 294 § 6.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1993 c 502: See note following RCW 41.26.030.

Severability--1989 c 273: See RCW 41.45.900.

Severability--1984 c 184: See note following RCW 41.50.150.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.460 Options for payment of retirement allowances--Retirement allowance adjustment.

(1) Upon retirement for service as prescribed in RCW 41.26.430 or disability retirement under RCW 41.26.470, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement

allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1,

1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

[2000 c 186 § 1; 1998 c 340 § 5; 1996 c 175 § 3; 1995 c 144 § 17; 1990 c 249 § 3; 1977 ex.s. c 294 § 7.]

Notes:

Effective date--1998 c 340: See note following RCW 41.31.010.

Findings--1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.470 Earned disability allowance--Cancellation of allowance--Reentry--Receipt of service credit while disabled--Conditions--Disposition upon death of recipient. (Effective until March 1, 2002.)

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any,

held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.26.450.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he or she shall be paid

the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

[2001 c 261 § 1; 1999 c 135 § 1; 1995 c 144 § 18; 1993 c 517 § 4; 1990 c 249 § 19. Prior: 1989 c 191 § 1; 1989 c 88 § 1; 1982 c 12 § 2; 1981 c 294 § 9; 1977 ex.s. c 294 § 8.]

NOTES:

Expiration date--2001 c 261 § 1: "Section 1 of this act expires March 1, 2002." [2001 c 261 § 4.]

Application--1999 c 135 § 1: "Section 1 of this act applies to any member who received a disability retirement allowance on or after February 1, 1990." [1999 c 135 § 2.]

Purpose--1993 c 517: See note following RCW 41.26.420.

Findings--1990 c 249: See note following RCW 2.10.146.

Severability--1981 c 294: See note following RCW 41.26.115.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

Disability leave supplement for law enforcement officers and fire fighters: RCW 41.04.500 through 41.04.550.

RCW 41.26.470 Earned disability allowance--Cancellation of allowance--Reentry--Receipt of service credit while disabled--Conditions--Disposition upon death of recipient. (Effective March 1, 2002.)

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is

separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.45.060 and 41.45.067.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

[2001 c 261 § 2; 2000 c 247 § 1104; 1999 c 135 § 1; 1995 c 144 § 18; 1993 c 517 § 4; 1990 c 249 § 19. Prior: 1989 c 191 § 1; 1989 c 88 § 1; 1982 c 12 § 2; 1981 c 294 § 9; 1977 ex.s. c 294 § 8.]

NOTES:

Effective date--2001 c 261 § 2: "Section 2 of this act takes effect March 1, 2002." [2001 c 261 § 5.]

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Application--1999 c 135 § 1: "Section 1 of this act applies to any member who received a disability retirement allowance on or after February 1, 1990." [1999 c 135 § 2.]

Purpose--1993 c 517: See note following RCW 41.26.420.

Findings--1990 c 249: See note following RCW 2.10.146.

Severability--1981 c 294: See note following RCW 41.26.115.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

Disability leave supplement for law enforcement officers and fire fighters: RCW 41.04.500 through 41.04.550.

RCW 41.26.480 Industrial insurance.

Notwithstanding any other provision of law, members shall be eligible for industrial insurance as provided by Title 51 RCW, as now or hereafter amended, and shall be included in the payroll of the employer for such purpose.

[1977 ex.s. c 294 § 9.]

Notes:

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.490 Application for and effective date of retirement allowances.

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.26.430, 41.26.470, or 41.26.510 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.26.430 shall accrue from the first day of the calendar month immediately following such member's separation from service.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.26.430, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.26.470 shall accrue from the first day of the calendar month immediately following such member's separation from service for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.26.510 shall accrue from the first day of the calendar month immediately following the member's death.

(5) A person is separated from service on the date a person has terminated all employment with an employer.

[1997 c 254 § 2; 1977 ex.s. c 294 § 10.]

Notes:

Intent--Construction--1997 c 254: "(1) This act, which defines separation from service and restrictions concerning postretirement employment, is intended to clarify existing statutory provisions regarding these issues. As a result of this act, the legal standard for determining separation from service and the impact to a retiree's benefit should they return to work following retirement, are either the same as under the prior law, or less restrictive. Accordingly, this act does not constitute a diminution of benefits and applies to all members of the affected retirement systems.

(2) This act, which addresses the determination of employee status, is intended to clarify existing law. The clarifications are consistent with long-standing common law of the state of Washington and long-standing department of retirement systems' interpretations of the appropriate standard to be used in determining employee status. Accordingly, sections 3(49) and 10(22) of this act do not constitute a diminution of benefits and apply to all members of the teachers' retirement system and the public employees' retirement system." [1997 c 254 § 1.]

Application--1997 c 254: "This act applies to all overpayments discovered by the department of retirement systems on or after June 1, 1996, except that sections 10, 12, 14, 15, and 16 of this act apply retroactively

to any person who retired under chapter 234, Laws of 1992 or part III of chapter 519, Laws of 1993." [1997 c 254 § 17.]

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.500 Suspension of retirement allowance upon reemployment--Reinstatement.

(1) No retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

[1998 c 341 § 604; 1990 c 274 § 12; 1977 ex.s. c 294 § 11.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Findings--Construction--1990 c 274: See notes following RCW 41.32.010.

Application--Reservation--1990 c 274 §§ 11, 12, 14, and 15: See note following RCW 41.40.690.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.510 Death benefits. (*Effective until March 1, 2002.*)

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670

and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

[1995 c 245 § 1; 1995 c 144 § 19; 1993 c 236 § 3; 1991 c 365 § 31; 1990 c 249 § 14; 1977 ex.s. c 294 § 12.]

Notes:

Reviser's note: This section was amended by 1995 c 144 § 19 and by 1995 c 245 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1995 c 245: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 245 § 3.]

Severability--1991 c 365: See note following RCW 41.50.500.

Findings--1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.510 Death benefits. (Effective March 1, 2002.)

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions

standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

[2000 c 247 § 1001. Prior: 1995 c 245 § 1; 1995 c 144 § 19; 1993 c 236 § 3; 1991 c 365 § 31; 1990 c 249 § 14; 1977 ex.s. c 294 § 12.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1995 c 245: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 245 § 3.]

Severability--1991 c 365: See note following RCW 41.50.500.

Findings--1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.520 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (Effective until March 1, 2002.)

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.26.410 through 41.26.550.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (6) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes the employer, member, and state contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner.

(4) If a member fails to meet the time limitations of subsection (3) of this section, the member may receive a maximum of two years of service credit during a member's working career for those periods when a member is on unpaid leave of absence authorized by an employer. This may be done by paying the amount required under RCW 41.50.165(2) prior to retirement.

(5) For the purpose of subsection (3) of this section the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.26.450. The

contributions required shall be based on the average of the member's basic salary at both the time the authorized leave of absence was granted and the time the member resumed employment.

(6) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.26.450 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer and the state for their respective contributions required under RCW 41.26.450 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

(7) A member receiving benefits under Title 51 RCW who is not receiving benefits under this chapter shall be deemed to be on unpaid, authorized leave of absence.

[1996 c 61 § 1; 1994 c 197 § 10; 1993 c 95 § 4; 1992 c 119 § 1; 1989 c 88 § 2; 1977 ex.s. c 294 § 13.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

Retroactive application--1992 c 119: "This act applies retroactively for retirement system service credit for military service which began on or after January 1, 1990." [1992 c 119 § 4.]

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.520 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (Effective March 1, 2002.)

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.26.410 through 41.26.550.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period

of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (6) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes the employer, member, and state contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner.

(4) If a member fails to meet the time limitations of subsection (3) of this section, the member may receive a maximum of two years of service credit during a member's working career for those periods when a member is on unpaid leave of absence authorized by an employer. This may be done by paying the amount required under RCW 41.50.165(2) prior to retirement.

(5) For the purpose of subsection (3) of this section the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.45.060, 41.45.061, and 41.45.067. The contributions required shall be based on the average of the member's basic salary at both the time the authorized leave of absence was granted and the time the member resumed employment.

(6) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer and the state for their respective contributions required under RCW 41.26.450 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with

reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

(7) A member receiving benefits under Title 51 RCW who is not receiving benefits under this chapter shall be deemed to be on unpaid, authorized leave of absence.

[2000 c 247 § 1105; 1996 c 61 § 1; 1994 c 197 § 10; 1993 c 95 § 4; 1992 c 119 § 1; 1989 c 88 § 2; 1977 ex.s. c 294 § 13.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

Retroactive application--1992 c 119: "This act applies retroactively for retirement system service credit for military service which began on or after January 1, 1990." [1992 c 119 § 4.]

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.530 Vested membership.

(1) A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.26.430 if such member maintains the member's accumulated contributions intact.

(2) The retirement allowance payable under the provisions of RCW 41.26.430 to a member who separates after having completed at least twenty years of service, and remains a member during the period of his or her absence from service by maintaining his or her accumulated contributions intact, shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date the retirement allowance commences as provided in RCW 41.26.490.

[1993 c 517 § 5; 1977 ex.s. c 294 § 14.]

Notes:

Purpose--1993 c 517: See note following RCW 41.26.420.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.540 Refund of contributions on termination.

(1)(a) A member who has completed less than ten years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of the member's accumulated contributions.

(b) A member who has completed ten or more years of service, who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(2) The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.26.410 through 41.26.550.

[1995 c 245 § 2; 1993 c 517 § 6; 1982 1st ex.s. c 52 § 5; 1977 ex.s. c 294 § 15.]

Notes:

Effective date--1995 c 245: See note following RCW 41.26.510.

Purpose--1993 c 517: See note following RCW 41.26.420.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.550 Reentry.

(1) A member, who had left service and withdrawn the member's funds pursuant to RCW 41.26.540, shall receive service credit for such prior service if the member restores all withdrawn funds together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid.

[1994 c 197 § 11; 1993 c 517 § 7; 1977 ex.s. c 294 § 16.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Purpose--1993 c 517: See note following RCW 41.26.420.

Legislative direction and placement--Section headings--1977 ex.s. c 294: See notes following RCW 41.26.410.

RCW 41.26.901 Severability--1977 ex.s. c 294.

If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1977 ex.s. c 294 § 26.]

RCW 41.26.921 Effective date--1977 ex.s. c 294.

This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions,

and shall take effect October 1, 1977.

[1977 ex.s. c 294 § 27.]

Chapter 41.28 RCW
RETIREMENT OF PERSONNEL IN CERTAIN FIRST CLASS CITIES

Sections

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41.28.900	Severability--1939 c 207.
41.28.910	Repeal.
41.28.920	Effective date--1939 c 207.

Notes:

Portability of public retirement benefits: Chapter 41.54 RCW.

State-wide city employees' retirement system: Chapter 41.44 RCW.

RCW 41.28.005 Establishment of retirement and pension systems authorized.

Any city attaining the status of a first class city after July 1, 1939, is empowered by this chapter to establish retirement and pension systems for superannuated or totally and permanently disabled officers and employees of cities of the first class.

[1939 c 207 § 1; RRS § 9592-101. Formerly RCW 41.28.020, part.]

RCW 41.28.010 Definitions.

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Retirement system" shall mean "employees' retirement system", provided for in RCW 41.28.020.

(2) "Employee" shall mean any regularly appointed officer or regularly appointed employee of a first class city as described in RCW 41.28.005, whose compensation in such employment is paid wholly by that city.

(3) "Member" shall mean any person included in the membership of the retirement system as provided in RCW 41.28.030.

(4) "City" shall mean any city of the first class as described in RCW 41.28.005.

(5) "Board" shall mean "board of administration" as provided in RCW 41.28.080.

(6) "Retirement fund" shall mean "employees' retirement fund" as created and established in RCW 41.28.070.

(7) "City service" shall mean service rendered to city for compensation, and for the purpose of this chapter, a member shall be considered as being in city service only while he is receiving compensation from the city for such service.

(8) "Prior service" shall mean the service of a member for compensation rendered to the city prior to July 1, 1939, and shall also include military or naval service of a member to the extent specified in RCW 41.28.050.

(9) "Continuous service" shall mean uninterrupted employment by that city, except that discontinuance of city service of a member caused by layoff, leave of absence, suspension, or dismissal, followed by reentrance into city service within one year, shall not count as a break in the continuity of service: PROVIDED, That for the purpose of establishing membership in the retirement system continuous service shall mean six months' service in any one year.

(10) "Beneficiary" shall mean any person in receipt of a pension, annuity, retirement allowance, disability allowance, or any other benefit provided in this chapter.

(11) "Compensation" shall mean the compensation payable in cash, plus the monetary value, as determined by the board of administration, of any allowance in lieu thereof.

(12) "Compensation earnable" by a member shall mean the average compensation as determined by the board of administration upon the basis of the average period of employment of members in the same group or class of employment and at the same rate of pay.

(13) "Final compensation" means the annual average of the greatest compensation earnable by a member during any consecutive five-year period of service for which service credit is allowed.

(14) "Normal contributions" shall mean contributions at the rate provided for in RCW

41.28.040(1).

(15) "Additional contributions" shall mean the contributions provided for in RCW 41.28.040(4).

(16) "Regular interest", unless changed by the board of administration as provided in RCW 41.28.060, shall mean interest at four percent per annum, compounded annually.

(17) "Accumulated normal contribution" shall mean the sum of all normal contributions, deducted from the compensation of a member, standing to the credit of his individual account, together with regular interest thereon.

(18) "Accumulated additional contributions" shall mean the sum of all the additional contributions, deducted from the compensation of a member, standing to the credit of his individual account, together with regular interest thereon.

(19) "Accumulated contributions" shall mean accumulated normal contributions plus accumulated additional contributions.

(20) "Pension" shall mean payments derived from contributions made by the city as provided for in RCW 41.28.130 and 41.28.150.

(21) "Annuity" shall mean payments derived from contributions made by a member as provided in RCW 41.28.130 and 41.28.150.

(22) "Retirement allowance" shall mean the pension plus the annuity.

(23) "Fiscal year" shall mean any year commencing with January 1st, and ending with December 31st, next following.

(24) "Creditable service" shall mean such service as is evidenced by the record of normal contributions received from the employee plus prior service if credit for same is still intact or not lost through withdrawal of accumulated normal contributions as provided in RCW 41.28.110.

[1967 c 185 § 1; 1963 c 91 § 1; 1939 c 207 § 2; RRS § 9592-102.]

RCW 41.28.020 Retirement system created--Adoption by cities.

A retirement system is hereby created and established in each city of the first class in each county with a population of one hundred twenty-five thousand or more to be known as the "employees' retirement system". This chapter shall become effective as to any such city when by ordinance of the city duly enacted its terms are expressly accepted and made applicable thereto. This section shall not be construed as preventing performance before July 1, 1939, of any preliminary work which any city council, city commission or board of administration shall deem necessary.

[1991 c 363 § 118; 1939 c 207 § 3; RRS § 9592-103. FORMER PART OF SECTION: 1939 c 207 § 1; RRS § 9592-101 now codified as RCW 41.28.005.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 41.28.030 Employees within or excluded from system.

(1) With the exception of those employees who are excluded from membership as herein provided, all employees shall become members of the retirement system as follows:

(a) Every employee in city service as defined in this chapter, on July 1, 1939, shall become a member of the retirement system on that date.

(b) Every employee who enters or reenters city service after July 1, 1939, shall become a member of the retirement system upon the completion of six months of continuous service.

(2) The following shall be specifically exempted from the provisions of this chapter:

(a) Members of the police departments who are entitled to the benefits of the police relief and pension fund as established by state law.

(b) Members of the fire departments who are entitled to the benefits of the firemen's relief and pension fund as established by state law.

(3) It shall be the duty of the head of each office or department to give immediate notice in writing to the board of administration of the change in status of any member of his office or department, resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal or death. The head of each office or department shall furnish such other information concerning any member as the board may require.

(4) Each member shall be subject to all the provisions of this chapter and to all the rules and regulations adopted by the board of administration. Should the service of any member, in any period of ten consecutive years, amount to less than five years, or should he withdraw more than one quarter of his accumulated contributions, or should he die or be retired, he shall thereupon cease to be a member.

[1939 c 207 § 4; RRS § 9592-104.]

RCW 41.28.040 Rates of contribution--Deduction and payment into fund.

(1) The normal rate of contribution of members shall be those adopted by the board of administration, subject to the approval of the city council or city commission, and for the first five-year period such rates shall be based on sex and on age of entry into the retirement system, which age shall be the age at the birthday nearest the time of entry into the system. The rates so adopted shall remain in full force and effect until revised or changed by the board of administration in the manner provided in RCW 41.28.060. The normal rates of contribution shall be so fixed as to provide an annuity which, together with the pension provided by the city, shall give as nearly as may be a retirement allowance at the age of sixty-two years of one and one-third percent of the final compensation multiplied by the number of years of service of the retiring employee. The normal rate established for age sixty-one shall be the rate for any member who has attained a greater age before entry into the retirement system. The normal rate of contribution for age twenty shall be the rate for any member who enters the retirement system at an earlier age.

(2) Subject to the provision of this chapter, the board of administration shall adopt rules and regulations governing the making of deductions from the compensation of employees and shall certify to the head of each office or department the normal rate of contribution for each member provided for in subdivision (1) of this section. The head of the department shall apply

such rate of contribution, and shall certify to the city comptroller on each and every payroll the amount to be contributed and shall furnish immediately to the board a copy of each and every payroll; and each of said amounts shall be deducted by the city comptroller and shall be paid into the retirement fund, hereinafter provided for, and shall be credited by the board together with regular interest to an individual account of the member for whom the contribution was made.

Every member shall be deemed to consent and agree to the contribution made and provided for herein, and shall receipt in full for his salary or compensation. Payment less said contribution shall be a full and complete discharge of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except his claim to the benefits to which he may be entitled under the provisions of this chapter.

(3) At the end of each payroll period, the board shall determine the aggregate amount of the normal contributions for such period, and shall certify such aggregate to the city comptroller, who shall thereupon transfer to the retirement fund, hereinafter provided for, from the money appropriated for that purpose in the budget for the fiscal year, an amount equal to the aggregate normal contributions for the period received from members.

(4) Any member may elect to contribute at rates in excess of those provided for in subdivision (1) of this section, for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the city any additional financial obligation. The board of administration, upon application, shall furnish to such member information concerning the nature and amount of additional benefits to be provided by such additional contribution.

[1967 c 185 § 2; 1939 c 207 § 5; RRS § 9592-105.]

RCW 41.28.050 Allowance of service credit.

(1) Subject to the following and all other provisions of this chapter, including such rules and regulations as the board shall adopt in pursuance thereof, the board, subject to the approval of the city council or city commission, shall determine and may modify allowance for service.

Time during which a member is absent on leave without pay shall not be allowed in computing service: PROVIDED, HOWEVER, That any member shall be given credit for any period served by him in the national guard, or in the United States army, navy, or marine corps, upon the call of the president, if at the time of such service such member was a regular employee under leave of absence. Certificate of honorable discharge from and/or documentary evidence of such service shall be submitted to the board in order to obtain credit for such service.

Each member shall file with the board such information affecting his status as a member of the retirement system as the board may require.

(2) The board shall grant credit for prior service to each member entering the retirement system on July 1, 1939, and to each member entering after that date, if such entry is within one year after rendering service prior to July 1, 1939: PROVIDED, HOWEVER, That the board may grant credit for prior service to those entering the retirement system after July 1, 1939, where the employee, because of sickness or other disability, has been on leave of absence, regularly granted, since discontinuance of city service, regardless of the length of such leave. No prior service credit shall be used as a basis for retirement or other benefit unless the membership

continues until retirement on a retirement allowance or until the granting of other benefits.

[1939 c 207 § 6; RRS § 9592-106.]

RCW 41.28.060 Board of administration to administer system--Powers and duties--Actuarial investigations and valuations--Reports, records, and accounts.

The administration of the retirement system is hereby vested in the board of administration created in RCW 41.28.080. The board shall exercise the powers and duties conferred upon it by said section, and in addition thereto:

(1) The board shall keep in convenient form such data as shall be necessary for the actuarial valuation of the retirement fund created by this chapter. At the end of the five-year period beginning with the year 1939, and at the end of every five-year period thereafter, the board shall cause to be made an actuarial investigation into the mortality, service and compensation experience of the members, and beneficiaries as defined by this chapter; and shall further cause to be made an actuarial valuation of the assets and liabilities of the retirement fund, and upon the basis of such investigation and valuation and subject to the approval of the city council or city commission, shall:

(a) Make any necessary changes in the rate of interest;

(b) Adopt for the retirement system such mortality, service and other tables as shall be necessary;

(c) Revise or change the rates of contribution by members on the basis of such mortality, service and other tables.

(2) The board shall promptly transmit to the city council or city commission a report covering the actuarial investigation and actuarial valuation provided for in subdivision (1) of this section.

(3) In addition to other records and accounts, the board shall keep such detailed reports and accounts as shall be necessary to show the financial condition of the retirement fund at all times.

(4) The board shall annually transmit to the city council or city commission a report showing the financial condition of the fund established by this chapter.

[1939 c 207 § 7; RRS § 9592-107.]

RCW 41.28.070 Employees' retirement fund created--Composition.

A fund is hereby created and established in all cities of the first class as under this chapter provided to be known as the "employees' retirement fund" and shall consist of all the moneys paid into it in accordance with the provisions of this chapter, whether such moneys shall take the form of cash, securities, or other assets.

[1939 c 207 § 8; RRS § 9592-108.]

RCW 41.28.080 Board of administration--Members--Duties--Fiscal affairs.

(1) There is hereby created and established a board of administration in each city coming under this chapter, which shall, under the provisions of this chapter and the direction of the city council or city commission, administer the retirement system and the retirement fund created by this chapter. Under and pursuant to the direction of the city council or city commission, the board shall provide for the proper investment of the moneys in the said retirement fund.

(2) The board of administration shall consist of seven members, as follows: Three members appointed by the regular appointing authority of the city, and three employees who are eligible to membership in the retirement system, to be elected by the employees. The above six members shall appoint the seventh member.

(3) The investment of all or any part of the retirement fund shall be subject to chapter 35.39 RCW.

(4) Subject to such provisions as may be prescribed by law for the deposit of municipal funds in banks, cash belonging to the retirement fund may be deposited in any licensed national bank or in any bank, banks or corporations authorized or licensed to do a banking business and organized under the laws of the state of Washington.

(5) The city treasurer shall be the custodian of the retirement fund. All payments from said fund shall be made by the city treasurer but only upon warrant duly executed by the city comptroller.

(6) Except as herein provided, no member and no employee of the board of administration shall have any interest, direct or indirect, in the making of any investments from the retirement fund, or in the gains or profits accruing therefrom. And no member or employee of said board, directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an endorser or surety or become in any manner an obligor for moneys invested by the board.

[1983 c 3 § 93; 1969 ex.s. c 211 § 2; 1939 c 207 § 9; RRS § 9592-109.]

RCW 41.28.085 Legislative intent--Investments.

In order that the intent of the legislature may be made clear with respect to investments, but without restricting the necessary flexibility that must exist for successful investing of the retirement and pension funds, the legislature makes this declaration of its desire that the investment authority shall give primary consideration to dealing with brokerage firms which maintain offices in the state of Washington so that the investment programs may make a meaningful contribution to the economy of the state. It is further the desire of the legislature that the retirement and pension funds shall be used as much as reasonably possible to benefit and expand the business and economic climate within the state of Washington so long as such use would be consistent with sound investment policy.

[1969 ex.s. c 211 § 3.]

RCW 41.28.090 Contributions by city.

(1) There shall be paid into the retirement fund by contributions of the city, the amounts necessary to pay all pensions and all other benefits allowable under this chapter to members on account of prior service, and minimum allowances provided for in RCW 41.28.130. Until the amount accumulated in the retirement fund becomes at least as large as the present value of all amounts thereafter payable from said fund the amount annually due to the said fund under this section shall be the amount payable from said fund in the ensuing fiscal year on account of prior service and minimum allowances.

[1939 c 207 § 10; RRS § 9592-110.]

RCW 41.28.100 City obligated to contribute.

The payments of the city due the retirement fund as provided for in this chapter are hereby made obligations of the city as defined in this chapter. The board shall annually, on or before the tenth day of July each year, prepare and submit to the city council or city commission an estimate of the amounts necessary to meet such obligations, and the city council or city commission shall provide for the raising of such amounts as are necessary to make such payments.

[1939 c 207 § 11; RRS § 9592-111.]

RCW 41.28.110 Payments on discontinuance of service--Reemployment--Redeposit.

(1) Should the service of a member be discontinued, except by death or retirement, he shall be paid not later than six months after the day of discontinuance such part of his accumulated contributions as he shall demand: PROVIDED, HOWEVER, That a member may appeal to the board and by unanimous vote, the board may grant a request for immediate withdrawal of contributions. If in the opinion of the board said member is permanently separated from service by reason of such discontinuance he shall be paid forthwith all of his accumulated contributions with interest: AND PROVIDED ALSO, That the board may, in its discretion, withhold for not more than one year after a member last rendered service all or part of his accumulated normal contributions if after a previous discontinuance of service he withdrew all or part of his accumulated normal contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in this section: PROVIDED FURTHER, That the city shall receive credit for the full amount deposited by the city in the retirement fund for such member's benefit plus interest. Any member may redeposit in the retirement fund an amount equal to that which he previously withdrew therefrom at the last termination of his membership, such redeposit to be paid into the retirement fund in accordance with rules established by the board. If a member upon reentering the retirement system after a termination of his membership shall not

make such a redeposit as hereinabove provided, the rate of his contributions for future years shall be the normal rate provided for in RCW 41.28.040(1) at his age of reentrance; otherwise his rate of contribution for future years shall be the same as his rate prior to the termination of his membership. In the event such redeposit is made by a member, an amount equal to the accumulated normal contributions so redeposited shall again be held for the benefit of said member, and shall no longer be included in the amounts available to meet the obligations of the city on account of benefits that have been granted or liabilities that have been assumed on account of prior service of members, and the city shall reinstate the prior service credit for such member.

[1939 c 207 § 12; RRS § 9592-112.]

RCW 41.28.120 Retirement for service.

Retirement of member for service shall be made by the board of administration as follows:

(1) Each member in the city service on June 8, 1967, who, on or before such effective date, has attained the age of sixty-five years or over, shall be forthwith retired on the first day of the calendar month next succeeding the month in which the employee shall have attained the age of sixty-five: PROVIDED, That none of such members shall be subject to compulsory retirement for a period of five years following said effective date, but during such period any member having attained the age of sixty-five may voluntarily retire after attaining such age. Members attaining the age of sixty-five after June 8, 1967 shall be retired on the first day of the calendar month next succeeding the month in which the member shall have attained the age of sixty-five, but none of such members shall be subject to compulsory retirement until five years after said effective date: PROVIDED, FURTHER, That any member attaining the age of seventy years during said five year period shall be forthwith retired on the first day of the calendar month next succeeding the month in which the employee shall have attained the age of seventy years, except as otherwise provided in this chapter. The board shall extend the time of retirement for any member hired prior to June 8, 1967 so as to enable said member to qualify for retirement benefits under this chapter, but in no event should such extension extend beyond the age of seventy years.

(2) Any member in the city service may retire by filing with the board a written application, stating when he desires to be retired, such application to be made at least thirty days prior to date of retirement: PROVIDED, HOWEVER, That said member, at the time specified for his retirement, shall have completed ten years of city service as defined in this chapter, and shall have attained the age of fifty-seven years, or shall have completed thirty years of city service as defined in this chapter. Permanent discontinuance of city service after age of fifty-seven shall entitle the member to his retirement allowance: PROVIDED, That such employee has had at least ten years of city service to his credit: AND PROVIDED FURTHER, That permanent discontinuance of city service after the completion of thirty years of city service shall entitle the member to his retirement allowance.

[1967 c 185 § 3; 1939 c 207 § 13; RRS § 9592-113.]

RCW 41.28.130 Service retirement allowances.

(1) A member, upon retirement from service, shall receive a retirement allowance subject to the provisions of paragraph (2) of this section, which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

(b) A pension purchased by the contributions of the city, equal to the annuity purchased by the accumulated normal contributions of the member.

(c) For any member having credit for prior service an additional pension, purchased by the contributions of the city equal to one and one-third percent of the final compensation, multiplied by the number of years of prior service credited to said member, except that if a member shall retire before attaining the age of sixty-two years, the additional pension shall be reduced to an amount which shall be equal to a lesser percentage of final compensation, multiplied by the number of years of prior service credited to said member, which lesser percentage shall be applied to the respective ages of retirement in accordance with the following tabulation:

Retirement age	Percentage
62	1.333
61	1.242
60	1.158
59	1.081
58	1.010
57	0.945
56	0.885
55	0.829
54	0.778
53	0.731
52	0.687
51	0.646
50	0.608

(2) If the retirement allowance of the member as provided in this section, exclusive of any annuity purchased by his accumulated additional contributions, is in excess of two-thirds of his final salary, the pension of the member, purchased by the contributions of the city, shall be reduced to such an amount as shall make the member's retirement allowance, exclusive of any annuity purchased by his accumulated additional contributions, equal to two-thirds of his final salary, and the actuarial equivalent of such reduction shall remain in the retirement fund to the

credit of the city: PROVIDED, That the retired member will be granted a cost of living increase, in addition to the allowance provided in this section, of one percent commencing January 1, 1968 and an additional one percent on the first day of each even-numbered year thereafter if the U.S. Bureau of Labor Statistics' Cost of Living Index has increased one percent or more since the last cost of living increase in the member's retirement allowance; such increases shall apply only to retirement allowances approved on or after January 1, 1967.

(3) Any member, who enters the retirement system on July 1, 1939, or who enters after that date and who is given the credit for prior service, and who is retired by reason of attaining the age of seventy years, shall receive such additional pension on account of prior service, purchased by the contributions of the city, as will make his total retirement allowance not less than four hundred twenty dollars per year.

(4) Any member who, at the time of his retirement, has at least ten years of creditable service, as defined in this chapter, and who has attained the age of sixty-five years or over, shall receive such additional pension, purchased by the contributions of the city, as will make his total retirement allowance not less than nine hundred sixty dollars per year.

[1969 c 31 § 1; 1967 c 185 § 4; 1961 c 260 § 1; 1939 c 207 § 14; RRS § 9592-114.]

Notes:

Validation--1969 c 31: "Any action effected in accordance with the provisions of the last two paragraphs of section 1 of this 1969 amendatory act during the period of from June 8, 1967 until the effective date of this 1969 amendatory act is hereby declared valid." [1969 c 31 § 2.] "Section 1 of this 1969 amendatory act" refers to RCW 41.28.130 above; "the effective date of this 1969 amendatory act" is March 18, 1969.

RCW 41.28.140 Retirement for disability.

Any member while in city service may be retired by the board of administration for permanent and total disability, either ordinary or accidental, upon examination, as follows:

(1) Any member who has not attained the age of sixty-five years and who has at least ten years of city service as defined in this chapter, to his credit: PROVIDED, That the required ten years of city service shall have been credited to the member over a period of not to exceed fifteen years immediately preceding retirement, within three months after the discontinuance of city service, or while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinuance of city service, shall be examined by a physician or surgeon, appointed by the board of administration upon the application of the head of the office or department in which said member is employed, or upon application of said member, or a person acting in his behalf, stating that said member is permanently and totally incapacitated, either physically or mentally, for the performance of duty and ought to be retired. If such medical examination shows, to the satisfaction of the board, that the said member is permanently and totally incapacitated either physically or mentally for the performance of duty and ought to be retired, the board shall retire the said member for disability forthwith.

(2) The board shall secure such medical services and advice as it may deem necessary to carry out the purpose of this section and of RCW 41.28.160, and shall pay for such medical services and advice such compensation as the board shall deem reasonable.

[1939 c 207 § 15; RRS § 9592-115.]

RCW 41.28.150 Disability retirement allowances--Grounds for denial.

(1) Upon retirement for disability, as hereinabove provided: PROVIDED, The disability is not due to intemperance, wilful misconduct or violation of law, of which the board shall be the judge, a member shall receive a retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

(b) A pension purchased by the contributions of the city, which, together with his annuity provided by his accumulated normal contributions, shall make the retirement allowance, exclusive of the annuity provided by his additional contributions equal to (i) one and one-fourth percent of his final compensation multiplied by the number of years of service which would be creditable to him were his services to continue until attainment by him of age sixty-two. The minimum disability retirement allowance shall be nine hundred sixty dollars per year.

(2) If disability is due to intemperance, wilful misconduct or violation of law on the part of the member, the board of administration in its discretion may pay to said member in one lump sum, his accumulated contributions, in lieu of a retirement allowance, and such payment shall constitute full satisfaction of all obligations of the city to such member, and upon receipt of such payment he shall cease to be a member of the retirement system.

(3) Upon the death of a member while in receipt of a disability retirement allowance, his accumulated contributions, as they were at the date of his retirement, less any annuity payments made to him, shall be paid to his estate, or to such persons having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board.

[1963 c 91 § 2; 1961 c 260 § 2; 1939 c 207 § 16; RRS § 9592-116.]

RCW 41.28.160 Physical examination of disabled members--Reentry.

(1) The board of administration may at its pleasure require any disability beneficiary under age sixty-two years to undergo medical examination to be made by a physician or surgeon appointed by the board, at a place to be designated by the board. Upon the basis of such examination the board shall determine whether such disability beneficiary is still totally and permanently incapacitated either mentally or physically for service in the office or department of the city where he was employed or in any other city service for which he is qualified. If the board of administration shall determine that said beneficiary is not so incapacitated, his retirement allowance shall be canceled and he shall be reinstated forthwith in the city service.

(2) Should a disability beneficiary reenter the city service and be eligible for membership in the retirement system in accordance with RCW 41.28.030(1), his retirement allowance shall be canceled and he shall immediately become a member of the retirement system, his rate of contribution for future years being that established for his age at the time of reentry. His individual account shall be credited with his accumulated contributions less the annuity payments made to him. An amount equal to the accumulated normal contributions so credited to

him shall again be held for the benefit of said member and shall no longer be included in the amounts available to meet the obligations of the city on account of benefits that have been granted and on account of prior service of members. Such member shall receive credit for prior service in the same manner as if he had never been retired for disability.

(3) Should any disability beneficiary under age sixty-two years refuse to submit to medical examination, his pension may be discontinued until his withdrawal of such refusal, and should refusal continue for one year, his retirement allowance may be canceled. Should said disability beneficiary, prior to attaining age sixty-two years, engage in a gainful occupation not in city service, or should he reenter the city service and be ineligible for membership in the retirement system in accordance with RCW 41.28.030(2), the board of administration shall reduce the amount of his retirement allowance to an amount, which when added to the compensation earned by him in such occupation shall not exceed the amount of the final compensation on the basis of which his retirement allowance was determined. Should the earning capacity of such beneficiary be further altered, the board may further alter his retirement allowance to an amount which shall not exceed the amount upon which he was originally retired, but which, subject to such limitation shall equal, when added to the compensation earned by him, the amount of his final compensation on the basis of which his retirement allowance was determined. When said disability beneficiary reaches the age of sixty-two years, his retirement allowance shall be made equal to the amount upon which he was originally retired, and shall not again be modified for any cause except as provided in RCW 41.28.220.

(4) Should the retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into the city service he shall be paid his accumulated contributions, less annuity payments made to him.

[1939 c 207 § 17; RRS § 9592-117.]

RCW 41.28.170 Optional allowances.

A member may elect to receive, in lieu of the retirement allowance provided for in RCW 41.28.130, its actuarial equivalent in the form of a lesser retirement allowance, payable in accordance with the terms and conditions of one of the options set forth below in this section. Election of any option must be made by written application filed with the board of administration at least thirty days in advance of retirement as provided in RCW 41.28.120, and shall not be effective unless approved by the board prior to retirement of the member.

Option A. The lesser retirement allowance shall be payable to the member throughout his life: PROVIDED, That if he die before he receive in annuity payments referred to in RCW 41.28.130(1)(a), a total amount equal to the amount of his accumulated contributions as it was at the date of his retirement, the balance of such accumulated contributions shall be paid in one sum to his estate or to such person having an insurable interest in his life as he shall nominate by written designation duly executed and filed with the board.

Option B. The lesser retirement allowance shall be payable to a member throughout his life: PROVIDED, That if he die before he receive in annuity payments referred to in RCW 41.28.130(1)(a), a total amount equal to the amount of his accumulated contributions as it was at

the date of his retirement, the said annuity payments resulting from his accumulated contributions shall be continued and paid to his estate or such person, having an insurable interest in his life, as he shall nominate by written designation duly executed and filed with the board until the total amount of annuity payments shall equal the amount of his accumulated contributions as it was at the date of his retirement.

Option C. The member shall elect a "guaranteed period" of any number of years. If he dies before the lesser retirement allowance has been paid to him for the number of years elected by him as the "guaranteed period", the lesser retirement allowance shall be continued to the end of the "guaranteed period", and during such continuation shall be paid to his estate or to such person having an insurable interest in his life as he shall nominate by written designation duly executed and filed with the board.

Option D. The lesser retirement allowance shall be payable to the member throughout life, and after the death of the member, one-half of the lesser retirement allowance shall be continued throughout the life of and paid to the wife or husband of the member.

Option E. The lesser retirement allowance shall be payable to the member throughout life, and after death of the member it shall be continued throughout the life of and paid to the wife or husband of the member.

[1967 c 185 § 5; 1963 c 91 § 3; 1939 c 207 § 18; RRS § 9592-118.]

RCW 41.28.180 Payments on death of unretired members.

Upon the death of any person who has not been retired, pursuant to the provisions of this chapter, there shall be paid to his estate, or to such persons having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board, his accumulated contributions less any payments therefrom already made to him, if any.

[1939 c 207 § 19; RRS § 9592-119.]

RCW 41.28.190 Payments to be made monthly.

A pension annuity or a retirement allowance granted under the provisions of this chapter, unless otherwise specified herein, shall be payable in monthly installments, and each installment shall cover for the current calendar month.

[1939 c 207 § 20; RRS § 9592-120.]

RCW 41.28.200 Exemption from process--Rights not assignable.

The right of a person to a pension, an annuity or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter shall not be subject to execution, garnishment, attachment, or any other process whatsoever and shall be unassignable except as in this chapter specifically

provided.

[1939 c 207 § 21; RRS § 9592-121.]

RCW 41.28.205 Benefits payable in accordance with court decree or order of dissolution or legal separation.

Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

[1979 ex.s. c 205 § 9.]

RCW 41.28.207 Payments to spouse or ex spouse pursuant to court order.

(1) If the board of administration makes payments to a spouse or ex spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to a court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the board of administration or the retirement system for the board of administration to show that the payments were made pursuant to a court decree.

(2) All payments made to a nonmember spouse or ex spouse pursuant to RCW 41.28.205 shall cease upon the death of such a nonmember spouse or ex spouse. Upon such a death, the board of administration shall pay to the member his or her full monthly entitlement of benefits.

(3) The provisions of RCW 41.28.205 and this section shall apply to all court decrees of dissolution or legal separation and court-approved property settlement agreements, regardless of when entered, but shall apply only to those persons who have actually retired or who have requested withdrawal of any or all of their accumulated contributions: PROVIDED, That the board of administration shall not be responsible for making court-ordered divisions of withdrawals unless the order is filed with the board at least thirty days before the withdrawal payment date.

[1987 c 326 § 20.]

Notes:

Effective date--1987 c 326: See RCW 41.50.901.

Mandatory assignment of retirement benefits to spouse or ex spouse: RCW 41.50.500 through 41.50.660.

RCW 41.28.210 Estimates of service, compensation, or age.

If it shall be impracticable for the board of administration to determine from the records the length of service, the compensation, or the age of any member, the said board may estimate for the purpose of this chapter, such length of service, compensation or age.

[1939 c 207 § 22; RRS § 9592-122.]

RCW 41.28.220 Suspension of allowances during other public aid.

The payment of any retirement allowance to a member who has been retired from service shall be suspended during the time that the beneficiary is in receipt of other pension or of other compensation for state or public service paid from direct or indirect state or municipal taxes or revenues of publicly owned utilities, except as to the amount by which such retirement allowance may exceed such compensation for the same period.

[1939 c 207 § 23; RRS § 9592-123.]

RCW 41.28.230 Administrative expense.

The city council or city commission shall appropriate annually from the retirement fund the amount it deems necessary for the purpose of paying the expenses of administering the retirement system. The board of administration shall annually submit to the city council or city commission its estimate of the amount necessary to pay such expenses. The preliminary cost of establishment of said retirement system, such as clerical help and actuarial survey costs, etc., shall be paid by the department or departments affected.

[1939 c 207 § 24; RRS § 9592-124.]

RCW 41.28.240 Existing systems preserved.

Nothing in this chapter shall repeal, supersede, alter, amend or be regarded as a substitute for any existing retirement or pension system, duly established by city ordinance.

[1939 c 207 § 28; RRS § 9592-128.]

RCW 41.28.900 Severability--1939 c 207.

If any one or more sections, subsections, subdivisions, sentences, clauses or phrases of this chapter are for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter, but the same shall remain in full force and effect.

[1939 c 207 § 25; RRS § 9592-125.]

RCW 41.28.910 Repeal.

All laws and parts of laws in conflict herewith be and the same are hereby repealed.

[1939 c 207 § 26.]

RCW 41.28.920 Effective date--1939 c 207.

The retirement system shall become effective on July 1, 1939, as provided in RCW

41.28.020.

[1939 c 207 § 27.]

Chapter 41.31 RCW
EXTRAORDINARY INVESTMENT GAINS--PLAN 1

Sections

41.31.010	Annual pension increases--Increased by gain-sharing increase amount.
41.31.020	Gain-sharing increase amount calculated.
41.31.030	Contractual right to increase not granted.

RCW 41.31.010 Annual pension increases--Increased by gain-sharing increase amount.

Beginning July 1, 1998, and on January 1st of even-numbered years thereafter, the annual increase amount as defined in RCW 41.32.010 and 41.40.010 shall be increased by the gain-sharing increase amount, if any. The monthly retirement allowance of a person in receipt of the benefit provided in RCW 41.32.489 or 41.40.197 shall immediately be adjusted to reflect any increase.

[1998 c 340 § 1.]

Notes:

Effective date--1998 c 340: "Except for section 13 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 3, 1998]." [1998 c 340 § 14.]

RCW 41.31.020 Gain-sharing increase amount calculated.

(1) The gain-sharing increase amount shall be the amount of increase, rounded to the nearest cent, that can be fully funded in actuarial present value by the amount of extraordinary investment gains, if any. The amount of extraordinary investment gains shall be calculated as follows:

(a) One-half of the sum of the value of the net assets held in trust for pension benefits in the teachers' retirement system plan 1 fund and the public employees' retirement system plan 1 fund at the close of the previous state fiscal year;

(b) Multiplied by the amount which the compound average of investment returns on those assets over the previous four state fiscal years exceeds ten percent.

(2) The gain-sharing increase amount for July 1998, as provided for in RCW 41.31.010, is ten cents.

[1998 c 340 § 2.]

Notes:

Effective date--1998 c 340: See note following RCW 41.31.010.

RCW 41.31.030 Contractual right to increase not granted.

The legislature reserves the right to amend or repeal this chapter in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that amendment or repeal.

[1998 c 340 § 3.]

Notes:

Effective date--1998 c 340: See note following RCW 41.31.010.

**Chapter 41.31A RCW
EXTRAORDINARY INVESTMENT GAINS--PLAN 3**

Sections

- | | |
|------------|---|
| 41.31A.010 | Definitions. |
| 41.31A.020 | Extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted. |
| 41.31A.030 | Retroactive extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted. |
| 41.31A.040 | Retroactive extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted. |

RCW 41.31A.010 Definitions. (Effective until March 1, 2002.)

The definitions in this section apply throughout this chapter unless the context requires otherwise.

- (1) "Actuary" means the state actuary or the office of the state actuary.
- (2) "Department" means the department of retirement systems.
- (3) "Teacher" means any employee included in the membership of the teachers' retirement system as provided for in chapter 41.32 RCW.
- (4) "Member account" or "member's account" means the sum of any contributions as provided for in chapter 41.34 RCW and the earnings on behalf of the member.
- (5) "Classified employee" means the same as in RCW 41.35.010.

[1998 c 341 § 311.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

RCW 41.31A.010 Definitions. (Effective March 1, 2002.)

The definitions in this section apply throughout this chapter unless the context requires otherwise.

- (1) "Actuary" means the state actuary or the office of the state actuary.
- (2) "Department" means the department of retirement systems.

(3) "Teacher" means any employee included in the membership of the teachers' retirement system as provided for in chapter 41.32 RCW.

(4) "Member account" or "member's account" means the sum of any contributions as provided for in chapter 41.34 RCW and the earnings on behalf of the member.

(5) "Classified employee" means the same as in RCW 41.35.010.

(6) "Public employee" means the same as "member" as defined in RCW 41.40.010(5).

[2000 c 247 § 407; 1998 c 341 § 311.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

RCW 41.31A.020 Extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted.
(Effective until January 1, 2004.)

(1) On January 1, 2002, and on January 1st of even-numbered years thereafter, the member account of a person meeting the requirements of this section shall be credited by the extraordinary investment gain amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) Any member of the teachers' retirement system plan 3 or the Washington school employees' retirement system plan 3 who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution; or

(b) Any person in receipt of a benefit pursuant to RCW 41.32.875 or 41.35.680; or

(c) Any person who is a retiree pursuant to RCW 41.34.020(8) and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(d) Any teacher who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

(e) Any classified employee who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510; or

(f) Any person who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(g) Any teacher who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

(h) Any classified employee who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510.

(3) The extraordinary investment gain amount shall be calculated as follows:

(a) One-half of the sum of the value of the net assets held in trust for pension benefits in the teachers' retirement system combined plan 2 and 3 fund and the Washington school employees' retirement system combined plan 2 and 3 fund at the close of the previous state fiscal year not including the amount attributable to member accounts;

(b) Multiplied by the amount which the compound average of investment returns on those assets over the previous four state fiscal years exceeds ten percent;

(c) Multiplied by the proportion of:

(i) The sum of the service credit on August 31st of the previous year of all persons eligible for the benefit provided in subsection (1) of this section; to

(ii) The sum of the service credit on August 31st of the previous year of:

(A) All persons eligible for the benefit provided in subsection (1) of this section;

(B) Any person who earned service credit in the teachers' retirement system plan 2 or the Washington school employees' retirement system plan 2 during the twelve-month period from September 1st to August 31st immediately preceding the distribution;

(C) Any person in receipt of a benefit pursuant to RCW 41.32.765 or 41.35.420; and

(D) Any person with five or more years of service in the teachers' retirement system plan 2 or the Washington school employees' retirement system plan 2;

(d) Divided proportionally among persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31st of the previous year.

(4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this distribution not granted prior to that time.

[1998 c 341 § 312.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

RCW 41.31A.020 Extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted. (Effective January 1, 2004.)

(1) On January 1, 2004, and on January 1st of even-numbered years thereafter, the member account of a person meeting the requirements of this section shall be credited by the extraordinary investment gain amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) Any member of the teachers' retirement system plan 3, the Washington school employees' retirement system plan 3, or the public employees' retirement system plan 3 who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution; or

(b) Any person in receipt of a benefit pursuant to RCW 41.32.875, 41.35.680, or 41.40.820; or

(c) Any person who is a retiree pursuant to RCW 41.34.020(8) and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(d) Any teacher who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

(e) Any classified employee who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510; or

(f) Any public employee who is a retiree pursuant to RCW 41.40.010(29) and who has completed five service credit years by March 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

(g) Any person who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who:

(i) Completed ten service credit years; or

(ii) Completed five service credit years, including twelve service months after attaining age fifty-four; or

(h) Any teacher who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817; or

(i) Any classified employee who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510; or

(j) Any public employee who had a balance of at least one thousand dollars in their member account on August 31st of the year immediately preceding the distribution and who has completed five service credit years by March 1, 2002, and who transferred to plan 3 under RCW 41.40.795.

(3) The extraordinary investment gain amount shall be calculated as follows:

(a) One-half of the sum of the value of the net assets held in trust for pension benefits in the teachers' retirement system combined plan 2 and 3 fund, the Washington school employees'

retirement system combined plan 2 and 3 fund, and the public employees' retirement system combined plan 2 and 3 fund at the close of the previous state fiscal year not including the amount attributable to member accounts;

(b) Multiplied by the amount which the compound average of investment returns on those assets over the previous four state fiscal years exceeds ten percent;

(c) Multiplied by the proportion of:

(i) The sum of the service credit on August 31st of the previous year of all persons eligible for the benefit provided in subsection (1) of this section; to

(ii) The sum of the service credit on August 31st of the previous year of:

(A) All persons eligible for the benefit provided in subsection (1) of this section;

(B) Any person who earned service credit in the teachers' retirement system plan 2, the Washington school employees' retirement system plan 2, or the public employees' retirement system plan 2 during the twelve-month period from September 1st to August 31st immediately preceding the distribution;

(C) Any person in receipt of a benefit pursuant to RCW 41.32.765, 41.35.420, or 41.40.630; and

(D) Any person with five or more years of service in the teachers' retirement system plan 2, the Washington school employees' retirement system plan 2, or the public employees' retirement system plan 2;

(d) Divided proportionally among persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31st of the previous year.

(4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this distribution not granted prior to that time.

[2000 c 247 § 408; 1998 c 341 § 312.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

RCW 41.31A.030 Retroactive extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted.

(1) On March 1, 2001, the member account of a person meeting the requirements of this section shall be credited by the 1998 retroactive extraordinary investment gain amount and the 2000 retroactive extraordinary investment gain amount.

(2) The following persons shall be eligible for the benefits provided in subsection (1) of this section:

(a) Any classified employee who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and who transferred to plan 3 under RCW 41.35.510; or

(b) Any classified employee in receipt of a benefit pursuant to RCW 41.35.680 and who

has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510; or

(c) Any classified employee who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510; or

(d) Any classified employee who has a balance of at least one thousand dollars in his or her member account and who has completed five service credit years by September 1, 2000, and who transferred to plan 3 under RCW 41.35.510.

(3) The 1998 retroactive extraordinary investment gain amount shall be calculated as follows:

(a) An amount equal to the average benefit per year of service paid to members of the teachers' retirement system plan 3 pursuant to section 309, chapter 341, Laws of 1998 in 1998;

(b) Distributed to persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31, 1997.

(4) The 2000 retroactive extraordinary investment gain amount shall be calculated as follows:

(a) An amount equal to the average benefit per year of service paid to members of the teachers' retirement system plan 3 pursuant to section 309, chapter 341, Laws of 1998 in 2000;

(b) Distributed to persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on August 31, 1999.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this distribution not granted prior to that time.

[1998 c 341 § 313.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

RCW 41.31A.040 Retroactive extraordinary investment gain--Credited to member accounts--Persons eligible--Calculation of amount--Contractual right not granted. (Effective March 1, 2002.)

(1) On June 1, 2003, the member account of a person meeting the requirements of this section shall be credited by the 2000 retroactive extraordinary investment gain amount and the 2002 retroactive extraordinary investment gain amount.

(2) The following persons shall be eligible for the benefits provided in subsection (1) of this section:

(a) Any public employee who earned service credit during the twelve-month period from September 1st to August 31st immediately preceding the distribution and who transferred to plan 3 under RCW 41.40.795; or

(b) Any public employee in receipt of a benefit pursuant to RCW 41.40.820 and who has completed five service credit years by September 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

(c) Any public employee who is a retiree pursuant to RCW 41.34.020(8) and who has completed five service credit years by September 1, 2002, and who transferred to plan 3 under RCW 41.40.795; or

(d) Any public employee who has a balance of at least one thousand dollars in either his or her member account or in plan 2 accumulated contributions and who has completed five service credit years by September 1, 2002, and who transferred to plan 3 under RCW 41.40.795.

(3) The 2000 retroactive extraordinary investment gain amount shall be calculated as follows:

(a) An amount equal to the average benefit per year of service paid in 2000 to members of the teachers' retirement system plan 3 under section 309, chapter 341, Laws of 1998;

(b) Distributed to persons eligible for the benefit in subsection (1) of this section on the basis of their service credit total on July 1, 1999.

(4) The 2002 retroactive extraordinary investment gain amount shall be calculated as follows:

(a) An amount equal to the average benefit per year of service paid in 2002 to members of the teachers' retirement system plan 3 and the school employees' retirement system plan 3 under RCW 41.31A.020;

(b) Distributed to persons eligible for the benefit provided in subsection (1) of this section on the basis of their service credit total on July 1, 2001.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this distribution not granted prior to that time.

[2000 c 247 § 409.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Chapter 41.32 RCW TEACHERS' RETIREMENT

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NOTES:

Numerical designations--1998 c 341: See note following chapter 41.26 RCW digest.

Prior acts relating to teachers' retirement: (1) 1943 c 116; 1941 c 97; 1939 c 86, 40; 1937 c 221 (repealed by 1947 c 80 § 70).

(2) 1931 c 115; 1923 c 187; 1919 c 150; 1917 c 163 (repealed by 1937 c 221 § 14).

Employee salary or compensation--Limitations respecting: RCW 28A.400.220.

Portability of public retirement benefits: Chapter 41.54 RCW.

Teachers in state correctional facilities as members of teachers' retirement fund: RCW 72.01.200.

"PROVISIONS APPLICABLE TO PLAN 1, PLAN 2, AND PLAN 3"

RCW 41.32.005 Provisions applicable to "plan 1," "plan 2," and "plan 3."

RCW 41.32.010 through 41.32.067 shall apply to members of plan 1, plan 2, and plan 3.

[1995 c 239 § 101; 1992 c 72 § 4; 1991 c 35 § 30; 1990 c 274 § 16. Prior: 1989 c 273 § 15; 1989 c 272 § 4; 1977 ex.s. c 293 § 19.]

Notes:

Effective date--1995 c 239: "This act shall take effect July 1, 1996, except that sections 301 and 302 of this act shall take effect immediately [March 13, 1996]." [1996 c 39 § 23; 1995 c 239 § 327.]

Part and subchapter headings not law--1995 c 239: "Part headings and subchapter headings as used in this act constitute no part of the law." [1995 c 239 § 328.]

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--Construction--1990 c 274: See notes following RCW 41.32.010.

Severability--1989 c 273: See RCW 41.45.900.

Purpose--1989 c 272: "The legislature recognizes that inflation erodes the purchasing power of retirement benefits. Although the benefit provided to state retirees from social security is fully protected, the benefits provided by the public employees' retirement system, plan 1, and the teachers' retirement system, plan 1 provide an automatic cost-of-living adjustment only for persons who receive the minimum benefit.

The purpose of this act is to add provisions to the teachers' retirement system and the public employees' retirement system which will help mitigate the impact of inflation on retirees of those systems. These additional provisions are intended to reflect and implement the following policies:

(1) The minimum benefit is increased in order to provide a more adequate basic standard of living to persons who retired long ago under lower salaries and less generous retirement benefit formulas; and

(2) Retirees whose benefits have lost forty percent of their purchasing power are made eligible for automatic adjustments which are provided in a manner that is consistent with the retirement age and benefit provisions of plan 2 of the teachers' retirement system and the public employees' retirement system." [1989 c 272 § 1.]

Effective date--Severability--1977 ex.s. c 293: See notes following RCW 41.32.755.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.010 Definitions.

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

(1)(a) "Accumulated contributions" for plan 1 members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

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

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

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

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

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

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

(iv) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

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

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

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

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

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

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

following year.

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

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

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

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

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

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

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

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

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

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

(24)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

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

(26)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW

41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

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

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

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

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

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

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

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

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

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

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

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

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

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

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

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

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

(36) "Substitute teacher" means:

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

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

(37)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a

position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

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

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

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

(39) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

[1997 c 254 § 3; 1996 c 39 § 1. Prior: 1995 c 345 § 9; 1995 c 239 § 102; prior: 1994 c 298 § 3; 1994 c 247 § 2; 1994 c 197 § 12; 1993 c 95 § 7; prior: 1992 c 212 § 1; 1992 c 3 § 3; prior: 1991 c 343 § 3; 1991 c 35 § 31; 1990 c 274 § 2; 1987 c 265 § 1; 1985 c 13 § 6; prior: 1984 c 256 § 1; 1984 c 5 § 1; 1983 c 5 § 1; 1982 1st ex.s. c 52 § 6; 1981 c 256 § 5; 1979 ex.s. c 249 § 5; 1977 ex.s. c 293 § 18; 1975 1st ex.s. c 275 § 149; 1974 ex.s. c 199 § 1; 1969 ex.s. c 176 § 95; 1967 c 50 § 11; 1965 ex.s. c 81 § 1; 1963 ex.s. c 14 § 1; 1955 c 274 § 1; 1947 c 80 § 1; Rem. Supp. 1947 § 4995-20; prior: 1941 c 97 § 1; 1939 c 86 § 1; 1937 c 221 § 1; 1931 c 115 § 1; 1923 c 187 § 1; 1917 c 163 § 1; Rem. Supp. 1941 § 4995-1.]

Notes:

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Effective dates--1996 c 39: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1996, with the exception of section 23 of this act, which shall take effect immediately [March 13, 1996]." [1996 c 39 § 25.]

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Intent--1994 c 298: See note following RCW 41.40.010.

Effective date--1994 c 247: See note following RCW 41.32.4991.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--1990 c 274: "(1) The current system for calculating service credit for school district employees is difficult and costly to administer. By changing from the current hours per month calculation to an hours per year calculation, the accumulation of service credit by school district employees will be easier to understand and to administer.

(2) The current system for granting service credit for substitute teachers is difficult and costly to administer. By notifying substitute teachers of their eligibility for service credit and allowing the substitute teacher to apply for service credit, the accumulation of service credit by substitute teachers will be easier to understand and to administer.

(3) Currently, temporary employees in eligible positions in the public employees' retirement system are exempted from membership in the system for up to six months. If the position lasts for longer than six months the employee is made a member retroactively. This conditional exemption causes tracking problems for the department of retirement systems and places a heavy financial burden for back contributions on a temporary employee who crosses the six-month barrier. Under the provisions of this act all persons, other than retirees, who are hired in an eligible position will become members immediately, thereby alleviating the problems described in this section.

(4) The legislature finds that retirees from the plan 2 systems of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, and the public employees' retirement system, may not work for a nonfederal public employer without suffering a suspension of their retirement benefits. This fails to recognize the current and projected demographics indicating the decreasing work force and that the expertise possessed by retired workers can provide a substantial benefit to the state. At the same time, the legislature recognizes that a person who is working full time should have his or her pension delayed until he or she enters full or partial retirement. By allowing plan 2 retirees to work in ineligible positions, the competing concerns listed above are both properly addressed." [1990 c 274 § 1.]

Intent--Reservation--1990 c 274 §§ 2, 4: "(1) The 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 are intended by the legislature to effect administrative, rather than substantive, changes to the affected retirement plan. The legislature therefore reserves the right to revoke or amend the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450. No member is entitled to have his or her service credit calculated under the 1990 amendments to RCW 41.32.010(27)(b) and 41.40.450 as a matter of contractual right.

(2) The department's retroactive application of the changes made in RCW 41.32.010(27)(b) to all service rendered between October 1, 1977, and August 31, 1990, is consistent with the legislative intent of the 1990 changes to RCW 41.32.010(27)(b)." [1994 c 177 § 10; 1990 c 274 § 18.]

Effective date--1990 c 274: "Sections 1 through 8 of this act shall take effect September 1, 1990." [1990 c 274 § 21.]

Construction--1990 c 274: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1990 c 274 § 17.]

Purpose--Application--Retrospective application--1985 c 13: See notes following RCW 41.04.445.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Purpose--Severability--1981 c 256: See notes following RCW 41.26.030.

Effective date--Severability--1977 ex.s. c 293: See notes following RCW 41.32.755.

Emergency--1974 ex.s. c 199: "This 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1974 ex.s. c 199 § 7.]

Severability--1974 ex.s. c 199: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 199 § 8.]

Construction--1974 ex.s. c 199: "(1) Subsection (3) of section 4 of this 1974 amendatory act relating to elected and appointed officials shall be retroactive to January 1, 1973.

(2) Amendatory language contained in subsection (11) of section 1 relating to members as members of the legislature and in provisos (2) and (3) of section 2 of this 1974 amendatory act shall only apply to those members who are serving as a state senator, state representative or state superintendent of public instruction on or after the effective date of this 1974 amendatory act.

(3) Notwithstanding any other provision of this 1974 amendatory act, RCW 41.32.497 as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. shall be applicable to any member serving as a state senator, state representative or superintendent of public instruction on the effective date of this 1974 amendatory act." [1974 ex.s. c 199 § 5.]

Reviser's note: (1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Sections 1 and 2 of 1974 ex.s. c 199 consist of amendments to RCW 41.32.010 and 41.32.260. For amendatory language, a portion of which was vetoed, see the 1973-1974 session laws.

(3) "this 1974 amendatory act" [1974 ex.s. c 199] is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498, and 41.32.4945. The effective date of 1974 ex.s. c 199 is May 6, 1974.

Effective date--1969 ex.s. c 176: The effective date of the amendments to this section and RCW 41.32.420 is April 25, 1969.

Effective date--1967 c 50: "This 1967 amendatory act shall take effect on July 1, 1967." [1967 c 50 § 12.]

Severability--1967 c 50: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 c 50 § 13.]

Severability--1965 ex.s. c 81: "If any provision of this act is held to be invalid the remainder of this act shall not be affected." [1965 ex.s. c 81 § 9.]

Effective date--1965 ex.s. c 81: "The effective date of this act is July 1, 1965." [1965 ex.s. c 81 § 10.]

Savings--1963 ex.s. c 14: "The amendment of any section by this 1963 act shall not be construed as impairing any existing right acquired or any liability incurred by any member under the provisions of the section amended; nor shall it affect any vested right of any former member who reenters public school employment or becomes reinstated as a member subsequent to the effective date of such act." [1963 ex.s. c 14 § 23.]

Severability--1963 ex.s. c 14: "If any provision of this act is held to be invalid the remainder of the act shall not be affected." [1963 ex.s. c 14 § 24.]

Effective date--1963 ex.s. c 14: "The effective date of this act is July 1, 1964." [1963 ex.s. c 14 § 26.]

RCW 41.32.013 Substitute teachers--Application for service credit--Procedures.

Substitute teachers may apply to the department to receive service credit or credit for earnable compensation or both after the end of the last day of instruction of the school year during which the service was performed.

(1) The application must:

- (a) Include a list of the employers the substitute teacher has worked for;
- (b) Include proof of hours worked and compensation earned; and
- (c) Be made prior to retirement.

(2) If the department accepts the substitute teacher's application for service credit, the substitute teacher may obtain service credit by paying the required contribution to the retirement system. The employer must pay the required employer contribution upon notice from the department that the substitute teacher has made contributions under this section.

(3) The department shall charge interest prospectively on employee contributions that are submitted under this section more than six months after the end of the school year, as defined in RCW 28A.150.040, for which the substitute teacher is seeking service credit. The interest rate charged to the employee shall take into account interest lost on employer contributions delayed for more than six months after the end of the school year.

(4) Each employer shall quarterly notify each substitute teacher it has employed during the school year of the number of hours worked by, and the compensation paid to, the substitute teacher.

(5) The department shall adopt rules implementing this section.

(6) If a substitute teacher as defined in RCW 41.32.010(36)(b)(ii) applies to the department under this section for credit for earnable compensation earned from an employer the substitute teacher must make contributions for all periods of service for that employer.

[1992 c 212 § 16; 1991 c 343 § 4; 1990 c 274 § 5.]

Notes:

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Findings--Effective date--Construction--1990 c 274: See notes following RCW 41.32.010.

RCW 41.32.020 Name of system.

The name of the retirement system provided for in this chapter shall be the "Washington State Teachers' Retirement System" and by this name all of its business shall be transacted and all of its funds invested and all of its cash, securities and other property held.

[1947 c 80 § 2; Rem. Supp. 1947 § 4995-21. Prior: 1937 c 221 § 2; Rem. Supp. 1941 § 4995-2.]

RCW 41.32.025 Department's power to determine eligibility.

The department is empowered within the limits of this chapter and, with regard to restoration of service credit under RCW 41.50.165(2), to decide on all questions of eligibility covering membership, service credit, and benefits.

[1994 c 197 § 13; 1991 c 35 § 35; 1955 c 274 § 3; 1947 c 80 § 16; Rem. Supp. 1947 § 4995-35. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.160.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.32.032 Membership in system--Service credit of educational staff associates.

(1) Any teacher, as defined under RCW 41.32.010, who is first employed by a public school on or after June 7, 1984, shall become a member of the retirement system if otherwise eligible.

(2) Any person who before June 7, 1984, has established service credit under chapter 41.40 RCW while employed in an educational staff associate position and who is employed in such a position on or after June 7, 1984, has the following options:

(a) To remain a member of the public employees' retirement system notwithstanding the provisions of RCW 41.32.240 or 41.32.780; or

(b) To irrevocably elect to join the retirement system under this chapter and to receive service credit for previous periods of employment in any position included under RCW 41.32.010. This service credit and corresponding employee contribution shall be computed as though the person had then been a member of the retirement system under this chapter. All employee contributions credited to a member under chapter 41.40 RCW for service now to be credited to the retirement system under this chapter shall be transferred to the system and the member shall not receive any credit nor enjoy any rights under chapter 41.40 RCW for those periods of service. The member shall pay any difference between the employee contributions made under chapter 41.40 RCW and transferred under this subsection and what would have been required under this chapter, including interest as set by the director. The member shall be given until July 1, 1989, to make the irrevocable election permitted under this section. The election shall be made by submitting written notification as required by the department requesting credit under this section and by remitting any necessary proof of service or payments within the time set by the department.

Any person, not employed as an educational staff associate on June 7, 1984, may, before June 30 of the fifth school year after that person's return to employment as a teacher, request and establish membership and credit under this subsection.

[1995 c 239 § 103; 1992 c 212 § 17; 1991 c 35 § 39; 1984 c 256 § 2. Formerly RCW 41.32.242.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.035 Employer contribution rates--Computation and payment.

The amount paid by each employer shall be computed by applying the rates established under chapter 41.45 RCW to the total earnable compensation of the employer's members as shown on the current payrolls of the employer. The employer's contribution shall be paid at the end of each month in the amount due for that month, except as provided in RCW 41.32.013.

[1990 c 274 § 8; 1989 c 273 § 18; 1984 c 236 § 3. Formerly RCW 41.32.403.]

Notes:

Findings--Effective date--Construction--1990 c 274: See notes following RCW 41.32.010.

Severability--1989 c 273: See RCW 41.45.900.

Effective date--1984 c 236: "This act shall take effect September 1, 1985. However, rules necessary for the implementation of this act may be promulgated by appropriate state agencies prior to the effective date." [1984 c 236 § 6.]

Severability--1984 c 236: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 236 § 5.]

RCW 41.32.042 Validity of deductions--Interest.

The deductions from salaries of members of the retirement system for their contributions to the system are not considered diminution of pay and every member is conclusively presumed to consent thereto as a condition of employment. All contributions to the member reserve shall be credited to the individual for whose account the deductions from salary were made. Regular interest shall be credited to each member's account at least annually.

[1992 c 212 § 9; 1982 1st ex.s. c 52 § 13; 1947 c 80 § 46; Rem. Supp. 1947 § 4995-65. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part. Formerly RCW 41.32.460.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 41.32.044 Retired teacher may reenter system--Benefit limitations.

A retired teacher upon returning to service in the public schools of Washington may elect to again become a member of the retirement system: PROVIDED, That if such a retired teacher elects to be restored to membership he must establish two full years of service credit before he will be eligible to retire under the provision of a formula other than the one in effect at the time of his previous retirement: PROVIDED FURTHER, That where any such right to again retire is exercised to become effective before a member has established two full years of service credit he may elect to retire only under the provisions of the formula in effect at the time of his previous retirement: AND PROVIDED FURTHER, That this section shall not apply to any individual who has returned to service and is presently in service on *the effective date of this 1973 amendatory act.

[1973 2nd ex.s. c 32 § 5; 1947 c 80 § 58; Rem. Supp. 1947 § 4995-77. Formerly RCW 41.32.580.]

Notes:

***Reviser's note:** "the effective date of this 1973 amendatory act," because of the emergency clause footnoted to RCW 41.32.310, is September 27, 1973, the date of approval by the governor.

Emergency--Severability--1973 2nd ex.s. c 32: See notes following RCW 41.32.310.

RCW 41.32.052 Exemption from taxation and judicial process--Exceptions--Nonassignability--Deductions authorized.

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, or disability allowance, to the return of contributions, any optional benefit or death benefit, any other right accrued or accruing to any person under the provisions of this chapter and the moneys in the various funds created by this chapter shall be unassignable, and are hereby exempt from any state, county, municipal or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance who is eligible:

(a) Under RCW 41.05.080 from authorizing monthly deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions;

(b) Under a group health care benefit plan approved pursuant to RCW 28A.400.350 or 41.05.065 from authorizing monthly deductions therefrom, of the amount or amounts of subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance; or

(c) Under this system from authorizing monthly deductions therefrom for payment of dues and other membership fees to any retirement association composed of retired teachers and/or public employees pursuant to a written agreement between the director and the retirement association.

Deductions under (a) and (b) of this subsection shall be made in accordance with rules that may be adopted by the director.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

[1991 c 365 § 21; 1991 c 35 § 63; 1989 c 360 § 25; 1987 c 326 § 23; 1982 c 135 § 1; 1981 c 294 § 13; 1979 ex.s. c 205 § 5; 1971 c 63 § 1; 1961 c 132 § 5; 1947 c 80 § 59; Rem. Supp. 1947 § 4995-78. Prior: 1937 c 22 § 9; 1917 c 163 § 19. Formerly RCW 41.32.590.]

Notes:

Reviser's note: This section was amended by 1991 c 35 § 63 and by 1991 c 365 § 21, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1991 c 365: See note following RCW 41.50.500.

Intent--1991 c 35: See note following RCW 41.26.005.

Effective date--1987 c 326: See RCW 41.50.901.

Severability--1981 c 294: See note following RCW 41.26.115.

Effective date--1961 c 132: See note following RCW 41.32.240.

RCW 41.32.054 Disability retirement--Criminal conduct.

A member shall not receive a disability retirement benefit under RCW 41.32.540, 41.32.550, 41.32.790, or 41.32.880 if the disability is the result of criminal conduct by the member committed after April 21, 1997.

[1997 c 103 § 2.]

Notes:

Severability--Effective date--1997 c 103: See notes following RCW 41.26.061.

RCW 41.32.055 Falsification--Penalty.

Any person who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a felony.

[1947 c 80 § 67; Rem. Supp. 1947 § 4995-86. Prior: 1937 c 221 § 10. Formerly RCW 41.32.670.]

RCW 41.32.062 Effect of certain accumulated vacation leave on retirement benefits.

RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter.

[1983 c 283 § 3. Formerly RCW 41.32.850.]

RCW 41.32.063 Benefit calculation--Limitation.

(1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section.

[1995 c 145 § 2.]

RCW 41.32.064 Establishing, restoring service credit.

Notwithstanding any provision to the contrary, persons who fail to:

(1) Establish allowable membership service not previously credited;

(2) Restore all or a part of that previously credited membership service represented by withdrawn contributions; or

(3) Restore service credit represented by a lump sum payment in lieu of benefits, before the deadline established by statute, may do so under the conditions set forth in RCW 41.50.165.

[1998 c 17 § 2.]

RCW 41.32.065 Election to use out-of-state service credit to calculate time at which the member may retire.

A member may elect under this section to apply service credit earned in an out-of-state retirement system that covers teachers in public schools solely for the purpose of determining the time at which the member may retire. The benefit shall be actuarially reduced to recognize the difference between the age a member would have first been able to retire based on service in the state of Washington and the member's retirement age.

[1991 c 278 § 1.]

RCW 41.32.067 Purchase of additional benefits--Conditions.

A member may purchase additional benefits subject to the following:

- (1) The member shall pay all reasonable administrative and clerical costs; and
- (2) The member shall make a member reserve contribution to be actuarially converted to a monthly benefit at the time of retirement.

[1992 c 212 § 13; 1991 c 278 § 2.]

"PLAN 1"

RCW 41.32.215 Provisions applicable to plan 1.

RCW 41.32.240 through *41.32.575 shall apply only to members of plan 1.

[1992 c 72 § 5; 1991 c 35 § 103.]

Notes:

*Reviser's note: RCW 41.32.575 was repealed by 1995 c 345 § 11.

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.32.240 Membership in system.

(1) All teachers employed full time in the public schools shall be members of the system except alien teachers who have been granted a temporary permit to teach as exchange teachers.

(2) A minimum of ninety days or the equivalent of ninety days of employment during a fiscal year shall be required to establish membership. A teacher shall be considered as employed full time if serving regularly for four-fifths or more of a school day or if assigned to duties which are the equivalent of four-fifths or more of a full time assignment. A teacher who is employed for less than full time service may become a member by filing an application with the retirement system, submitting satisfactory proof of teaching service and making the necessary payment before June 30 of the school year immediately following the one during which the service was rendered.

(3) After June 30th of the school year immediately following the one during which the

less than full-time service was rendered, the necessary payment may be made under RCW 41.50.165(2).

[1994 c 197 § 14; 1991 c 35 § 38; 1979 ex.s. c 45 § 3; 1965 ex.s. c 81 § 3; 1963 ex.s. c 14 § 4; 1961 c 132 § 1; 1955 c 274 § 7; 1947 c 80 § 24; Rem. Supp. 1947 § 4995-43. Prior: 1941 c 97 § 3, part; 1939 c 86 § 2, part; 1937 c 221 § 4, part; 1931 c 115 § 3, part; 1923 c 187 § 10, part; Rem. Supp. 1941 § 4995-4, part.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Intent--1991 c 35: See note following RCW 41.26.005.

Effective date--1979 ex.s. c 45: See note following RCW 41.26.040.

Severability--Effective date--1965 ex.s. c 81: See notes following RCW 41.32.010.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

Effective date--1961 c 132: "The provisions of this act shall be effective July 1, 1961." [1961 c 132 § 8.]

Eligibility for retirement allowance: RCW 41.32.470.

RCW 41.32.260 Credit for military service or as state legislator.

Any member whose public school service is interrupted by active service to the United States as a member of its military, naval or air service, or to the state of Washington, as a member of the legislature, may upon becoming reemployed in the public schools, receive credit for that service upon presenting satisfactory proof, and contributing to the member reserve, either in a lump sum or installments, amounts determined by the director. Except that no military service credit in excess of five years shall be established or reestablished after July 1, 1961, unless the service was actually rendered during time of war.

[1992 c 212 § 8; 1991 c 35 § 40; 1974 ex.s. c 199 § 2; 1973 1st ex.s. c 189 § 1; 1971 ex.s. c 271 § 1; 1967 c 50 § 2; 1961 c 132 § 2; 1955 c 274 § 8; 1947 c 80 § 26; Rem. Supp. 1947 § 4995-45. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 1, part; Rem. Supp. 1941 § 4995-5, part.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Emergency--Severability--1974 ex.s. c 199: See notes following RCW 41.32.010.

Construction--1974 ex.s. c 199: See note following RCW 41.32.010.

Severability--1973 1st ex.s. c 189: See note following RCW 41.32.215.

Parts of sections retroactive--1973 1st ex.s. c 189: See note following RCW 41.32.498.

Severability--1971 ex.s. c 271: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 271 § 17.]

Effective date--Severability--1967 c 50: See notes following RCW 41.32.010.

Effective date--1961 c 132: See note following RCW 41.32.240.

Members' retirement contributions--Payment by employer: RCW 41.04.445.

RCW 41.32.263 State legislators and state officials eligible for retirement benefits.

A member of the retirement system who is a member of the state legislature or a state official eligible for the combined pension and annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter amended shall have deductions taken from his or her salary in the

amount of seven and one-half percent of earnable compensation and that service credit shall be established with the retirement system while such deductions are reported to the retirement system, unless he or she has by reason of his or her employment become a contributing member of another public retirement system in the state of Washington. Such elected official who has retired or otherwise terminated his or her public school service may then elect to terminate his or her membership in the retirement system and receive retirement benefits while continuing to serve as an elected official. A member of the retirement system who had previous service as an elected or appointed official, for which he or she did not contribute to the retirement system, may receive credit for such legislative service unless he or she has received credit for that service in another state retirement system, upon making contributions in such amounts as shall be determined by the board of trustees.

[1991 c 35 § 41.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.32.267 Service credit for paid leave of absence--Application to elected officials of labor organizations.

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided under the provisions of RCW 41.32.240 through *41.32.575.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

[1993 c 95 § 5.]

Notes:

***Reviser's note:** RCW 41.32.575 was repealed by 1995 c 345 § 11.

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

RCW 41.32.270 Teaching service, how credited.

Service rendered for four-fifths or more of the official school year of the school district or institution in which a teacher is employed shall be credited as a year's service regardless of the length of the school term, but in no case shall more than one year of service be creditable for service rendered in one fiscal year. Service rendered for less than four-fifths of the official school year shall be credited for that portion of the school year for which it was rendered:

PROVIDED, That no service of less than twenty days in any school year shall be creditable.

[1947 c 80 § 27; Rem. Supp. 1947 § 4995-46. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 5, part; Rem. Supp. 1941 § 4995-5, part.]

RCW 41.32.300 Limitation on credit for out-of-state service.

(1) Henceforth a total of not more than four years of service outside of the state shall be credited to a member who establishes or reestablishes credit for out-of-state public school employment in this state subsequent to July 1, 1961. Foreign public school teaching service shall be creditable as out-of-state service.

(2) No out-of-state service credit shall be established or reestablished subsequent to July 1, 1964, except that a member who has been granted official leave of absence by his or her employer may, upon return to public school service in this state, establish out-of-state membership service credit, within the limitations of this section and conditioned upon satisfactory proof and upon contributions to the member reserve, for public school service rendered in another state or in another country.

(3) No member who establishes out-of-state service credit after July 1, 1947, shall at retirement for pension payment purposes be allowed credit for out-of-state service in excess of the number of years credit which he or she shall have earned in the public schools of the state of Washington.

[1992 c 212 § 14; 1991 c 35 § 42; 1963 ex.s. c 14 § 5; 1961 c 132 § 7; 1955 c 274 § 11; 1947 c 80 § 30; Rem. Supp. 1947 § 4995-49.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

Effective date--1961 c 132: See note following RCW 41.32.240.

RCW 41.32.310 Time limit for claiming service credit--Payments.

(1) Any member desiring to establish credit for services previously rendered, must present proof and make the necessary payments on or before June 30 of the fifth school year of membership. Payments covering all types of membership service credit must be made in a lump sum when due, or in annual installments. The first annual installment of at least twenty percent of the amount due must be paid before the above deadline date, and the final payment must be made by June 30th of the fourth school year following that in which the first installment was made. The amount of payment and the interest thereon, whether lump sum or installments, shall be made by a method and in an amount established by the department.

(2) A member who had the opportunity under chapter 41.32 RCW prior to July 1, 1969, to establish credit for active United States military service or credit for professional preparation and failed to do so shall be permitted to establish additional credit within the provisions of RCW 41.32.260 and 41.32.330. A member who was not permitted to establish credit pursuant to section 2, chapter 32, Laws of 1973 2nd ex. sess., for Washington teaching service previously rendered, must present proof and make the necessary payment to establish such credit as

membership service credit. Payment for such credit must be made in a lump sum on or before June 30, 1974. Any member desiring to establish credit under the provisions of this subsection must present proof and make the necessary payment before June 30, 1974; or, if not employed on the effective date of this amendment, before June 30th of the fifth school year upon returning to public school employment in this state.

(3) After June 30th of the fifth school year of membership, any member desiring to establish credit for services previously rendered, must present proof and make the necessary payments under RCW 41.50.165(2) but prior to retirement.

[1994 c 197 § 15; 1992 c 72 § 6. Prior: 1991 c 35 § 43; 1974 ex.s. c 193 § 1; 1973 2nd ex.s. c 32 § 2; 1969 ex.s. c 150 § 9; 1965 ex.s. c 81 § 8; 1955 c 274 § 12; 1947 c 80 § 31; Rem. Supp. 1947 § 4995-50.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Intent--1991 c 35: See note following RCW 41.26.005.

Emergency--1974 ex.s. c 193: "This amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1974 ex.s. c 193 § 10.]

Severability--1974 ex.s. c 193: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 193 § 9.]

Emergency--1973 2nd ex.s. c 32: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1973 2nd ex.s. c 32 § 7.]

Severability--1973 2nd ex.s. c 32: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 2nd ex.s. c 32 § 6.]

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

RCW 41.32.330 Credit for professional preparation subsequent to becoming teacher.

The department may allow credit for professional preparation to a member for attendance at institutions of higher learning, or for a scholarship or grant under an established foundation, subsequent to becoming a public school teacher; but not more than two years of such credit may be granted to any member.

[1991 c 35 § 44; 1969 ex.s. c 150 § 10; 1955 c 274 § 14; 1947 c 80 § 33; Rem. Supp. 1947 § 4995-52.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

RCW 41.32.340 Creditable service, what to consist of.

Creditable service of a member at retirement shall consist of the membership service rendered for which credit has been allowed, and also, if a prior service certificate is in full force and effect, the amount of the service certified on the prior service certificate. No pension payments shall be made for service credits established or reestablished after July 1, 1955, if such credits entitle the member to retirement benefits from any other public state or local retirement

system or fund. No pension payments shall be made for service credits established or reestablished after July 1, 1961, if such credits entitle the member to retirement benefits from a public federal retirement system or fund for services rendered under a civilian program: PROVIDED, That no pension payments shall be made for service credits established or reestablished after July 1, 1969, if credit for the same service is retained for benefits under any other retirement system or fund.

[1991 c 35 § 45; 1969 ex.s. c 150 § 11; 1961 c 132 § 3; 1955 c 274 § 15; 1947 c 80 § 34; Rem. Supp. 1947 § 4995-53. Prior: 1941 c 97 § 4, part; 1939 c 86 § 4, part; 1937 c 221 § 5, part; Rem. Supp. 1941 § 4995-5, part.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

RCW 41.32.345 "Earnable compensation" defined for certain part-time employees--Adoption of rules.

(1) Subject to the limitations contained in this section, for the purposes of *RCW 41.32.010(10)(a)(ii), earnable compensation means the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period.

(2) In order to ensure that the benefit provided by this section is not used to unfairly inflate a member's retirement allowance, the department shall adopt rules having the force of law to govern the application of this section.

(3)(a) In adopting rules which apply to a member employed by a school district, the department may consult the district's salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's schedule, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's schedule.

(b) In adopting rules which apply to a member employed by a community college district, the department may consult the district's salary schedule and workload provisions contained in an agreement negotiated pursuant to chapter 28B.52 RCW, or similar documents. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's agreement, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's agreement. The maximum full-time work week used in calculating the benefit for community college employees paid on an hourly rate shall in no case exceed fifteen credit hours, twenty classroom contact hours, or thirty-five assigned hours.

(4) If the legislature amends or revokes the benefit provided by this section, no affected employee who thereafter retires is entitled to receive the benefit as a matter of contractual right.

[1992 c 212 § 18; 1990 c 33 § 570; 1987 c 265 § 2. Formerly RCW 41.32.011.]

Notes:

***Reviser's note:** RCW 41.32.010 was amended by 1994 c 298 § 3, changing subsection (10)(a)(ii) to

subsection (10)(a)(iii).

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

RCW 41.32.350 Purchase of additional annuity.

A member may make an additional lump sum payment at date of retirement, not to exceed the member's accumulated contributions, to purchase additional annuity. A contribution of six percent of earnable compensation is required from each member, except as provided under RCW 41.32.013.

[1991 c 35 § 46; 1990 c 274 § 7; 1973 1st ex.s. c 189 § 6; 1963 ex.s. c 14 § 7; 1955 c 274 § 16; 1947 c 80 § 35; Rem. Supp. 1947 § 4995-54. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; 1931 c 115 § 4, part; 1923 c 115 § 11, part; 1917 c 163 § 10, part; Rem. Supp. 1941 § 4995-6, part.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--Effective date--Construction--1990 c 274: See notes following RCW 41.32.010.

Severability--1973 1st ex.s. c 189: See note following RCW 41.50.215.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

Members' retirement contributions--Payment by employer: RCW 41.04.445.

RCW 41.32.360 Basis of contributions to disability reserve fund.

For each year of employment, each member who is employed on a full time basis shall have transferred from his or her contributions a sum determined by the director, in accordance with the recommendations of the state actuary, to maintain a fund sufficient, with regular interest, to provide temporary disability benefits for the members whose claims will be approved by the department in accordance with the provisions of RCW 41.32.540. These transfers shall be placed in the disability reserve fund.

[1991 c 35 § 47; 1963 ex.s. c 14 § 8; 1955 c 274 § 17; 1947 c 80 § 36; Rem. Supp. 1947 § 4995-55. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; 1917 c 163 § 10, part; Rem. Supp. 1941 § 4995-6, part.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.32.366 Basis of contributions to death benefit fund.

During each fiscal year that a member is employed on a full time basis, the department shall transfer from the member's contributions a sum that will, with regular interest, maintain a fund sufficient according to actuarial rates adopted by the department to pay the death benefits as provided for in this chapter.

[1991 c 35 § 48; 1963 ex.s. c 14 § 10.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.32.380 Source of pension reserve--Contributions.

There shall be placed in the pension reserve all appropriations made by the legislature for the purpose of paying pensions and survivors' benefits and of establishing and maintaining an actuarial reserve and all gifts and bequests to the pension reserve, and contributions of persons entering the retirement system who have established prior service credit. Members establishing prior service credit shall contribute to the pension reserve as follows:

For the first ten years of prior service fifteen dollars per year;

For the second ten years of prior service thirty dollars per year;

For the third ten years of prior service forty-five dollars per year.

[1992 c 212 § 10; 1982 1st ex.s. c 52 § 8; 1947 c 80 § 38; Rem. Supp. 1947 § 4995-57.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 41.32.390 Contributions for prior service credits.

At least twenty percent of the total amount due for prior service credit must be paid before an application for credit may be presented to the department for approval. The balance is not due until date of retirement and may be paid at that time without additional charge. Any unpaid installments at the time the member is retired for service or disability shall constitute a first, paramount, and prior lien against his or her retirement allowance.

[1991 c 35 § 49; 1955 c 274 § 18; 1947 c 80 § 39; Rem. Supp. 1947 § 4995-58. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.32.470 Eligibility for retirement allowance.

A member who is not a dual member under RCW 41.54.010 must have established or reestablished with the retirement system at least five years of credit for public school service in this state to be entitled to a retirement allowance.

[1994 c 298 § 4; 1965 ex.s. c 81 § 4; 1963 ex.s. c 14 § 15; 1947 c 80 § 47; Rem. Supp. 1947 § 4995-66. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 7, part; 1923 c 187 § 17, part; Rem. Supp. 1941 § 4995-8, part.]

Notes:

Intent--1994 c 298: See note following RCW 41.40.010.

Severability--Effective date--1965 ex.s. c 81: See notes following RCW 41.32.010.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.32.480 Qualifications for retirement.

(1) Any member who separates from service after having completed thirty years of creditable service may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement

allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497. Effective July 1, 1967, anyone then receiving a retirement allowance or a survivor retirement allowance under this chapter, based on thirty-five years of creditable service, and who has established more than thirty-five years of service credit with the retirement system, shall thereafter receive a retirement allowance based on the total years of service credit established.

(2) Any member who has attained age sixty years, but who has completed less than thirty years of creditable service, upon separation from service, may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497.

(3) Any member who has attained age fifty-five years and who has completed not less than twenty-five years of creditable service, upon separation from service, may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497. An individual who has retired pursuant to this subsection, on or after July 1, 1969, shall not suffer an actuarial reduction in his or her retirement allowance, except as the allowance may be actuarially reduced pursuant to the options contained in RCW 41.32.530. The chapter 193, Laws of 1974 ex. sess. amendment to this section shall be retroactive to July 1, 1969.

[1997 c 254 § 4; 1991 c 35 § 53; 1974 ex.s. c 193 § 2; 1972 ex.s. c 147 § 1; 1970 ex.s. c 35 § 2; 1969 ex.s. c 150 § 14; 1967 c 151 § 1; 1955 c 274 § 21; 1947 c 80 § 48; Rem. Supp. 1947 § 4995-67. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 7, part; 1923 c 187 § 17, part; Rem. Supp. 1941 § 4995-8, part.]

Notes:

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Intent--1991 c 35: See note following RCW 41.26.005.

Emergency--Severability--1974 ex.s. c 193: See notes following RCW 41.32.310.

Effective date--1972 ex.s. c 147: "The effective date of this 1972 amendatory act shall be July 1, 1972." [1972 ex.s. c 147 § 9.]

Severability--1972 ex.s. c 147: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 147 § 10.]

Effective date--1970 ex.s. c 35: "The provisions of sections 1 through 5 and 7 of this 1970 amendatory act shall take effect on July 1, 1970; the provisions of section 6 of this 1970 amendatory act shall be effective on the date chapter 223, Laws of 1969 ex. sess. becomes effective [July 1, 1970], at which time section 5 of this 1970 amendatory act shall be void and of no effect." [1970 ex.s. c 35 § 8.]

Severability--1970 ex.s. c 35: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 35 § 9.]

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date--1967 c 151: "This act shall become effective on July 1, 1967." [1967 c 151 § 9.]

Severability--1967 c 151: "If any provision of this act or its application to any person or circumstance is

held invalid, the remainder of the act or the application of the provision to other persons or circumstances shall not be affected." [1967 c 151 § 8.]

RCW 41.32.485 Minimum retirement allowance--Cost-of-living adjustment--Post-retirement adjustment--Computation.

(1) Notwithstanding any provision of law to the contrary, effective July 1, 1989, as a cost-of-living adjustment, no beneficiary receiving a retirement allowance pursuant to this chapter shall receive, as the pension portion of that retirement allowance, less than fourteen dollars and eighty-two cents per month for each year of service creditable to the person whose service is the basis of the pension. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by fourteen dollars and eighty-two cents. Where the pension payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the retirement allowance of each beneficiary who either is receiving benefits pursuant to RCW 41.32.520 or 41.32.550 as of December 31, 1978, or commenced receiving a monthly retirement allowance under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under *RCW 41.32.499(6) as of July 1, 1979, or July 1, 1980, for the affected beneficiaries. Such adjustment shall be calculated as follows:

(a) Retirement allowances to which this subsection and subsection (1) of this section are both applicable shall be determined by first applying subsection (1) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those beneficiaries to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each beneficiary to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service.

(3) The provisions of subsections (1) and (2) of this section shall not be applicable to those receiving benefits pursuant to RCW 41.32.540 or 41.32.760 through 41.32.825.

[1989 c 272 § 5; 1987 c 455 § 1; 1986 c 306 § 2; 1979 ex.s. c 96 § 2.]

Notes:

***Reviser's note:** RCW 41.32.499 was repealed by 1995 c 345 § 11.

Purpose--1989 c 272: See note following RCW 41.32.005.

Effective date--1987 c 455: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July

1, 1987." [1987 c 455 § 9.]

Effective date--1986 c 306: "This act shall take effect on July 1, 1986." [1986 c 306 § 5.]

RCW 41.32.4851 Minimum retirement allowance--Annual adjustment--Persons who become beneficiaries after June 30, 1995.

(1) No one who becomes a beneficiary after June 30, 1995, shall receive a monthly retirement allowance of less than twenty-four dollars and twenty-two cents times the number of years of service creditable to the person whose service is the basis of such retirement allowance.

(2) If the retirement allowance payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum allowance provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Beginning July 1, 1996, the minimum benefit set forth in subsection (1) of this section shall be adjusted annually by the annual increase.

(4) Those receiving a temporary disability benefit under RCW 41.32.540 shall not be eligible for the benefit provided by this section.

[1995 c 345 § 3.]

Notes:

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

RCW 41.32.4872 Permanent increase for specified beneficiaries age seventy or over.

(1) The amount of the July 1, 1993, increase to the retirement allowance of beneficiaries under this chapter as a result of the temporary adjustment authorized by section 2, chapter 519, Laws of 1993, shall be made a permanent adjustment on July 1, 1995.

(2) Beneficiaries receiving a benefit under RCW 41.32.485 who are at least age seventy-nine shall receive on July 1, 1995, a permanent adjustment of one dollar and eighteen cents per month per year of service.

(3) Beneficiaries under this chapter who are not subject to subsection (1) of this section and not receiving a benefit under RCW 41.32.485 shall receive the following permanent adjustment to their retirement allowance on July 1, 1995:

(a) Those who are age seventy, thirty-nine cents per month per year of service;

(b) Those who are age seventy-one, seventy-nine cents per month per year of service; and

(c) Those who are at least age seventy-two, one dollar and eighteen cents per month per year of service.

[1995 c 345 § 4.]

Notes:

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

RCW 41.32.489 Retirement allowance--Annual increases--Eligibility.

(1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary who has received a retirement allowance for at least one year and has attained at least age sixty-six by July 1st in the calendar year in which the annual increase is given; or

(b) A beneficiary whose retirement allowance is lower than the minimum benefit provided under RCW 41.32.4851.

(3) The following persons shall also be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary receiving the minimum benefit on June 30, 1995, under RCW 41.32.485; or

(b) A recipient of a survivor benefit on June 30, 1995, which has been increased by *RCW 41.32.575.

(4) If otherwise eligible, those receiving an annual adjustment under RCW 41.32.530(1)(d) shall be eligible for the annual increase adjustment in addition to the benefit that would have been received absent this section.

(5) Those receiving a temporary disability benefit under RCW 41.32.540 shall not be eligible for the benefit provided by this section.

(6) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that time.

[1995 c 345 § 2.]

Notes:

***Reviser's note:** RCW 41.32.575 was repealed by 1995 c 345 § 11.

Intent--1995 c 345: "The intent of this act is to:

(1) Simplify the calculation of postretirement adjustments so that they can be more easily communicated to plan 1 active and retired members;

(2) Provide postretirement adjustments based on years of service rather than size of benefit;

(3) Provide postretirement adjustments at an earlier age;

(4) Provide postretirement adjustments to a larger segment of plan 1 retirees; and

(5) Simplify administration by reducing the number of plan 1 postretirement adjustments to one." [1995 c 345 § 1.]

Effective date--1995 c 345: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1995]." [1995 c 345 § 14.]

RCW 41.32.4931 Additional special pension for former members not receiving social security.

(1) The benefits provided under subsection (2) of this section shall be available only to former members who have reached age sixty-five or are disabled for further public school service and are not receiving federal old age, survivors or disability benefit payments (social security) and are not able to qualify for such benefits.

(2) Effective July 1, 1987, former members who receive the minimum retirement

allowance provided by RCW 41.32.485(1) and who meet the requirements of subsection (1) of this section shall receive an additional special pension of ten dollars per month per year of service credit.

[1987 c 455 § 6; 1973 2nd ex.s. c 32 § 3; 1967 c 151 § 6.]

Notes:

Effective date--1987 c 455: See note following RCW 41.32.485.

Emergency--Severability--1973 2nd ex.s. c 32: See notes following RCW 41.32.310.

Effective date--Severability--1967 c 151: See notes following RCW 41.32.480.

RCW 41.32.4945 Limitation as to earnable compensation of member as member of the legislature.

Notwithstanding any other provision of RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498 and this section, when the salary of any member as a member of the legislature is increased beyond the amount provided for in Initiative Measure No. 282 then earnable compensation for the purposes of this chapter shall be based solely on the sum of (1) the compensation actually received from the salary for the job from which such leave of absence may have been taken and (2) such member's salary as a legislator during the two highest compensated consecutive years.

[1991 c 35 § 54; 1974 ex.s. c 199 § 6.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Emergency--Severability--Construction--1974 ex.s. c 199: See notes following RCW 41.32.010.

RCW 41.32.497 Retirement allowance for members entering system before April 25, 1973--Election.

Any person who became a member on or before April 25, 1973 and who qualifies for a retirement allowance shall, at time of retirement, make an irrevocable election to receive either the retirement allowance by RCW 41.32.498 as now or hereafter amended or to receive a retirement allowance pursuant to this section consisting of: (1) An annuity which shall be the actuarial equivalent of his accumulated contributions at his age of retirement, (2) A basic service pension of one hundred dollars per annum, and (3) A service pension which shall be equal to one one-hundredth of his average earnable compensation for his two highest compensated consecutive years of service times the total years of creditable service established with the retirement system: PROVIDED, That no beneficiary now receiving benefits or who receives benefits in the future, except those beneficiaries receiving reduced benefits pursuant to *RCW 41.32.520(1) or 41.32.530, shall receive a pension of less than six dollars and fifty cents per month for each year of creditable service established with the retirement system. Pension benefits payable under the provisions of this section shall be prorated on a monthly basis and paid at the end of each month.

[1990 c 249 § 12; 1974 ex.s. c 199 § 3; 1973 1st ex.s. c 189 § 2; 1970 ex.s. c 35 § 3; 1969 ex.s. c 150 § 15; 1963

ex.s. c 14 § 16.]

Notes:

***Reviser's note:** RCW 41.32.520 was amended by 1990 c 249 § 15, changing subsection (1) to subsection (1)(a).

Findings--1990 c 249: See note following RCW 2.10.146.

Emergency--Severability--Construction--1974 ex.s. c 199: See notes following RCW 41.32.010.

Severability--1973 1st ex.s. c 189: See note following RCW 41.50.215.

Parts of sections retroactive--1973 1st ex.s. c 189: See note following RCW 41.32.498.

Effective date--Severability--1970 ex.s. c 35: See notes following RCW 41.32.480.

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.32.498 Retirement allowance for members entering system after April 25, 1973, or in lieu of allowance under RCW 41.32.497.

Any person who becomes a member subsequent to April 25, 1973 or who has made the election, provided by RCW 41.32.497, to receive the benefit provided by this section, shall receive a retirement allowance consisting of:

(1) An annuity which shall be the actuarial equivalent of his or her additional contributions on full salary as provided by chapter 274, Laws of 1955 and his or her lump sum payment in excess of the required contribution rate made at date of retirement, pursuant to RCW 41.32.350, if any; and

(2) A combined pension and annuity service retirement allowance which shall be equal to two percent of his or her average earnable compensation for his or her two highest compensated consecutive years of service times the total years of creditable service established with the retirement system, to a maximum of sixty percent of such average earnable compensation: PROVIDED, That any member may irrevocably elect, at time of retirement, to withdraw all or a part of his or her accumulated contributions, other than any amount paid under RCW 41.50.165(2), and to receive, in lieu of the full retirement allowance provided by this subsection, a reduction in the standard two percent allowance, of the actuarially determined amount of monthly annuity which would have been purchased by said contributions: PROVIDED FURTHER, That no member may withdraw an amount of accumulated contributions which would lower his or her retirement allowance below the minimum allowance provided by RCW 41.32.497 as now or hereafter amended: AND PROVIDED FURTHER, That said reduced amount may be reduced even further pursuant to the options provided in RCW 41.32.530;

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the retirement allowance payable for service of a member who was state superintendent of public instruction on January 1, 1973 shall be equal to three percent of the average earnable compensation of his two highest consecutive years of service for each year of such service.

[1994 c 197 § 16; 1991 c 35 § 55; 1990 c 249 § 4; 1988 c 116 § 1; 1987 c 143 § 1; 1974 ex.s. c 199 § 4; 1973 1st ex.s. c 189 § 3.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--1990 c 249: See note following RCW 2.10.146.

Effective date--1988 c 116: "This act shall take effect June 30, 1988." [1988 c 116 § 2.]

Emergency--Severability--Construction--1974 ex.s. c 199: See notes following RCW 41.32.010.

Parts of sections as retroactive--1973 1st ex.s. c 189: "Subsection (3) of section 3 of this 1973 amendatory act and the equivalent language contained in the last proviso in section 1 of this 1973 amendatory act, relating to elected and appointed officials, shall be retroactive to January 1, 1973." [1973 1st ex.s. c 189 § 4.]

Reviser's note: The reference to "subsection (3) of section 3" appears to be erroneous. Section 13 of the original bill (House Bill No. 419) referred to equivalent language in subsection (3) of section 12 and the last proviso in section 4, amending RCW 41.32.497. The language referred to in section 4 remains in section 2 of the final bill which amends RCW 41.32.497, but was deleted by senate committee amendment from section 3 (formerly section 12 of the original bill) of the engrossed substitute bill, codified herein as RCW 41.32.498.

Severability--1973 1st ex.s. c 189: See note following RCW 41.50.215.

RCW 41.32.4986 Members with thirty years of service--Irrevocable election.

A member may make the irrevocable election under this section no later than six months after attaining thirty years of service. The election shall become effective at the beginning of the calendar month following department receipt of employee notification.

(1) The sum of member contributions made for periods of service after the effective date of the election plus seven and one-half percent interest shall be paid to the member at retirement without a reduction in the member's monthly retirement benefit as determined under RCW 41.32.498.

(2) Upon retirement, the member's benefit shall be calculated using only the earnable compensation credited prior to the effective date of the member's election. Calculation of the member's average earnable compensation shall include eligible cash outs of annual leave based on the member's salary and leave accumulations at the time of retirement, except that the amount of a member's average earnable compensation cannot be higher than if the member had not taken advantage of the election offered under this section.

(3) Members who have already earned thirty years of service credit prior to July 25, 1999, may participate in the election by notifying the department in writing of their intention by December 31, 1999.

The department shall continue to collect employer contributions as required in RCW 41.45.060.

[1999 c 362 § 1.]

RCW 41.32.4991 Permanent retirement allowance adjustment.

The dollar amount of the temporary postretirement allowance adjustment granted by section 1, chapter 519, Laws of 1993 shall be provided as a permanent retirement allowance adjustment as of July 1, 1995.

[1994 c 247 § 1.]

Notes:

Effective date--1994 c 247: "This act shall take effect August 1, 1994." [1994 c 247 § 8.]

Temporary postretirement allowance--1993 c 519: "The benefit adjustment granted by sections 711(1) and 712(1), chapter 232, Laws of 1992 (uncodified) being received by plan 1 beneficiaries as of June 30, 1993, unless otherwise improper, shall be continued through June 30, 1995." [1993 c 519 § 1.]

RCW 41.32.500 Termination of membership.

Membership in the retirement system is terminated when a member retires for service or disability, dies, or withdraws his or her accumulated contributions.

The prior service certificate becomes void when a member dies or withdraws the accumulated contributions, and any prior administrative interpretation of the board of trustees, consistent with this section, is hereby ratified, affirmed and approved.

[1995 c 134 § 13. Prior: 1994 c 197 § 17; 1994 c 177 § 5; 1991 c 35 § 57; 1986 c 317 § 2; 1983 c 233 § 1; 1974 ex.s. c 193 § 3; 1969 ex.s. c 150 § 16; 1967 c 50 § 6; 1965 ex.s. c 81 § 5; 1955 c 274 § 23; 1947 c 80 § 50; Rem. Supp. 1947 § 4995-69.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Findings--1994 c 177: See note following RCW 41.50.125.

Intent--1991 c 35: See note following RCW 41.26.005.

Legislative findings--Intent--Severability--1986 c 317: See notes following RCW 41.40.150.

Severability--1983 c 233: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 233 § 4.]

Emergency--Severability--1974 ex.s. c 193: See notes following RCW 41.32.310.

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date--Severability--1967 c 50: See notes following RCW 41.32.010.

Effective date--Severability--1965 ex.s. c 81: See notes following RCW 41.32.010.

RCW 41.32.510 Payment on withdrawal--Reentry.

(1) Should a member cease to be employed by an employer and request upon a form provided by the department a refund of the member's accumulated contributions with interest, this amount shall be paid to the individual less any withdrawal fee which may be assessed by the director which shall be deposited in the department of retirement systems expense fund.

(2) A member who files a request for a refund and subsequently enters into employment with an employer prior to the refund being made shall not be eligible for a refund. For purposes of this section, a written or oral employment agreement shall be considered entering into employment.

[1994 c 197 § 18; 1994 c 177 § 6; 1982 1st ex.s. c 52 § 15; 1969 ex.s. c 150 § 17; 1963 ex.s. c 14 § 17; 1955 c 274 § 24; 1947 c 80 § 51; Rem. Supp. 1947 § 4995-70. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part.]

Notes:

Reviser's note: This section was amended by 1994 c 177 § 6 and by 1994 c 197 § 18, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Findings--1994 c 177: See note following RCW 41.50.125.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.32.520 Payment on death before retirement or within sixty days following application for disability retirement.

(1) Except as specified in subsection (3) of this section, upon receipt of proper proofs of death of any member before retirement or before the first installment of his or her retirement allowance shall become due his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits payable upon his or her death shall be paid to his or her estate or to such persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department. If a member fails to file a new beneficiary designation subsequent to marriage, divorce, or reestablishment of membership following termination by withdrawal, lapsation, or retirement, payment of his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits upon death before retirement shall be made to the surviving spouse, if any; otherwise, to his or her estate. If a member had established ten or more years of Washington membership service credit or was eligible for retirement, the beneficiary or the surviving spouse if otherwise eligible may elect, in lieu of a cash refund of the member's accumulated contributions, the following survivor benefit plan actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670:

(a) A widow or widower, without a child or children under eighteen years of age, may elect a monthly payment of fifty dollars to become effective at age fifty, provided the member had fifteen or more years of Washington membership service credit. A benefit paid under this subsection (1)(a) shall terminate at the marriage of the beneficiary.

(b) The beneficiary, if a surviving spouse or a dependent (as that term is used in computing the dependent exemption for federal internal revenue purposes) may elect to receive a joint and one hundred percent retirement allowance under RCW 41.32.530.

(i) In the case of a dependent child the allowance shall continue until attainment of majority or so long as the department judges that the circumstances which created his or her dependent status continue to exist. In any case, if at the time dependent status ceases, an amount equal to the amount of accumulated contributions of the deceased member has not been paid to the beneficiary, the remainder shall then be paid in a lump sum to the beneficiary.

(ii) If at the time of death, the member was not then qualified for a service retirement allowance, the benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(2) If no qualified beneficiary survives a member, at his or her death his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of

accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to his or her estate, or his or her dependents may qualify for survivor benefits under benefit plan (1)(b) in lieu of a cash refund of the members accumulated contributions in the following order: Widow or widower, guardian of a dependent child or children under age eighteen, or dependent parent or parents.

(3) If a member dies within sixty days following application for disability retirement under RCW 41.32.550, the beneficiary named in the application may elect to receive the benefit provided by:

(a) This section; or

(b) RCW 41.32.550, according to the option chosen under RCW 41.32.530 in the disability application.

[1997 c 73 § 1; 1995 c 144 § 9; 1993 c 16 § 1; 1992 c 212 § 7. Prior: 1991 c 365 § 29; 1991 c 35 § 58; 1990 c 249 § 15; 1974 ex.s. c 193 § 5; 1973 2nd ex.s. c 32 § 4; 1973 1st ex.s. c 154 § 76; 1967 c 50 § 7; 1965 ex.s. c 81 § 6; 1957 c 183 § 3; 1955 c 274 § 25; 1947 c 80 § 52; Rem. Supp. 1947 § 4995-71; prior: 1941 c 97 § 6; 1939 c 86 § 6; 1937 c 221 § 7; 1923 c 187 § 22; 1917 c 163 § 21; Rem. Supp. 1941 § 4995-7.]

Notes:

Effective date--1997 c 73: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 19, 1997]." [1997 c 73 § 4.]

Application--1993 c 16 § 1: "The provisions of section 1(3) of this act shall apply to all determinations of disability made after June 30, 1992." [1993 c 16 § 2.]

Effective date--1993 c 16: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 12, 1993]." [1993 c 16 § 3.]

Severability--1991 c 365: See note following RCW 41.50.500.

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--1990 c 249: See note following RCW 2.10.146.

Emergency--Severability--1974 ex.s. c 193: See notes following RCW 41.32.310.

Emergency--Severability--1973 2nd ex.s. c 32: See notes following RCW 41.32.310.

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

Effective date--Severability--1967 c 50: See notes following RCW 41.32.010.

Effective date--Severability--1965 ex.s. c 81: See notes following RCW 41.32.010.

Severability--1957 c 183: See RCW 41.33.900.

RCW 41.32.522 Death benefits.

(1) The department shall pay a death benefit of six hundred dollars to a member's estate or to the persons, trust, or organization the member nominates by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520 upon receipt of proper proof of death of the member if he or she:

(a) Was employed on a full time basis during the fiscal year in which his or her death occurs;

(b) Was under contract for full time employment in a Washington public school;

(c) Submits an application for a retirement allowance to be approved by the department immediately following termination of his or her full-time Washington public school service and who dies before the first installment of his or her retirement allowance becomes due;

(d) Is receiving or is entitled to receive temporary disability payments; or

(e) Upon becoming eligible for a disability retirement allowance submits an application for an allowance to be approved by the department immediately following the date of his or her eligibility for a disability retirement allowance and dies before the first installment of such allowance becomes due.

(2) In order to receive a death benefit under this section a deceased member:

(a) Must have established at least one year of credit with the retirement system for full time Washington membership service;

(b) Who was not employed full time in Washington public school service during the fiscal year immediately preceding the year of his or her death must have been employed full time in Washington public school service for at least fifty consecutive days during the fiscal year of his or her death.

[1995 c 144 § 10; 1992 c 212 § 4; 1991 c 35 § 59; 1974 ex.s. c 193 § 4; 1969 ex.s. c 150 § 18; 1967 c 50 § 8; 1963 ex.s. c 14 § 20.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Emergency--Severability--1974 ex.s. c 193: See notes following RCW 41.32.310.

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date--Severability--1967 c 50: See notes following RCW 41.32.010.

Savings--Effective date--Severability--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.32.523 Death benefits--Members not qualified for benefits under RCW 41.32.522 and retired former members.

Upon receipt of proper proof of death of a member who does not qualify for the death benefit of six hundred dollars under RCW 41.32.522, or a former member who was retired for age, service, or disability, a death benefit of four hundred dollars shall be paid to the member's estate or to the persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department or to the persons as may otherwise qualify as the beneficiary pursuant to RCW 41.32.520: PROVIDED, That the member or the retired former member had established not less than ten years of credit with the retirement system for full time Washington membership service.

[1995 c 144 § 11; 1992 c 212 § 5; 1991 c 35 § 60; 1974 ex.s. c 193 § 6; 1969 ex.s. c 150 § 19; 1967 c 50 § 9; 1965 ex.s. c 81 § 7; 1963 ex.s. c 14 § 21.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Emergency--Severability--1974 ex.s. c 193: See notes following RCW 41.32.310.

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date--Severability--1967 c 50: See notes following RCW 41.32.010.

Savings--Effective date--Severability--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.32.530 Options available--Retirement allowance adjustment.

(1) Upon an application for retirement for service under RCW 41.32.480 or retirement for disability under RCW 41.32.550, approved by the department, every member shall receive the maximum retirement allowance available to him or her throughout life unless prior to the time the first installment thereof becomes due he or she has elected, by executing the proper application therefor, to receive the actuarial equivalent of his or her retirement allowance in reduced payments throughout his or her life with the following options:

(a) Standard allowance. If he or she dies before he or she has received the present value of his or her accumulated contributions at the time of his or her retirement in annuity payments, the unpaid balance shall be paid to his or her estate or to such person, trust, or organization as he or she shall have nominated by written designation executed and filed with the department.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) Such other benefits shall be paid to a member receiving a retirement allowance under RCW 41.32.497 as the member may designate for himself, herself, or others equal to the actuarial value of his or her retirement annuity at the time of his retirement: PROVIDED, That the board of trustees shall limit withdrawals of accumulated contributions to such sums as will not reduce the member's retirement allowance below one hundred and twenty dollars per month.

(d) A member whose retirement allowance is calculated under RCW 41.32.498 may also elect to receive a retirement allowance based on options available under this subsection that includes the benefit provided under RCW 41.32.770. This retirement allowance option shall also be calculated so as to be actuarially equivalent to the maximum retirement allowance and to the options available under this subsection.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and
(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

[2000 c 186 § 2; 1998 c 340 § 6; 1996 c 175 § 4; 1995 c 144 § 12; 1990 c 249 § 5; 1955 c 274 § 26; 1947 c 80 § 53; Rem. Supp. 1947 § 4995-72. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; Rem. Supp. 1941 § 4995-8, part.]

Notes:

Effective date--1998 c 340: See note following RCW 41.31.010.

Findings--1990 c 249: See note following RCW 2.10.146.

RCW 41.32.540 Disability allowance--Temporary.

Upon application of a member in service or of his or her employer or of his or her legal guardian or of the legal representative of a deceased member who was eligible to apply for a temporary disability allowance based on the final illness a member shall be granted a temporary disability allowance by the department if the medical director, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty. Any member receiving a temporary disability allowance on July 1, 1964 or who qualifies for a temporary disability allowance effective on or after July 1, 1964 shall receive a temporary disability allowance of one hundred eighty dollars per month for a period not to exceed two years, but no payments shall be made for a disability period of less than sixty days: PROVIDED, That a member who is not employed full time in Washington public school service for consecutive fiscal years shall have been employed for at least fifty consecutive days during the fiscal year in which he or she returns to full time Washington public school service before he or she may qualify for temporary disability benefits: PROVIDED FURTHER, That no temporary disability benefits shall be paid on the basis of an application received more than four calendar years after a member became eligible to apply for such benefits.

[1992 c 212 § 3; 1991 c 35 § 61; 1974 ex.s. c 193 § 7; 1963 ex.s. c 14 § 18; 1959 c 37 § 1; 1955 c 274 § 27; 1947 c 80 § 54; Rem. Supp. 1947 § 4995-73. Prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; Rem. Supp. 1941 § 4995-8, part.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Emergency--Severability--1974 ex.s. c 193: See notes following RCW 41.32.310.

Savings--Effective date--Severability--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.32.550 Options and allowances on report that disability will be permanent--Reexamination.

(1) Should the director determine from the report of the medical director that a member employed under an annual contract with an employer has become permanently disabled for the performance of his or her duties or at any time while a member is receiving temporary disability benefits that a member's disability will be permanent, a member shall have the option of then receiving (a) all of the accumulated contributions in a lump sum payment and canceling his or her membership, or (b) of accepting a retirement allowance based on service or age, if eligible under RCW 41.32.480, or (c) if the member had five or more years of Washington membership service credit established with the retirement system, a retirement allowance because of disability.

(2) Any member applying for a retirement allowance who is eligible for benefits on the basis of service or age shall receive a retirement allowance based on the provision of law governing retirement for service or age. If the member qualifies to receive a retirement allowance because of disability he or she shall be paid the maximum annuity which shall be the actuarial equivalent of the accumulated contributions at his or her age of retirement and a

pension equal to the service pension to which he or she would be entitled under RCW 41.32.497. If the member dies before he or she has received in annuity payments the present value of the accumulated contributions at the time of retirement, the unpaid balance shall be paid to the estate or to the persons, trust, or organization nominated by written designation executed and filed with the department.

(3) A member retired for disability may be required at any time to submit to reexamination. If medical findings reveal that the individual is no longer disabled for the performance of public school service, the retirement allowance granted because of disability may be terminated by action of the director or upon written request of the member. In case of termination, the individual shall be restored to full membership in the retirement system.

[1995 c 144 § 13; 1991 sp.s. c 11 § 6. Prior: 1991 c 365 § 33; 1991 c 35 § 62; 1970 ex.s. c 35 § 4; 1969 ex.s. c 150 § 20; 1967 c 50 § 10; 1963 ex.s. c 14 § 19; 1961 c 132 § 4; 1959 c 37 § 2; 1955 c 274 § 28; 1947 c 80 § 55; Rem. Supp. 1947 § 4995-74; prior: 1941 c 97 § 7, part; 1939 c 86 § 7, part; 1937 c 221 § 8, part; 1931 c 115 § 8; 1923 c 187 § 18; 1917 c 163 § 17, part; Rem. Supp. 1941 § 4995-8, part.]

Notes:

Purpose--Effective dates--1991 sp.s. c 11: See notes following RCW 41.26.090.

Severability--1991 c 365: See note following RCW 41.50.500.

Intent--1991 c 35: See note following RCW 41.26.005.

Effective date--Severability--1970 ex.s. c 35: See notes following RCW 41.32.480.

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

Effective date--Severability--1967 c 50: See notes following RCW 41.32.010.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.32.555 Persons with annual half-time contracts--Eligibility for benefits under RCW 41.32.550.

Persons who were under an annual half-time contract with an employer anytime during the period of September 1, 1986, through August 31, 1987, shall be eligible for benefits provided by RCW 41.32.550, as amended by chapter 365, Laws of 1991, effective beginning the month following when they left service due to their disability if during that period they were medically determined to be permanently disabled for the performance of their duty.

A member who qualifies for benefits under this section who has not begun receiving benefits prior to June 11, 1992, shall be permitted to select a survivor option pursuant to RCW 41.32.530.

[1992 c 212 § 19; 1991 c 365 § 34.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.32.570 Postretirement employment--Reduction or suspension of pension payments (as amended by 2001 c 317).

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five

and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any monthly benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) Any ~~((retired teacher or retired administrator))~~ retiree who enters service in any public educational institution in Washington state and who has satisfied the break in employment requirement of subsection (1) of this section shall cease to receive pension payments while engaged in such service: PROVIDED, That service may be rendered up to ~~((five hundred twenty five))~~ eight hundred forty hours per school year without reduction of pension.

~~((3) In addition to the five hundred twenty five hours of service permitted under subsection (2) of this section, a retired teacher or retired administrator may also serve only as a substitute teacher for up to an additional three hundred fifteen hours per school year without reduction of pension if:~~

~~—— (a) A school district, which is not a member of a multidistrict substitute cooperative, determines that it has exhausted or can reasonably anticipate that it will exhaust its list of qualified and available substitutes and the school board of the district adopts a resolution to make its substitute teachers who are retired teachers or retired administrators eligible for the extended service once the list of qualified and available substitutes has been exhausted. The resolution by the school district shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with a list of retired teachers and retired administrators who have been employed as substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection; or~~

~~—— (b) A multidistrict substitute cooperative determines that the school districts have exhausted or can reasonably anticipate that they will exhaust their list of qualified and available substitutes and each of the school boards adopts a resolution to make their substitute teachers who are retired teachers or retired administrators eligible for the extended service once the list of qualified and available substitutes has been exhausted. The resolutions by each of the school districts shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolutions shall be valid only for the school year in which they are adopted. The cooperative shall forward a copy of the resolutions with a list of retired teachers and retired administrators who have been employed as substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection.~~

~~—— (4) In addition to the five hundred twenty five hours of service permitted under subsection (2) of this section, a retired administrator or retired teacher may also serve as a substitute administrator up to an additional one hundred five hours per school year without~~

~~reduction of pension if a school district board of directors adopts a resolution declaring that the services of a retired administrator or retired teacher are necessary because it cannot find a replacement administrator to fill a vacancy. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with the name of the retired administrator or retired teacher who has been employed as a substitute administrator to the department.~~

~~————(5) In addition to the five hundred twenty five hours of service permitted under subsection (2) of this section and the one hundred five hours permitted under subsection (4) of this section, a retired principal may also serve as a substitute principal up to an additional two hundred ten hours per school year without a reduction of pension if a school district board of directors adopts a resolution declaring that the services of a retired principal are necessary because it cannot find a replacement principal to fill a vacancy. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with the name of the retired principal who has been employed as a substitute principal to the department.~~

~~————(6) Subsection (2) of this section shall apply to all persons governed by the provisions of plan 1, regardless of the date of their retirement, but shall apply only to benefits payable after June 11, 1986.~~

~~————(7) Subsection (3) of this section shall apply to all persons governed by the provisions of plan 1, regardless of the date of their retirement, but shall only apply to benefits payable after September 1, 1994.)~~

(3) The department shall collect and provide the state actuary with information relevant to the use of this section for the joint committee on pension policy.

(4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive eight hundred forty hours per year of postretirement employment.

[2001 c 317 § 1; 1999 c 387 § 1; 1997 c 254 § 5; 1995 c 264 § 1; 1994 c 69 § 2; 1989 c 273 § 29; 1986 c 237 § 1; 1967 c 151 § 5; 1959 c 37 § 3; 1955 c 274 § 30; 1947 c 80 § 57; Rem. Supp. 1947 § 4995-76.]

RCW 41.32.570 Postretirement employment--Reduction or suspension of pension payments (as amended by 2001 2nd sp.s. c 10).

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any monthly benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) Any retired teacher or retired administrator who enters service in any public educational institution in Washington state and who has satisfied the break in employment requirement of subsection (1) of this section shall cease to receive pension payments while

~~engaged in such service(:(~~PROVIDED, That service may be rendered up to five hundred twenty five hours per school year without reduction of pension.~~~~

~~—— (3) In addition to the five hundred twenty five hours of service permitted under subsection (2) of this section, a retired teacher or retired administrator may also serve only as a substitute teacher for up to an additional three hundred fifteen hours per school year without reduction of pension if:~~

~~—— (a) A school district, which is not a member of a multidistrict substitute cooperative, determines that it has exhausted or can reasonably anticipate that it will exhaust its list of qualified and available substitutes and the school board of the district adopts a resolution to make its substitute teachers who are retired teachers or retired administrators eligible for the extended service once the list of qualified and available substitutes has been exhausted. The resolution by the school district shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with a list of retired teachers and retired administrators who have been employed as substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection; or~~

~~—— (b) A multidistrict substitute cooperative determines that the school districts have exhausted or can reasonably anticipate that they will exhaust their list of qualified and available substitutes and each of the school boards adopts a resolution to make their substitute teachers who are retired teachers or retired administrators eligible for the extended service once the list of qualified and available substitutes has been exhausted. The resolutions by each of the school districts shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolutions shall be valid only for the school year in which they are adopted. The cooperative shall forward a copy of the resolutions with a list of retired teachers and retired administrators who have been employed as substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection.~~

~~—— (4) In addition to the five hundred twenty five hours of service permitted under subsection (2) of this section, a retired administrator or retired teacher may also serve as a substitute administrator up to an additional one hundred five hours per school year without reduction of pension if a school district board of directors adopts a resolution declaring that the services of a retired administrator or retired teacher are necessary because it cannot find a replacement administrator to fill a vacancy. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with the name of the retired administrator or retired teacher who has been employed as a substitute administrator to the department.~~

~~—— (5) In addition to the five hundred twenty five hours of service permitted under subsection (2) of this section and the one hundred five hours permitted under subsection (4) of this section, a retired principal may also serve as a substitute principal up to an additional two~~

~~hundred ten hours per school year without a reduction of pension if a school district board of directors adopts a resolution declaring that the services of a retired principal are necessary because it cannot find a replacement principal to fill a vacancy. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with the name of the retired principal who has been employed as a substitute principal to the department.~~

~~————(6) Subsection (2) of this section shall apply to all persons governed by the provisions of plan 1, regardless of the date of their retirement, but shall apply only to benefits payable after June 11, 1986.~~

~~————(7) Subsection (3) of this section shall apply to all persons governed by the provisions of plan 1, regardless of the date of their retirement, but shall only apply to benefits payable after September 1, 1994), after the retiree has rendered service for more than one thousand five hundred hours in a school year. When a retired teacher or administrator renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that fiscal year.~~

(3) The department shall collect and provide the state actuary with information relevant to the use of this section for the joint committee on pension policy.

(4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five hundred twenty-five hours per year without a reduction of his or her pension.

[2001 2nd sp.s. c 10 § 3; 1999 c 387 § 1; 1997 c 254 § 5; 1995 c 264 § 1; 1994 c 69 § 2; 1989 c 273 § 29; 1986 c 237 § 1; 1967 c 151 § 5; 1959 c 37 § 3; 1955 c 274 § 30; 1947 c 80 § 57; Rem. Supp. 1947 § 4995-76.]

NOTES:

Reviser's note: RCW 41.32.570 was amended twice during the 2001 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective dates--2001 2nd sp.s. c 10: See note following RCW 41.40.037.

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Effective date--1995 c 264: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 264 § 2.]

Findings--1994 c 69: "The legislature finds that there is a shortage of certificated substitute teachers in many regions of the state, and that this shortage will likely increase in the coming years. The legislature further finds that one method of reducing this shortage of substitute teachers is to encourage retired teachers to serve as substitutes by increasing the number of days they can work without affecting their retirement payments." [1994 c 69 § 1.]

Severability--1989 c 273: See RCW 41.45.900.

Effective date--Severability--1967 c 151: See notes following RCW 41.32.480.

"PLAN 2"

RCW 41.32.755 Provisions applicable to plan 2.

RCW 41.32.760 through 41.32.825 shall apply only to plan 2 members.

[1992 c 72 § 7; 1977 ex.s. c 293 § 2.]

Notes:

Effective date--1977 ex.s. c 293: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect October 1, 1977." [1977 ex.s. c 293 § 23.]

Severability--1977 ex.s. c 293: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 293 § 22.]

Legislative direction and placement--1977 ex.s. c 293: "Sections 1 through 17 of this 1977 amendatory act shall be added to chapter 41.32 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 293 § 21.]

Section headings--1977 ex.s. c 293: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 293 § 20.]

RCW 41.32.760 Computation of the retirement allowance.

A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each year of service.

[1977 ex.s. c 293 § 3.]

Notes:

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293: See notes following RCW 41.32.755.

RCW 41.32.762 Lump sum retirement allowance--Reentry--Conditions for reinstatement of service.

(1) On or after June 10, 1982, the director may pay a beneficiary, subject to the provisions of subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.32.760 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, subject to the provisions of subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations under subsection (3) of this section,

reinstatement of all previous service will occur if the member pays the amount required under RCW 41.50.165(2). The amount, however, shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under RCW 41.32.760 or an earned disability allowance under RCW 41.32.790 qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system.

[1994 c 197 § 19; 1982 c 144 § 2.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

RCW 41.32.765 Retirement for service.

(1) NORMAL RETIREMENT. Any member with at least five service credit years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

[2000 c 247 § 902; 1991 c 343 § 5; 1977 ex.s. c 293 § 4.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293: See notes following RCW 41.32.755.

RCW 41.32.770 Post-retirement cost-of-living.

Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index--Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

[1977 ex.s. c 293 § 5.]

Notes:

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293:
See notes following RCW 41.32.755.

RCW 41.32.780 Teachers required to be members.

All teachers who become employed by an employer in an eligible position on or after October 1, 1977, shall be members of the retirement system and shall be governed by the provisions of RCW 41.32.755 through 41.32.825.

[1991 c 35 § 67; 1990 c 274 § 15; 1979 ex.s. c 45 § 5; 1977 ex.s. c 293 § 7.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--Construction--1990 c 274: See notes following RCW 41.32.010.

Application--Reservation--1990 c 274 §§ 11, 12, 14, and 15: See note following RCW 41.40.690.

Effective date--1979 ex.s. c 45: See note following RCW 41.26.040.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293:
See notes following RCW 41.32.755.

RCW 41.32.785 Options for payment of retirement allowances--Retirement allowance adjustment.

(1) Upon retirement for service as prescribed in RCW 41.32.765 or retirement for disability under RCW 41.32.790, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or

such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever

comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

[2000 c 186 § 4; 1998 c 340 § 7; 1996 c 175 § 5; 1995 c 144 § 14; 1990 c 249 § 6; 1977 ex.s. c 293 § 8.]

Notes:

Effective date--1998 c 340: See note following RCW 41.31.010.

Findings--1990 c 249: See note following RCW 2.10.146.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293: See notes following RCW 41.32.755.

RCW 41.32.790 Earned disability allowance--Eligibility--Disposition upon death of recipient.

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.32.755 through 41.32.825. The member shall receive a monthly disability allowance computed as provided for in RCW 41.32.760 and shall have the allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written

designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither a designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions.

[1995 c 144 § 15; 1991 c 35 § 68; 1990 c 249 § 20; 1989 c 191 § 2; 1977 ex.s. c 293 § 9.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--1990 c 249: See note following RCW 2.10.146.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293:
See notes following RCW 41.32.755.

RCW 41.32.795 Application for and effective date of retirement allowances.

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.32.765, 41.32.790, or 41.32.805 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.32.765 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.32.765, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.32.790 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.32.805 shall accrue from the first day of the calendar month immediately following the member's death.

[1977 ex.s. c 293 § 10.]

Notes:

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293:
See notes following RCW 41.32.755.

RCW 41.32.800 Suspension of retirement allowance upon reemployment--Reinstatement.

(1) Except as provided in RCW 41.32.802, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an

eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

[1998 c 341 § 605; 1997 c 254 § 6; 1990 c 274 § 13; 1977 ex.s. c 293 § 11.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Findings--Construction--1990 c 274: See notes following RCW 41.32.010.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293:
See notes following RCW 41.32.755.

**RCW 41.32.802 Reduction of retirement allowance upon
reemployment--Reestablishment of membership.**

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

[2001 2nd sp.s. c 10 § 8; 1997 c 254 § 8.]

NOTES:

Effective dates--2001 2nd sp.s. c 10: See note following RCW 41.40.037.

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

RCW 41.32.805 Death benefits. (Effective until March 1, 2002.)

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to

an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of such member's death shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.32.765(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.32.785 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.765(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

[1995 c 144 § 16; 1993 c 236 § 4; 1991 c 365 § 30; 1990 c 249 § 16; 1977 ex.s. c 293 § 12.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

Findings--1990 c 249: See note following RCW 2.10.146.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293:
See notes following RCW 41.32.755.

RCW 41.32.805 Death benefits. (Effective March 1, 2002.)

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of such member's death shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.32.765, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.32.785 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.765; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

[2000 c 247 § 1002; 1995 c 144 § 16; 1993 c 236 § 4; 1991 c 365 § 30; 1990 c 249 § 16; 1977 ex.s. c 293 § 12.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Severability--1991 c 365: See note following RCW 41.50.500.

Findings--1990 c 249: See note following RCW 2.10.146.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293:
See notes following RCW 41.32.755.

RCW 41.32.810 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service.

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.32.755 through 41.32.825.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (6) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes both the employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner.

(4) If a member fails to meet the time limitations of subsection (3) of this section, the member may receive a maximum of two years of service credit during a member's working career for those periods when a member is on unpaid leave of absence authorized by an employer. This may be done by paying the amount required under RCW 41.50.165(2) prior to retirement.

(5) For the purpose of subsection (3) of this section, the contribution shall not include the contribution for the unfunded supplemental present value as required by *RCW 41.32.775. The contributions required shall be based on the average of the member's earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(6) A member who leaves the employ of an employer to enter the armed forces of the

United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under *RCW 41.32.775 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under *RCW 41.32.775 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

[1996 c 61 § 2; 1994 c 197 § 20; 1993 c 95 § 6; 1992 c 119 § 2; 1977 ex.s. c 293 § 13.]

Notes:

***Reviser's note:** RCW 41.32.775 was repealed by 1995 c 239 § 326, effective July 1, 1996.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

Retroactive application--1992 c 119: See note following RCW 41.26.520.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293: See notes following RCW 41.32.755.

RCW 41.32.812 Service credit for half-time employment from October 1, 1977, through December 31, 1986.

The department of retirement systems shall credit at least one-half service credit month for each month of each school year, as defined by RCW 28A.150.040, from October 1, 1977, through December 31, 1986, to a member of the teachers' retirement system plan 2 who was employed by an employer, as defined by RCW 41.32.010, under a contract for half-time employment as determined by the department for such school year and from whose compensation contributions were paid by the employee or picked up by the employer. Any withdrawn contributions shall be restored under *RCW 41.32.500(1) or 41.50.165 prior to crediting any service.

[1994 c 197 § 21; 1992 c 212 § 20; 1991 c 343 § 12.]

Notes:

***Reviser's note:** RCW 41.32.500(1) was renumbered by 1994 c 197 § 17 and deleted in large part by 1994 c 177 § 5.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

RCW 41.32.815 Vested membership.

A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.32.765 if such member maintains the member's accumulated contributions intact.

[1977 ex.s. c 293 § 14.]

Notes:

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293: See notes following RCW 41.32.755.

RCW 41.32.817 Transfer to plan 3--Irrevocable option.

(1) Every plan 2 member employed by an employer in an eligible position may make an irrevocable option to transfer to plan 3.

(2) Any plan 2 member who is a substitute teacher may make an irrevocable option to transfer to plan 3 at the time the member purchases substitute service credit pursuant to RCW 41.32.013, pursuant to time lines and procedures established by the department.

(3) Any plan 2 member, other than a substitute teacher, who wishes to transfer to plan 3 after December 31, 1997, may transfer during the month of January in any following year, provided that the member earns service credit for that month.

(4) All service credit in plan 2 shall be transferred to the defined benefit portion of plan 3.

(5) The accumulated contributions in plan 2 less fifty percent of any contributions made pursuant to RCW 41.50.165(2) shall be transferred to the member's account in the defined contribution portion established in chapter 41.34 RCW, pursuant to procedures developed by the department and subject to RCW 41.34.090. Contributions made pursuant to RCW 41.50.165(2) that are not transferred to the member's account shall be transferred to the fund created in RCW 41.50.075(2), except that interest earned on all such contributions shall be transferred to the member's account.

(6) The legislature reserves the right to discontinue the right to transfer under this section.

(7) Anyone previously retired from plan 2 is prohibited from transferring to plan 3.

[1996 c 39 § 2; 1995 c 239 § 303.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.818 Public employees' retirement system members who previously declined membership in the teachers' retirement system--Transfer to plan 3--Irrevocable option.

Any member of the public employees' retirement system plan 2 who is employed in an eligible position as an educational staff associate and who elected pursuant to RCW 41.32.032(2)(a) to remain a member of the public employees' retirement system under chapter 41.40 RCW may make an irrevocable option before January 1, 1998, to transfer to plan 3 pursuant to RCW 41.32.817, PROVIDED THAT:

(1) Only service credit for previous periods of employment in a position covered by RCW 41.32.010 is transferred to plan 3;

(2) Equivalent accumulated employee and employer contributions attributable to service covered by subsection (1) of this section are transferred to plan 3;

(3) Employer contributions transferred under this section shall be paid into the teachers' retirement system combined plan 2 and 3 fund.

[1996 c 39 § 3; 1995 c 239 § 304.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.820 Refund of contributions on termination.

A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate membership and all benefits under the provisions of RCW 41.32.755 through 41.32.825.

[1988 c 117 § 1; 1982 1st ex.s. c 52 § 17; 1977 ex.s. c 293 § 15.]

Notes:

Effective date--1988 c 117: "This act shall take effect July 1, 1988." [1988 c 117 § 3.]

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293: See notes following RCW 41.32.755.

RCW 41.32.825 Reentry.

(1) A member, who had left service and withdrawn the member's accumulated contributions, shall, upon reestablishment of membership under RCW 41.32.240, receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department. The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid.

[1994 c 197 § 22; 1988 c 117 § 2; 1977 ex.s. c 293 § 16.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Effective date--1988 c 117: See note following RCW 41.32.820.

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293: See notes following RCW 41.32.755.

"PLAN 3"

RCW 41.32.831 Provisions applicable to plan 3--Plan 3 elements.

(1) RCW 41.32.831 through 41.32.895 shall apply only to plan 3 members.

(2) Plan 3 shall consist of two separate elements: (a) A defined benefit portion covered under this subchapter; and (b) a defined contribution portion covered under chapter 41.34 RCW.

(3) Unless otherwise specified, all references to "plan 3" in this subchapter refer to the defined benefit portion of plan 3.

[1996 c 39 § 10; 1995 c 239 § 104.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: "The legislature recognizes that teachers, principals, and district administrators need the ability to make transitions to other public or private sector careers, and that the retirement system should not be a barrier to exercise of employee choice. The legislature also recognizes that teachers, principals, and district administrators need a secure and viable retirement benefit, not only for their own financial protection, but also that public funds are spent prudently for their intended purpose.

It is the legislative intent to create a new public retirement system that balances flexibility with stability, provides both increased employee control of investments and responsible protection of the public's investment in employee benefits, and encourages the pursuit of public sector careers without preventing employees from transitioning into other public or private sector employment.

Therefore, the purpose of chapter 239, Laws of 1995 is to continue to provide teachers, principals, and district administrators with a guaranteed pension at retirement age based on years of public service with an element of inflation protection. It is further the purpose of chapter 239, Laws of 1995 to create a parallel retirement plan where employees have options regarding the investment of their retirement contributions and have the opportunity, along with the accompanying risk, to receive a full rate of return on their investments and where employees who

leave public employment prior to retirement receive a fair and reasonable value from the retirement system." [1995 c 239 § 1.]

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.835 Membership in plan 3.

All teachers who first become employed by an employer in an eligible position on or after July 1, 1996, shall be members of plan 3.

[1995 c 239 § 105.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.840 Computation of the retirement allowance.

(1) A member of the retirement system shall receive a retirement allowance equal to one percent of such member's average final compensation for each service credit year.

(2) The retirement allowance payable under RCW 41.32.875 to a member who separates after having completed at least twenty service credit years shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date that the retirement allowance commences.

[1996 c 39 § 4; 1995 c 239 § 106.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.8401 Additional payment.

(1) Anyone who requests to transfer under RCW 41.32.817 before January 1, 1998, and establishes service credit for January 1998, shall have their member account increased by forty percent of:

(a) Plan 2 accumulated contributions as of January 1, 1996, less fifty percent of any payments made pursuant to RCW 41.50.165(2); or

(b) All amounts withdrawn after January 1, 1996, which are completely restored before January 1, 1998.

(2) A further additional payment of twenty-five percent, for a total of sixty-five percent,

shall be paid subject to the conditions contained in subsection (1) of this section on July 1, 1998.

(3) Substitute teachers shall receive the additional payment provided in subsection (1) of this section if they:

- (a) Establish service credit for January 1998; and
- (b) Establish any service credit from July 1996 through December 1997; and
- (c) Elect to transfer on or before March 1, 1999.

(4) If a member who requests to transfer dies before January 1, 1998, the additional payment provided by this section shall be paid to the member's estate, or the person or persons, trust, or organization the member nominated by written designation duly executed and filed with the department.

(5) The legislature reserves the right to modify or discontinue the right to an incentive payment under this section for any plan 2 members who have not previously transferred to plan 3.

[1998 c 341 § 701; 1997 c 10 § 1; 1996 c 39 § 8.]

Notes:

Effective date--1998 c 341: See note following RCW 41.34.060.

Effective dates--1996 c 39: See note following RCW 41.32.010.

RCW 41.32.845 Postretirement cost-of-living allowance.

Retirement allowances paid under the defined benefit portion of plan 3 shall have a postretirement cost-of-living allowance calculated and paid as provided in RCW 41.32.770.

[1995 c 239 § 107.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.851 Options for payment of retirement allowances.

(1) Upon retirement for service as prescribed in RCW 41.32.875 or retirement for disability under RCW 41.32.880, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. Upon the death of the retired member, all benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to such person or persons as the retiree shall have nominated by

written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and joint and fifty percent survivor option.

(2) A member, if married, must provide the written consent of his or her spouse to the option selected under this section. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section.

(3) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

[2000 c 186 § 5; 1995 c 239 § 108.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.855 Application for and effective date of retirement allowances.

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.32.875, 41.32.880, or 41.32.895 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances payable to eligible members no longer in service, but qualifying for such an allowance pursuant to RCW 41.32.875 shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits shall accrue from the first day of the calendar month immediately following the member's death.

[1996 c 39 § 5; 1995 c 239 § 109.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

**RCW 41.32.860 Suspension of retirement allowance upon
reemployment--Reinstatement.**

(1) Except under RCW 41.32.862, no retiree shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused the suspension of benefits. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

[2001 2nd sp.s. c 10 § 9; 1997 c 254 § 7; 1995 c 239 § 110.]

NOTES:

Effective dates--2001 2nd sp.s. c 10: See note following RCW 41.40.037.

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

**RCW 41.32.862 Reduction of retirement allowance upon
reemployment--Reestablishment of membership.**

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be

applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

[2001 2nd sp.s. c 10 § 10; 1997 c 254 § 9.]

NOTES:

Effective dates--2001 2nd sp.s. c 10: See note following RCW 41.40.037.

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

RCW 41.32.865 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service.

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes the contribution on behalf of the employer, plus interest, as determined by the department; and

(b) The member makes the employee contribution, plus interest, as determined by the department, to the defined contribution portion.

The contributions required shall be based on the average of the member's earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service if within ninety days of the member's honorable discharge from the United States armed

forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

The department shall establish the member's service credit and shall bill the employer for its contribution required under chapter 239, Laws of 1995 for the period of military service, plus interest as determined by the department. Service credit under this subsection may be obtained only if the member makes the employee contribution to the defined contribution portion as determined by the department.

The contributions required shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

[1996 c 61 § 3; 1995 c 239 § 111.]

Notes:

Effective date--1996 c 61 § 3: "Section 3 of this act shall take effect July 1, 1996." [1996 c 61 § 5.]

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.867 Purchased service credit--Allocation.

(1) Contributions on behalf of the employer paid by the employee to purchase plan 3 service credit shall be allocated to the defined benefit portion of plan 3 and shall not be refundable when paid to the fund described in RCW 41.50.075(2). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the statutory time limitations to purchase plan 3 service credit, it may be purchased under the provisions of RCW 41.50.165(2). One-half of the purchase payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

(2) No purchased plan 3 membership service will be credited until all payments required of the member are made, with interest. Upon receipt of all payments owed by the member, the department shall bill the employer for any contributions, plus interest, required to purchase membership service.

[1996 c 39 § 11.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

RCW 41.32.870 Lump sum payments--Reentry.

(1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary a lump sum payment in lieu of a monthly benefit if the initial monthly benefit would be less than one hundred dollars. The one hundred dollar limit shall be increased

by three percent compounded annually on January 1. The lump sum payment shall be the actuarial equivalent of the monthly benefit.

(2) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to retiring again, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(3) Any member who receives a settlement under this section shall be deemed to be retired from this system.

[1995 c 239 § 112.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.875 Retirement eligibility.

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age fifty-four; or

(c) Completed five service credit years by July 1, 1996, under plan 2 and who transferred to plan 3 under RCW 41.32.817;

shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.840, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

[2000 c 247 § 903; 1996 c 39 § 6; 1995 c 239 § 113.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.880 Earned disability allowance--Eligibility--Disposition upon death of recipient.

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department shall be eligible to receive an allowance under the provisions of plan 3. The member shall receive a monthly disability allowance computed as provided for in RCW 41.32.840 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) If the recipient of a monthly retirement allowance under this section dies, any further benefit payments shall be conditioned by the payment option selected by the retiree as provided in RCW 41.32.851.

[1995 c 239 § 114.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.892 Restored, purchased service credit under plan 2--Transfer to plan 3.

(1) Any member who elects to transfer to plan 3 and has eligible unrestored withdrawn contributions in plan 2, may restore such contributions under the provisions of RCW 41.32.825(1) with interest as determined by the department. The restored plan 2 service credit will be automatically transferred to plan 3. Restoration payments will be transferred to the member account in plan 3. If the member fails to meet the time limitations of RCW 41.32.825(1), they may restore such contributions under the provisions of RCW 41.50.165(2). The restored plan 2 service credit will be automatically transferred to plan 3. One-half of the restoration payments under RCW 41.50.165(2) plus interest shall be allocated to the member's account.

(2) Any member who elects to transfer to plan 3 may purchase plan 2 service credit under

RCW 41.32.810(3). Purchased plan 2 service credit will be automatically transferred to plan 3. Contributions on behalf of the employer paid by the employee shall be allocated to the defined benefit portion of plan 3 and shall not be refundable when paid to the fund described in RCW 41.50.075(2). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the time limitations of RCW 41.32.810(3), they may subsequently restore such contributions under the provisions of RCW 41.50.165(2). Purchased plan 2 service credit will be automatically transferred to plan 3. One-half of the payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

[1996 c 39 § 9.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

RCW 41.32.895 Death benefits. (Effective until March 1, 2002.)

If a member dies prior to retirement, the surviving spouse or eligible child or children shall receive a retirement allowance computed as provided in RCW 41.32.851 actuarially reduced to reflect a joint and one hundred percent survivor option and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.875(2).

If the surviving spouse who is receiving the retirement allowance dies leaving a child or children under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority.

If there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance, share and share alike. The allowance shall be calculated with the assumption that the age of the spouse and member were equal at the time of the member's death.

[1996 c 39 § 7; 1995 c 239 § 117.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.32.895 Death benefits. (Effective March 1, 2002.)

If a member dies prior to retirement, the surviving spouse or eligible child or children shall receive a retirement allowance computed as provided in RCW 41.32.851 actuarially reduced to reflect a joint and one hundred percent survivor option and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.875.

If the surviving spouse who is receiving the retirement allowance dies leaving a child or children under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority.

If there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance, share and share alike. The allowance shall be calculated with the assumption that the age of the spouse and member were equal at the time of the member's death.

[2000 c 247 § 1003; 1996 c 39 § 7; 1995 c 239 § 117.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

Chapter 41.33 RCW TEACHERS' RETIREMENT--FEDERAL SOCIAL SECURITY

Sections

41.33.010	Plan for covering members under OASI approved.
41.33.020	Terms and provisions of plan.
41.33.030	Effective date for coverage of members.
41.33.900	Severability--1957 c 183.

RCW 41.33.010 Plan for covering members under OASI approved.

The plan for covering the members of the teachers' retirement system under the old age and survivor insurance provisions of Title II of the federal social security act as amended, required by RCW 41.48.050 as amended by section 5, chapter 4, Laws of the Extraordinary Session of 1955, approved by the board of trustees of the teachers' retirement system on October 8, 1956, and by the governor of the state of Washington on November 19, 1956, is hereby approved.

[1957 c 183 § 1.]

RCW 41.33.020 Terms and provisions of plan.

The terms and provisions of the plan are as follows:

(1) Each political subdivision of the state employing members of the teachers' retirement system and the members of the teachers' retirement system, after the approval of this plan by the

legislature, and by the eligible employees through a referendum as provided in RCW 41.48.030 (3) and (4), shall be deemed to have accepted and agreed to be bound by the following terms and conditions in consideration of extension of the existing agreement between the secretary of health, education and welfare and the governor to make the protection of the federal old age and survivors insurance program available and applicable to such employees.

(2) As used in this plan the terms quoted below shall have the meanings assigned thereto in this section.

"Political subdivision" means any political subdivision, or instrumentality of one or more subdivisions, or proprietary enterprise acquired, purchased or originated by one or more such subdivisions after December, 1950, which employs members of the teachers' retirement system. The state, its agencies, instrumentalities and institutions of higher learning shall be grouped and considered as a single political subdivision.

"Employee" means any person who is a member of the teachers' retirement system and is employed by a political subdivision.

"Wages" shall have the meaning given in RCW 41.48.020(1) and section 209 of the social security act (42 U.S.C.A. Sec. 409).

"State" where not otherwise clearly indicated by the context, means the commissioner of employment security or other officer designated by the governor to administer the plan at the state level for all participating political subdivisions.

(3) The terms and conditions of this plan are intended and shall be construed to be in conformity with the requirements of the federal social security act as amended and with the requirements of chapter 41.48 RCW, and particularly RCW 41.48.050, as amended by chapter 4, Laws of 1955 extraordinary session.

(4) The rights and benefits accruing to employees from membership in the teachers' retirement system shall in no way be altered or impaired by this plan or by the additional and supplementary OASI coverage which such employees may receive hereunder, other than the elimination of (1), (2) and (3) of section 52, chapter 80, Laws of 1947 and RCW 41.32.520 as each are amended, with the exception of that part of (1) which permits a widow or widower without a child or children under age eighteen to receive a monthly payment of fifty dollars at age fifty, provided that the member had fifteen or more years of Washington membership service credit at date of death.

(5) There shall be no additional cost to or involvement of the state or a political subdivision with respect to OASI coverage of members of the teachers' retirement system until this plan has been approved by the legislature.

(6) Each employee to whom OASI coverage is made applicable under this plan pursuant to an extension or modification under RCW 41.48.030 of the existing agreement between the secretary of health, education and welfare and the governor shall be required to pay into the *OASI contribution fund established by RCW 41.48.060 during the period of such coverage contributions with respect to his wages in an amount equal to the employee tax imposed by the federal insurance contributions act (section 3101, Internal Revenue Code of 1954), in consideration of the employee's retention in service by the political subdivision. The subdivision shall withhold such contributions from the wages paid to the employee; and shall remit the

contributions so withheld in each calendar quarter to the state for deposit in the *contribution fund not later than the twentieth calendar day of the month following that quarter.

(7) Each political subdivision shall pay into the *contribution fund with respect to the wages of its employees during the period of their OASI coverage pursuant to this plan contributions in an amount equal to the employer tax imposed by the federal insurance contributions act (section 3111, Internal Revenue Code of 1954), from the fund of the subdivision from which such employees' wages are paid. The subdivision shall remit such contributions to the state for deposit in the *contribution fund on a quarterly basis, not later than the twentieth calendar day of the month following each calendar quarter.

(8) If any political subdivision other than that comprising the state, its agencies, instrumentalities and institutions of higher learning fails to remit as provided herein employer contributions or employee contributions, or any part of either, such delinquent contributions may be recovered with interest at the rate of six percent per annum by action in a court of competent jurisdiction against the political subdivision; or such delinquent contributions may at the request of the governor be deducted from any moneys payable to such subdivision by the state.

(9) Each political subdivision shall be charged with a share of the cost of administration of this plan by the state, to be computed as that proportion of the overall cost of administration which its total annual contributions bear to the total annual contributions paid by all subdivisions on behalf of employees covered by the plan. The state shall compute the share of cost allocable to each subdivision and bill the subdivision therefor at the end of each fiscal year. The subdivision shall within ninety days thereafter remit its share of the cost to the state for deposit in the general fund of the state.

(10) Each political subdivision shall submit to the state, through the employment security department, P.O. Box 367, Olympia, Washington, or such other officer or agency as the governor may subsequently designate, on forms furnished by the state, not later than the twentieth calendar day of the month following the end of each calendar quarter, the following information:

- A. The social security account number of each employee;
- B. the name of each employee;
- C. the amount of wages subject to contributions as required hereunder paid to each employee during the quarter;
- D. the total amount of wages subject to contributions paid to all employees during the quarter;
- E. the total amount of employee contributions withheld and remitted for the quarter; and
- F. the total amount of employer contributions paid by the subdivision for the quarter.

(11) Each political subdivision shall furnish in the same manner as provided in subsection (10) of this section, upon reasonable notice, such other and further reports or information as the governor may from time to time require. Each subdivision shall comply with such requirements as the secretary of health, education and welfare or the governor may from time to time establish with respect to any or all of the reports or information which are or may be provided for under subsection (10) of this section or this subsection in order to assure the correctness and verification thereof.

(12) The governing body of each political subdivision shall designate an officer of the subdivision to administer such accounting, reporting and other functions as will be required for the effective operation of this plan within the subdivision, as provided herein. The commissioner of employment security or such other officer as the governor may designate, shall perform or supervise those functions with respect to employees of the subdivision comprising the state, its agencies, instrumentalities and institutions of higher learning; and shall serve as the representative of the participating political subdivisions in the administration of this plan with the secretary of health, education and welfare.

(13) The legislature shall designate the first day of any month beginning with January, 1956, as the effective date of OASI coverage for such employees, except that after January 1, 1958, the effective date may not be prior to the first day of the current year.

The employer's contribution for any retroactive coverage shall be transferred by the board of trustees from the teachers' retirement pension reserve to the official designated by the governor to administer the plan at the state level.

Each employee's contributions for any retroactive coverage shall be transferred by the board of trustees from his accumulated contributions in the teachers' retirement fund, to the official designated above. Each employee, if he so desires, may, within one year from the date of transfer, reimburse his accumulated contributions for the amount so transferred.

(14) The governor may terminate the operation of this plan in its entirety with respect to any political subdivision, in his discretion, if he finds that the subdivision has failed to comply substantially with any requirement or provision of this plan. The plan shall not be so terminated until reasonable notice and opportunity for hearing thereon have been given to the subdivision under such conditions, consistent with the provisions of the social security act, as shall have been established in regulations by the governor.

[1992 c 212 § 12; 1973 1st ex.s. c 154 § 77; 1957 c 183 § 2.]

Notes:

***Reviser's note:** The "OASI contribution fund" was redesignated the "OASI contribution account" by 1991 sp.s. c 13 § 112.

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

RCW 41.33.030 Effective date for coverage of members.

The effective date of OASI coverage for members of the teachers' retirement system shall be January 1, 1956: PROVIDED, That should the agreement between the governor and the secretary of health, education and welfare be executed subsequent to December 31, 1957, the effective date of coverage shall be that specified in the agreement.

[1957 c 183 § 5.]

RCW 41.33.900 Severability--1957 c 183.

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or

circumstances is not affected.

[1957 c 183 § 6.]

Chapter 41.34 RCW
PLAN 3 RETIREMENT SYSTEM CONTRIBUTIONS

(Formerly: Contributions under teachers' retirement system plan 3)

Sections

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41.34.140	Liability for loss or deficiencies--Limitations.

RCW 41.34.010 Purpose.

The purpose of chapter 239, Laws of 1995 is to:

- (1) Provide a fair and reasonable value from the retirement system for those who leave public employment before retirement;
- (2) Increase flexibility for such employees to make transitions into other public or private sector employment;
- (3) Increase employee options for addressing retirement needs, personal financial planning, and career transitions; and
- (4) Continue the legislature's established policy of having employees contribute toward their retirement benefits.

[1995 c 239 § 201.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.020 Definitions. (*Effective until March 1, 2002.*)

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

- (1) "Actuary" means the state actuary or the office of the state actuary.

(2) "Board" means the employee retirement benefits board authorized in chapter 41.50 RCW.

(3) "Department" means the department of retirement systems.

(4)(a) "Compensation" for teachers for purposes of this chapter is the same as "earnable compensation" for plan 3 in chapter 41.32 RCW except that the compensation may be reported when paid, rather than when earned.

(b) "Compensation" for classified employees for purposes of this chapter is the same as "compensation earnable" for plan 3 in RCW 41.35.010, except that the compensation may be reported when paid, rather than when earned.

(5)(a) "Employer" for teachers for purposes of this chapter means the same as "employer" for plan 3 in chapter 41.32 RCW.

(b) "Employer" for classified employees for purposes of this chapter means the same as "employer" for plan 3 in RCW 41.35.010.

(6) "Member" means any employee included in the membership of a retirement system as provided for in chapter 41.32 RCW of plan 3 or chapter 41.35 RCW of plan 3.

(7) "Member account" or "member's account" means the sum of the contributions and earnings on behalf of the member.

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

(9) "Teacher" means a member of the teachers' retirement system plan 3 as defined in RCW 41.32.010(29).

(10) "Classified employee" means a member of the school employees' retirement system plan 3 as defined in RCW 41.35.010.

[1998 c 341 § 301; 1996 c 39 § 13; 1995 c 239 § 202.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.020 Definitions. (Effective March 1, 2002.)

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

(1) "Actuary" means the state actuary or the office of the state actuary.

(2) "Board" means the employee retirement benefits board authorized in chapter 41.50 RCW.

(3) "Department" means the department of retirement systems.

(4)(a) "Compensation" for teachers for purposes of this chapter is the same as "earnable compensation" for plan 3 in chapter 41.32 RCW except that the compensation may be reported when paid, rather than when earned.

(b) "Compensation" for classified employees for purposes of this chapter is the same as "compensation earnable" for plan 3 in RCW 41.35.010, except that the compensation may be

reported when paid, rather than when earned.

(c) "Compensation" for public employees for purposes of this chapter is the same as "compensation earnable" for plan 3 in RCW 41.40.010, except that the compensation may be reported when paid, rather than when earned.

(5)(a) "Employer" for teachers for purposes of this chapter means the same as "employer" for plan 3 in chapter 41.32 RCW.

(b) "Employer" for classified employees for purposes of this chapter means the same as "employer" for plan 3 in RCW 41.35.010.

(c) "Employer" for public employees for purposes of this chapter means the same as "employer" for plan 3 in RCW 41.40.010.

(6) "Member" means any employee included in the membership of a retirement system as provided for in chapter 41.32 RCW of plan 3, chapter 41.35 RCW of plan 3, or chapter 41.40 RCW of plan 3.

(7) "Member account" or "member's account" means the sum of the contributions and earnings on behalf of the member.

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

(9) "Teacher" means a member of the teachers' retirement system plan 3 as defined in RCW 41.32.010(29).

(10) "Classified employee" means a member of the school employees' retirement system plan 3 as defined in RCW 41.35.010.

(11) "Public employee" means a member of the public employees' retirement system plan 3 as defined in RCW 41.40.010.

[2000 c 247 § 401; 1998 c 341 § 301; 1996 c 39 § 13; 1995 c 239 § 202.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.030 Application of chapter--Plan 3 elements. (*Effective until March 1, 2002.*)

(1) This chapter applies only to members of plan 3 retirement systems created under chapters 41.32 and 41.35 RCW.

(2) Plan 3 consists of two separate elements:

(a) A defined benefit portion covered under:

(i) Sections 101 through 117, chapter 239, Laws of 1995; or

(ii) Sections 1 through 25 and 201 through 213, chapter 341, Laws of 1998; and

(b) A defined contribution portion covered under this chapter. Unless specified

otherwise, all references to "plan 3" in this chapter refer to the defined contribution portion of plan 3.

[1998 c 341 § 302; 1995 c 239 § 203.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.030 Application of chapter--Plan 3 elements. (Effective March 1, 2002.)

(1) This chapter applies only to members of plan 3 retirement systems created under chapters 41.32, 41.35, and 41.40 RCW.

(2) Plan 3 consists of two separate elements:

(a) A defined benefit portion covered under:

(i) Sections 101 through 117, chapter 239, Laws of 1995; or

(ii) Sections 1 through 25 and 201 through 213, chapter 341, Laws of 1998; or

(iii) Sections 101 through 316, chapter 247, Laws of 2000; and

(b) A defined contribution portion covered under this chapter. Unless specified otherwise, all references to "plan 3" in this chapter refer to the defined contribution portion of plan 3.

[2000 c 247 § 402; 1998 c 341 § 302; 1995 c 239 § 203.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.040 Contributions--Rate structures. (Effective until March 1, 2002.)

(1) A member shall contribute from his or her compensation according to one of the following rate structures:

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	5.0% fixed
<u>Option B</u>	
Up to Age 35	5.0%
Age 35 to 44	6.0%
Age 45 and above	7.5%
<u>Option C</u>	
Up to Age 35	6.0%
Age 35 to 44	7.5%

Age 45 and above 8.5%

(2) The board shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the board shall conform to the requirements stated in subsections (3) and (4) of this section.

(3) Within ninety days of the date that an employee becomes a member of plan 3 or changes employers, he or she has an irrevocable option to choose one of the above contribution rate structures. If the member does not select an option within this ninety-day period, he or she shall be assigned option A. Such assignment shall be irrevocable.

(4) Contributions shall begin the first day of the pay cycle in which the rate option is made, or the first day of the pay cycle in which the end of the ninety-day period occurs.

[1996 c 39 § 14; 1995 c 239 § 204.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.040 Contributions--Rate structures. (Effective March 1, 2002.)

(1) A member shall contribute from his or her compensation according to one of the following rate structures:

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	5.0% fixed
<u>Option B</u>	
Up to Age 35	5.0%
Age 35 to 44	6.0%
Age 45 and above	7.5%
<u>Option C</u>	
Up to Age 35	6.0%
Age 35 to 44	7.5%
Age 45 and above	8.5%

(2) The board shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the board shall conform to the requirements stated in subsections (3) and (4) of this section.

(3)(a) For members of the teachers' retirement system entering plan 3 under RCW 41.32.835 or members of the school employees' retirement system entering plan 3 under RCW 41.35.610, within ninety days of becoming a member he or she has an irrevocable option to choose one of the above contribution rate structures. If the member does not select an option

within the ninety-day period, he or she shall be assigned option A. Such assignment shall be irrevocable.

(b) For members of the public employees' retirement system entering plan 3 under RCW 41.40.785, within the ninety days described in RCW 41.40.785 an employee who irrevocably chooses plan 3 shall select one of the above contribution rate structures. If the member does not select an option within the ninety-day period, he or she shall be assigned option A. Such assignment shall be irrevocable.

(c) For members of the teachers' retirement system transferring to plan 3 under RCW 41.32.817, members of the school employees' retirement system transferring to plan 3 under RCW 41.35.510, or members of the public employees' retirement system transferring to plan 3 under RCW 41.40.795, upon election to plan 3 he or she must irrevocably choose one of the above contribution rate structures.

(d) Within ninety days of the date that an employee changes employers, he or she has an irrevocable option to choose one of the above contribution rate structures. If the member does not select an option within this ninety-day period, he or she shall be assigned option A. Such assignment shall be irrevocable.

(4) Contributions shall begin the first day of the pay cycle in which the rate option is made, or the first day of the pay cycle in which the end of the ninety-day period occurs.

[2000 c 247 § 403; 1996 c 39 § 14; 1995 c 239 § 204.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.050 Legislature may contribute to members' accounts.

The legislature may authorize contributions to the members' accounts for a biennium through budget appropriation.

[1995 c 239 § 205.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.060 Members' accounts--Investment--Election. (*Effective until March 1, 2002.*)

(1) Except as provided in subsection (3) of this section, the member's account shall be invested by the state investment board. In order to reduce transaction costs and address liquidity issues, based upon recommendations of the state investment board, the department may require members to provide up to ninety days' notice prior to moving funds from the state investment

board portfolio to self-directed investment options provided under subsection (3) of this section.

(a) For members of the retirement system as provided for in chapter 41.32 RCW of plan 3, investment shall be in the same portfolio as that of the teachers' retirement system combined plan 2 and 3 fund under RCW 41.50.075(2).

(b) For members of the retirement system as provided for in chapter 41.35 RCW of plan 3, investment shall be in the same portfolio as that of the school employees' retirement system combined plan 2 and 3 fund under RCW 41.50.075(4).

(2) The state investment board shall declare monthly unit values for the portfolios or funds, or portions thereof, utilized under subsection (1)(a) and (b) of this section. The declared values shall be an approximation of portfolio or fund values, based on internal procedures of the state investment board. Such declared unit values and internal procedures shall be in the sole discretion of the state investment board. The state investment board may delegate any of the powers and duties under this subsection, including discretion, pursuant to RCW 43.33A.030. Member accounts shall be credited by the department with a rate of return based on changes to such unit values.

(3) Members may elect to self-direct their investments as set forth in RCW 41.34.130 and 43.33A.190.

[1999 c 265 § 1; 1998 c 341 § 303; 1996 c 39 § 15; 1995 c 239 § 206.]

NOTES:

Effective date--1998 c 341: "Sections 303, 306 through 309, 404, 505, 507, 515, 701, 707, and 710 through 713 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [April 3, 1998]." [1998 c 341 § 716.]

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.060 Members' accounts--Investment--Election. (Effective March 1, 2002.)

(1) Except as provided in subsection (3) of this section, the member's account shall be invested by the state investment board. In order to reduce transaction costs and address liquidity issues, based upon recommendations of the state investment board, the department may require members to provide up to ninety days' notice prior to moving funds from the state investment board portfolio to self-directed investment options provided under subsection (3) of this section.

(a) For members of the retirement system as provided for in chapter 41.32 RCW of plan 3, investment shall be in the same portfolio as that of the teachers' retirement system combined plan 2 and 3 fund under RCW 41.50.075(2).

(b) For members of the retirement system as provided for in chapter 41.35 RCW of plan 3, investment shall be in the same portfolio as that of the school employees' retirement system combined plan 2 and 3 fund under RCW 41.50.075(4).

(c) For members of the retirement system as provided for in chapter 41.40 RCW of plan 3, investment shall be in the same portfolio as that of the public employees' retirement system

combined plan 2 and 3 fund under RCW 41.50.075(3).

(2) The state investment board shall declare monthly unit values for the portfolios or funds, or portions thereof, utilized under subsection (1)(a), (b), and (c) of this section. The declared values shall be an approximation of portfolio or fund values, based on internal procedures of the state investment board. Such declared unit values and internal procedures shall be in the sole discretion of the state investment board. The state investment board may delegate any of the powers and duties under this subsection, including discretion, pursuant to RCW 43.33A.030. Member accounts shall be credited by the department with a rate of return based on changes to such unit values.

(3) Members may elect to self-direct their investments as set forth in RCW 41.34.130 and 43.33A.190.

[2001 c 180 § 2; 2000 c 247 § 404; 1999 c 265 § 1; 1998 c 341 § 303; 1996 c 39 § 15; 1995 c 239 § 206.]

NOTES:

Effective date--2001 c 180 §§ 1 and 2: See note following RCW 41.45.061.

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: "Sections 303, 306 through 309, 404, 505, 507, 515, 701, 707, and 710 through 713 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [April 3, 1998]." [1998 c 341 § 716.]

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.070 Distribution options.

(1) If the member retires, becomes disabled, or otherwise terminates employment, the balance in the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the board.

(2) If the member dies while in service, the balance of the member's account may be distributed in accordance with an option selected by the member either as a lump sum or pursuant to other options authorized by the board. The distribution shall be made to such person or persons as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, the balance of the member's account in the retirement system, less any amount identified as owing to an obligee upon withdrawal of such account balance pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there is no surviving spouse, then to such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department.

(3) If a member has a terminal illness and terminates from employment, the member may choose to have the balance in the member's account distributed as a lump sum payment based on the most recent valuation in order to expedite the distribution. The department shall make this payment within ten working days after receipt of notice of termination of employment,

documentation verifying the terminal illness, and an application for payment.

(4) The distribution under subsections (1), (2), or (3) of this section shall be less any amount identified as owing to an obligee upon withdrawal pursuant to a court order filed under RCW 41.50.670.

[1998 c 117 § 1; 1995 c 239 § 207.]

Notes:

Effective date--1998 c 117: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 23, 1998]." [1998 c 117 § 2.]

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.080 Benefits exempt from taxation, garnishment, other processes of law--Exceptions. (Effective until March 1, 2002.)

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the various funds created by chapter 239, Laws of 1995, and chapter 341, Laws of 1998 and all moneys and investments and income thereof, is hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and that has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

[1998 c 341 § 304; 1995 c 239 § 208.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.080 Benefits exempt from taxation, garnishment, other processes of law--Exceptions. (Effective March 1, 2002.)

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the various funds created by chapter 239, Laws of 1995; chapter 341, Laws of 1998; and chapter 247, Laws of 2000 and all moneys and investments and income thereof, is hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and that has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

[2000 c 247 § 405; 1998 c 341 § 304; 1995 c 239 § 208.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.090 Administration of chapter--Construction--Severability.

(1) The retirement plan created by this chapter shall be administered so as to comply with the federal Internal Revenue Code, Title 26 U.S.C., and specifically with plan qualification requirements imposed on governmental plans by section 401(a) of the Internal Revenue Code.

(2) Any section or provision of this chapter which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy requirements imposed by section 401(a) of the Internal Revenue Code.

(3) If any section or provision of this chapter is found to be in conflict with the plan qualification requirements for governmental plans in section 401(a) of the Internal Revenue Code, the conflicting part of this chapter is hereby inoperative solely to the extent of the conflict, and such finding shall not affect the operation of the remainder of this chapter.

[1995 c 239 § 209.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.100 Benefits not contractual right until date specified. (*Effective until March 1, 2002.*)

(1) The benefits provided pursuant to chapter 239, Laws of 1995 are not provided to employees as a matter of contractual right prior to July 1, 1996. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 1996.

(2) The benefits provided pursuant to chapter 341, Laws of 1998 are not provided to employees as a matter of contractual right prior to September 1, 2000. The legislature retains the right to alter or abolish these benefits at any time prior to September 1, 2000.

[1998 c 341 § 305; 1995 c 239 § 325.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.100 Benefits not contractual right until date specified. (*Effective March 1, 2002.*)

(1) The benefits provided pursuant to chapter 239, Laws of 1995 are not provided to employees as a matter of contractual right prior to July 1, 1996. The legislature retains the right to alter or abolish these benefits at any time prior to July 1, 1996.

(2) The benefits provided pursuant to chapter 341, Laws of 1998 are not provided to employees as a matter of contractual right prior to September 1, 2000. The legislature retains the right to alter or abolish these benefits at any time prior to September 1, 2000.

(3) The benefits provided pursuant to chapter 247, Laws of 2000 are not provided to

employees as a matter of contractual right prior to March 1, 2002. The legislature retains the right to alter or abolish these benefits at any time prior to March 1, 2002.

[2000 c 247 § 406; 1998 c 341 § 305; 1995 c 239 § 325.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.34.110 Reentry.

A member who separates from service and then reestablishes membership may restore contributions to the member account.

[1996 c 39 § 12.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

RCW 41.34.120 Money, property, income held in trust.

All moneys in members' accounts, all property and rights purchased therewith, and all income attributable thereto, shall be held in trust by the state investment board, as set forth under RCW 43.33A.030, for the exclusive benefit of the members and their beneficiaries.

[1998 c 341 § 306.]

Notes:

Effective date--1998 c 341: See note following RCW 41.34.060.

RCW 41.34.130 Self-directed investment--Duties of state investment board and department--Expenses--Recordkeeping.

(1) The state investment board has the full authority to invest all self-directed investment moneys in accordance with RCW 43.84.150 and 43.33A.140, and cumulative investment directions received pursuant to RCW 41.34.060 and this section. In carrying out this authority the state investment board, after consultation with the employee retirement benefits board regarding any recommendations made pursuant to RCW 41.50.088(1)(b), shall provide a set of options for members to choose from for self-directed investment.

(2) All investment and operating costs of the state investment board associated with making self-directed investments shall be paid by members and recovered under procedures agreed to by the board and the state investment board pursuant to the principles set forth in RCW 43.33A.160 and 43.84.160. All other expenses caused by self-directed investment shall be paid by the member in accordance with rules established by the board under RCW 41.50.088. With the exception of these expenses, all earnings from self-directed investments shall accrue to the member's account.

(3)(a)(i) The department shall keep or cause to be kept full and adequate accounts and records of each individual member's account. The department shall account for and report on the investment of defined contribution assets or may enter into an agreement with the state investment board for such accounting and reporting under this chapter.

(ii) The department's duties related to individual participant accounts include conducting the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iii) The department has sole responsibility for contracting with any recordkeepers for individual participant accounts and shall manage the performance of recordkeepers under those contracts.

(b)(i) The department's duties under (a)(ii) of this subsection do not limit the authority of the state investment board to conduct its responsibilities for asset management and balancing of the deferred compensation funds.

(ii) The state investment board has sole responsibility for contracting with outside investment firms to provide investment management for the deferred compensation funds and shall manage the performance of investment managers under those contracts.

(c) The state treasurer shall designate and define the terms of engagement for the custodial banks.

[2001 c 181 § 3; 1998 c 341 § 307.]

NOTES:

Effective date--1998 c 341: See note following RCW 41.34.060.

RCW 41.34.140 Liability for loss or deficiencies--Limitations.

(1) A state board or commission, agency, or any officer, employee, or member thereof is not liable for any loss or deficiency resulting from member defined contribution investments selected or required pursuant to RCW 41.34.060 (1) or (3).

(2) Neither the board nor the state investment board, nor any officer, employee, or member thereof is liable for any loss or deficiency resulting from reasonable efforts to implement investment directions pursuant to RCW 41.34.060 (1) or (3).

(3) The state investment board, or any officer, employee, or member thereof is not liable with respect to any declared monthly unit valuations or crediting of rates of return, or any other exercise of powers or duties, including discretion, under RCW 41.34.060(2).

(4) The department, or any officer or employee thereof, is not liable for crediting rates of return which are consistent with the state investment board's declaration of monthly unit valuations pursuant to RCW 41.34.060(2).

[1999 c 265 § 2; 1998 c 341 § 308.]

Notes:

Effective date--1998 c 341: See note following RCW 41.34.060.

Chapter 41.35 RCW

WASHINGTON SCHOOL EMPLOYEES' RETIREMENT SYSTEM

Sections

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Notes:

Numerical designations--1998 c 341: See note following chapter 41.26 RCW digest.

PROVISIONS APPLICABLE TO PLAN 2 AND PLAN 3

RCW 41.35.005 Intent.

The legislature recognizes that teachers and school district employees share the same educational work environment and academic calendar.

It is the intent of the legislature to achieve similar retirement benefits for all educational employees by transferring the membership of classified school employees in the public employees' retirement system plan 2 to the Washington school employees' retirement system plan 2. The transfer of membership to the Washington school employees' retirement system plan 2 is not intended to cause a diminution or expansion of benefits for affected members. It is enacted solely to provide public employees working under the same conditions with the same options for retirement planning.

As members of the Washington school employees' retirement system plan 2, classified employees will have the same opportunity to transfer to the Washington school employees' retirement system plan 3 as their certificated coworkers. The ability to transfer to the Washington school employees' retirement system plan 3 offers members a new public retirement system that balances flexibility with stability; provides increased employee control of investments and responsible protection of the public's investment in employee benefits; and encourages the pursuit of public sector careers without creating barriers to other public or private sector employment.

[1998 c 341 § 1.]

RCW 41.35.010 Definitions.

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise:

(1) "Retirement system" means the Washington school employees' retirement system

provided for in this chapter.

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

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Employer," for plan 2 and plan 3 members, means a school district or an educational service district.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.35.030.

(6)(a) "Compensation earnable" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

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

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(7) "Service" for plan 2 and plan 3 members means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall

constitute one service credit month except as provided in RCW 41.35.180. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(c) For purposes of plan 2 and 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(i) Less than eleven days equals one-quarter service credit month;

(ii) Eleven or more days but less than twenty-two days equals one-half service credit month;

(iii) Twenty-two days equals one service credit month;

(iv) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month; and

(v) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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

(9) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(10) "Membership service" means all service rendered as a member.

(11) "Beneficiary" for plan 2 and plan 3 members means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(14) "Average final compensation" for plan 2 and plan 3 members means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(15) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(16) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(17) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(18) "Retirement allowance" for plan 2 and plan 3 members means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(20) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(21) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(22) "Eligible position" means any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(24) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(25) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

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

(29) "Plan 2" means the Washington school employees' retirement system plan 2 providing the benefits and funding provisions covering persons who first became members of the public employees' retirement system on and after October 1, 1977, and transferred to the Washington school employees' retirement system under RCW 41.40.750.

(30) "Plan 3" means the Washington school employees' retirement system plan 3 providing the benefits and funding provisions covering persons who first became members of the system on and after September 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

(31) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(32) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(33) "Index B" means the index for the year prior to index A.

(34) "Adjustment ratio" means the value of index A divided by index B.

(35) "Separation from service" occurs when a person has terminated all employment with an employer.

(36) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(37) "Classified employee" means an employee of a school district or an educational service district who is not eligible for membership in the teachers' retirement system established under chapter 41.32 RCW.

[2001 c 180 § 3; 1998 c 341 § 2.]

RCW 41.35.020 System created--Administration.

A retirement system is hereby created for the employees of school districts or educational service districts. The administration and management of the retirement system, the responsibility for making effective the provisions of this chapter, and the authority to make all rules necessary therefor are hereby vested in the department. All such rules shall be governed by the provisions of chapter 34.05 RCW. This retirement system shall be known as the Washington school employees' retirement system.

[1998 c 341 § 3.]

RCW 41.35.030 Membership.

Membership in the retirement system shall consist of all regularly compensated classified employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of

the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file on a form supplied by the department a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (2)(b);

(3) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(4) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by employers to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan;

(5) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(6) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(7) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(8) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only if payment is made for the noncredited membership service under RCW 41.50.165(2), otherwise service shall be from the date of application.

[1998 c 341 § 4.]

RCW 41.35.040 Nonelective position held for at least nine months--Deemed to be eligible position, when.

Any person who has been employed in a nonelective position for at least nine months and who has made member contributions required under this chapter throughout such period, shall be deemed to have been in an eligible position during such period of employment.

[1998 c 341 § 5.]

RCW 41.35.050 Information furnished by employees, appointive and elective officials.

Within thirty days after his or her employment or his or her acceptance into membership each employee or appointive or elective official shall submit to the department a statement of his or her name and such other information as the department shall require. Compliance with the provisions set forth in this section shall be considered to be a condition of employment and failure by an employee to comply may result in separation from service.

[1998 c 341 § 6.]

RCW 41.35.060 Reduction of retirement allowance upon reemployment--Reestablishment of membership.

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.35.030, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.35.420 or 41.35.680. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

[2001 2nd sp.s. c 10 § 11; 1998 c 341 § 7.]

NOTES:

Effective dates--2001 2nd sp.s. c 10: See note following RCW 41.40.037.

RCW 41.35.070 Duty disability retirement recipients--Continued service credit.

Those members subject to this chapter who became disabled in the line of duty and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

- (1) No member may receive more than one month's service credit in a calendar month.
- (2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.
- (3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.
- (4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.
- (5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer contributions. No service credit shall be granted until the employee contribution has been paid.
- (6) The service and compensation credit shall not be granted for a period to exceed twelve consecutive months.
- (7) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

[1998 c 341 § 8.]

RCW 41.35.080 Members agree to deductions.

The deductions from the compensation of members, provided for in RCW 41.35.430, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this chapter and receipt in full for his or her salary or compensation, and payment, less the deductions, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to benefits provided for under this chapter.

[1998 c 341 § 9.]

RCW 41.35.090 Employer's contribution--Computation--Billing.

- (1) The director shall report to each employer the contribution rates required for the ensuing biennium or fiscal year, whichever is applicable.
- (2) Beginning September 1, 1990, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established in chapter 41.45 RCW to the total compensation earnable of employer's members as shown on the current payrolls of the employer. Each employer shall compute at the end of each month the amount due

for that month and the same shall be paid as are its other obligations.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill such employer for such employer's contribution together with such charges as the director deems appropriate in accordance with RCW 41.50.120. Such billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls.

[1998 c 341 § 10.]

RCW 41.35.100 Exemption from taxation and judicial process--Exceptions--Assignability--Deductions authorized.

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department. This section also does not prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Subsection (1) of this section does not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

[1998 c 341 § 11.]

RCW 41.35.110 Disability retirement--Criminal conduct.

A member shall not receive a disability retirement benefit under RCW 41.35.440 or 41.35.690 if the disability is the result of criminal conduct by the member committed after April 21, 1997.

[1998 c 341 § 12.]

RCW 41.35.120 False statements--Penalty.

Any person who knowingly makes any false statements, or falsifies or permits to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such act, is guilty of a gross misdemeanor.

[1998 c 341 § 13.]

RCW 41.35.130 Transfer of service credit from state-wide city employees' retirement system.

(1) Any person who was a member of the state-wide city employees' retirement system governed by chapter 41.44 RCW and who was never reemployed by an employer as defined in RCW 41.40.010 and who is employed by an employer as defined in RCW 41.35.010, may, in a writing filed with the director, elect to:

(a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to this retirement system all service which was previously credited under chapter 41.44 RCW but which was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190. The service may be reestablished and transferred only upon payment by the member to the employees' savings fund of this retirement system of the amount withdrawn plus interest thereon from the date of withdrawal until the date of payment at a rate determined by the director. No additional payments are required for service credit described in this subsection if already established under this chapter; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW, upon payment in full by the member of the total employer's contribution to the benefit account fund of this retirement system that would have been made under this chapter when the initial service was rendered. The payment shall be based on the first month's compensation earnable as a member of the state-wide city employees' retirement system and as defined in RCW 41.44.030(13). However, a person who has established service credit under RCW 41.40.010(13) (c) or (d) shall not establish additional credit under this subsection nor may anyone who establishes credit under this subsection establish any additional credit under RCW 41.40.010(13) (c) or (d). No additional payments are required for service credit described in this subsection if already established under this chapter.

(2) The written election must be filed and the payments must be completed in full within one year after employment by an employer.

(3) Upon receipt of the written election and payments required by subsection (1) of this section from any retiree described in subsection (1) of this section, the department shall recompute the retiree's allowance in accordance with this section and shall pay any additional benefit resulting from such recomputation retroactively to the date of retirement from the system governed by this chapter.

(4) Any person who was a member of the state-wide city employees' retirement system under chapter 41.44 RCW and also became a member of the public employees' retirement system established under chapter 41.40 RCW or the Washington school employees' retirement system established under this chapter, and did not make the election under RCW 41.40.058 or subsection (1) of this section because he or she was not a member of the public employees' retirement system prior to July 27, 1987, or did not meet the time limitations of RCW 41.40.058 or subsection (2) of this section, may elect to do any of the following:

(a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to this retirement system all service that was previously credited under chapter 41.44 RCW but was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW.

To make the election or elections, the person must pay the amount required under RCW 41.50.165(2) prior to retirement from this retirement system.

[1998 c 341 § 14.]

RCW 41.35.140 Hearing prior to appeal required--Notice.

Any person aggrieved by any decision of the department affecting his or her legal rights, duties, or privileges must, before he or she appeals to the courts, file with the director by mail or personally within sixty days from the day the decision was communicated to the person, a notice for a hearing before the director's designee. The notice of hearing shall set forth in full detail the grounds upon which the person considers the decision unjust or unlawful and shall include every issue to be considered by the department, and it must contain a detailed statement of facts upon which the person relies in support of the appeal. These persons shall be deemed to have waived all objections or irregularities concerning the matter on which the appeal is taken, other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system.

[1998 c 341 § 15.]

RCW 41.35.150 Hearing prior to appeal required--Conduct of hearing.

Following its receipt of a notice for hearing in accordance with RCW 41.35.140, a hearing shall be held by the director or a duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be

conducted and governed in all respects by the provisions of chapter 34.05 RCW.

[1998 c 341 § 16.]

RCW 41.35.160 Judicial review in accordance with administrative procedure act.

Judicial review of any final decision and order by the director is governed by the provisions of chapter 34.05 RCW.

[1998 c 341 § 17.]

RCW 41.35.170 Appeal--No bond required.

No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a finding of the department affecting the claimant's right to retirement or disability benefits.

[1998 c 341 § 18.]

RCW 41.35.180 Service credit--Computation.

(1) Except for any period prior to the member's employment in an eligible position, a plan 2 or plan 3 member who is employed by a school district or districts or an educational service district:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten hours during that period, and is employed nine months of that period;

(c) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(i) One service credit month for each month in which compensation is earned for ninety or more hours;

(ii) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(iii) One-quarter service credit month for each month in which compensation is earned for less than seventy hours.

(2) The department shall adopt rules implementing this section.

[1998 c 341 § 19.]

RCW 41.35.190 Effect of certain accumulated vacation leave on retirement benefits.

RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter.

[1998 c 341 § 20.]

RCW 41.35.200 Benefit calculation--Limitation.

(1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section.

[1998 c 341 § 21.]

RCW 41.35.210 Post-retirement cost-of-living.

Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(1) The original dollar amount of the retirement allowance;

(2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(3) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(a) Produce a retirement allowance which is lower than the original retirement allowance;

(b) Exceed three percent in the initial annual adjustment; or

(c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index--Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

[1998 c 341 § 22.]

RCW 41.35.220 Options for payment of retirement allowances.

(1) Upon retirement for service as prescribed in RCW 41.35.420 or 41.35.680 or retirement for disability under RCW 41.35.440 or 41.35.690, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be

actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove

the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

[2000 c 186 § 6; 1998 c 341 § 23.]

Notes:

Effective date--2000 c 186 § 6: "Section 6 of this act takes effect September 1, 2000." [2000 c 186 § 10.]

**RCW 41.35.230 Suspension of retirement allowance upon
reemployment--Exceptions--Reinstatement.**

(1) Except as provided in RCW 41.35.060, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.35.010, RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

[1998 c 341 § 24.]

RCW 41.35.399 Provisions applicable to plan 2 and plan 3.

RCW 41.35.005 through 41.35.230 apply to members of plan 2 and plan 3.

[1998 c 341 § 25.]

PLAN 2

RCW 41.35.400 Computation of retirement allowance.

A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each service credit year of service.

[1998 c 341 § 101.]

RCW 41.35.410 Lump sum retirement allowance--Reentry--Reinstatement of service.

(1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary, subject to the provisions of subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.35.400 would be less than fifty dollars. The lump sum payment shall be the greater of

the actuarial equivalent of the monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A retiree or a beneficiary, subject to the provisions of subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of RCW 41.40.625 or subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to rereading, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations under subsection (3) of this section, reinstatement of all previous service will occur if the member pays the amount required under RCW 41.50.165(2). The amount, however, shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under RCW 41.35.400 or an earned disability allowance under RCW 41.35.440 qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system.

[1998 c 341 § 102.]

RCW 41.35.420 Retirement eligibility.

(1) **NORMAL RETIREMENT.** Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) **ALTERNATE EARLY RETIREMENT.** Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.400, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and

the attainment of age sixty-five.

[2000 c 247 § 905; 1998 c 341 § 103.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

RCW 41.35.430 Employer and member contribution rates.

The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the amount of employer contributions to be deposited in the plan 2 fund from the total employer contributions collected under RCW 41.35.090.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members compensation earnable each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

[1998 c 341 § 104.]

RCW 41.35.440 Earned disability allowance--Disposition upon death of recipient.

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.35.400 through 41.35.599. The member shall receive a monthly disability allowance computed as provided for in RCW 41.35.400 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

[1998 c 341 § 105.]

RCW 41.35.450 Application for and effective date of retirement allowances.

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.35.420, 41.35.440, or 41.35.460 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.35.420 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.35.420, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.35.440 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.35.460 shall accrue from the first day of the calendar month immediately following the member's death.

[1998 c 341 § 106.]

RCW 41.35.460 Death benefits.

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such

member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.35.420, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.35.220 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.35.420; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance, share and share alike, calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, estate, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

[1998 c 341 § 107.]

RCW 41.35.470 Leaves of absence, military service.

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.35.400 through 41.35.599.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave.

The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes both the plan 2 employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner; or

(b) If not within five years of resumption of service but prior to retirement, pay the amount required under RCW 41.50.165(2).

The contributions required under (a) of this subsection shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.35.430 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.35.430 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

[1998 c 341 § 108.]

RCW 41.35.480 Vested membership.

A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the

exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.35.420 if such member maintains the member's accumulated contributions intact.

[1998 c 341 § 109.]

RCW 41.35.490 Refund of contributions.

A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.35.400 through 41.35.599.

[1998 c 341 § 110.]

RCW 41.35.500 Reentry.

(1) A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid.

[1998 c 341 § 111.]

RCW 41.35.510 Transfer to plan 3--Irrevocable option.

(1) Every plan 2 member employed by an employer in an eligible position has the option to make an irrevocable transfer to plan 3.

(2) All service credit in plan 2 shall be transferred to the defined benefit portion of plan 3.

(3) Any plan 2 member who wishes to transfer to plan 3 after February 28, 2001, may transfer during the month of January in any following year, provided that the member earns service credit for that month.

(4) The accumulated contributions in plan 2, less fifty percent of any contributions made pursuant to RCW 41.50.165(2) shall be transferred to the member's account in the defined contribution portion established in chapter 41.34 RCW, pursuant to procedures developed by the

department and subject to RCW 41.34.090. Contributions made pursuant to RCW 41.50.165(2) that are not transferred to the member's account shall be transferred to the fund created in RCW 41.50.075(2), except that interest earned on all such contributions shall be transferred to the member's account.

(5) The legislature reserves the right to discontinue the right to transfer under this section.

(6) Anyone previously retired from plan 2 is prohibited from transferring to plan 3.

[1998 c 341 § 114.]

RCW 41.35.599 Provisions applicable to plan 2.

RCW 41.35.400 through 41.35.510 apply only to plan 2 members.

[1998 c 341 § 112.]

PLAN 3

RCW 41.35.600 Provisions applicable to plan 3--Plan 3 elements.

(1) RCW 41.35.600 through 41.35.720 apply only to plan 3 members.

(2) Plan 3 consists of two separate elements: (a) A defined benefit portion covered under this subchapter; and (b) a defined contribution portion covered under chapter 41.34 RCW.

(3) Unless otherwise specified, all references to "plan 3" in this subchapter refer to the defined benefit portion of plan 3.

[1998 c 341 § 201.]

RCW 41.35.610 Membership in plan 3.

All classified employees who first become employed by an employer in an eligible position on or after September 1, 2000, shall be members of plan 3.

[1998 c 341 § 202.]

RCW 41.35.620 Computation of retirement allowance.

(1) A member of the retirement system shall receive a retirement allowance equal to one percent of such member's average final compensation for each service credit year.

(2) The retirement allowance payable under RCW 41.35.680 to a member who separates after having completed at least twenty service credit years shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date that the retirement allowance commences.

[1998 c 341 § 203.]

RCW 41.35.630 Additional payment.

(1) Anyone who requests to transfer under RCW 41.35.510 before March 1, 2001, and establishes service credit for January 2001, shall have their member account increased by one hundred thirty percent of:

(a) The member's public employees' retirement system plan 2 accumulated contributions as of January 1, 2000, less fifty percent of any payments made pursuant to RCW 41.50.165(2); or

(b) All amounts withdrawn after January 1, 2000, which are completely restored before March 1, 2001.

(2) If a member who requests to transfer dies before January 1, 2001, the additional payment provided by this section shall be paid to the member's estate, or the person or persons, trust, or organization the member nominated by written designation duly executed and filed with the department.

(3) The legislature reserves the right to modify or discontinue the right to an additional payment under this section for any plan 2 members who have not previously transferred to plan 3.

[2000 c 230 § 1; 1998 c 341 § 204.]

Notes:

Effective date--2000 c 230: "This act takes effect September 1, 2000." [2000 c 230 § 5.]

RCW 41.35.640 Application for and effective date of retirement allowances.

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.35.680, 41.35.690, or 41.35.710 is eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances payable to eligible members no longer in service, but qualifying for such an allowance pursuant to RCW 41.35.140 shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits shall accrue from the first day of the calendar month immediately following the member's death.

[1998 c 341 § 205.]

RCW 41.35.650 Leaves of absence, military service.

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is

reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes the contribution on behalf of the employer, plus interest, as determined by the department; and

(b) The member makes the employee contribution, plus interest, as determined by the department, to the defined contribution portion.

The contributions required shall be based on the average of the member's earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service if within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

The department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.35.720 for the period of military service, plus interest as determined by the department. Service credit under this subsection may be obtained only if the member makes the employee contribution to the defined contribution portion as determined by the department.

The contributions required shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

[1998 c 341 § 206.]

RCW 41.35.660 Purchased service credit--Allocation.

(1) Contributions on behalf of the employer paid by the employee to purchase plan 3 service credit shall be allocated to the defined benefit portion of plan 3 and shall not be refundable when paid to the fund described in RCW 41.50.075(4). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the statutory time limitations to purchase plan 3 service credit, it may be purchased under the provisions of

RCW 41.50.165(2). One-half of the purchase payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

(2) No purchased plan 3 membership service will be credited until all payments required of the member are made, with interest. Upon receipt of all payments owed by the member, the department shall bill the employer for any contributions, plus interest, required to purchase membership service.

[1998 c 341 § 207.]

RCW 41.35.670 Lump sum payments--Reentry.

(1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary a lump sum payment in lieu of a monthly benefit if the initial monthly benefit would be less than one hundred dollars. The one hundred dollar limit shall be increased annually as determined by the director. The lump sum payment shall be the actuarial equivalent of the monthly benefit.

(2) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to retiring again, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(3) Any member who receives a settlement under this section is deemed to be retired from this system.

[1998 c 341 § 208.]

RCW 41.35.680 Retirement eligibility.

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or

(b) Completed five service credit years, including twelve service credit months after attaining age fifty-four; or

(c) Completed five service credit years by September 1, 2000, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.35.510; shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT. Any member who has completed at least

thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.35.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

[2000 c 247 § 906; 1998 c 341 § 209.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

RCW 41.35.690 Earned disability allowance--Disposition upon death of recipient.

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department shall be eligible to receive an allowance under the provisions of plan 3. The member shall receive a monthly disability allowance computed as provided for in RCW 41.35.620 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) If the recipient of a monthly retirement allowance under this section dies, any further benefit payments shall be conditioned by the payment option selected by the retiree as provided in RCW 41.35.220.

[1998 c 341 § 210.]

RCW 41.35.700 Restored, purchased service credit under plan 2--Transfer to plan 3.

(1) Any member who elects to transfer to plan 3 and has eligible unrestored withdrawn contributions in plan 2, may restore such contributions under the provisions of RCW 41.40.750 with interest as determined by the department. The restored plan 2 service credit will be automatically transferred to plan 3. Restoration payments will be transferred to the member account in plan 3. If the member fails to meet the time limitations of RCW 41.40.750, they may restore such contributions under the provisions of RCW 41.50.165(2). The restored plan 2 service credit will be automatically transferred to plan 3. One-half of the restoration payments under RCW 41.50.165(2) plus interest shall be allocated to the member's account.

(2) Any member who elects to transfer to plan 3 may purchase plan 2 service credit under RCW 41.40.750. Purchased plan 2 service credit will be automatically transferred to plan 3. Contributions on behalf of the employer paid by the employee shall be allocated to the defined benefit portion of plan 3 and shall not be refundable when paid to the fund described in RCW 41.50.075(4). Contributions on behalf of the employee shall be allocated to the member account.

If the member fails to meet the time limitations of RCW 41.40.750, they may subsequently restore such contributions under the provisions of RCW 41.50.165(2). Purchased plan 2 service credit will be automatically transferred to plan 3. One-half of the payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

[1998 c 341 § 211.]

RCW 41.35.710 Death benefits.

If a member dies prior to retirement, the surviving spouse or eligible child or children shall receive a retirement allowance computed as provided in RCW 41.35.620 actuarially reduced to reflect a joint and one hundred percent survivor option and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.35.680.

If the surviving spouse who is receiving the retirement allowance dies leaving a child or children under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority.

If there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance, share and share alike. The allowance shall be calculated with the assumption that the age of the spouse and member were equal at the time of the member's death.

[1998 c 341 § 212.]

RCW 41.35.720 Employer contribution rates.

The required contribution rates to the retirement system for employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the amount of employer contributions to be deposited in the plan 2 fund from the total employer contributions collected under RCW 41.35.090.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

The employer's contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

[1998 c 341 § 213.]

RCW 41.35.900 Benefits not contractual right until September 1, 2000.

The benefits provided pursuant to chapter 341, Laws of 1998 are not provided to employees as a matter of contractual right prior to September 1, 2000. The legislature retains the right to alter or abolish these benefits at any time prior to September 1, 2000.

[1998 c 341 § 713.]

Notes:

Effective date--1998 c 341: See note following RCW 41.34.060.

RCW 41.35.901 Effective date--1998 c 341.

Except for sections 303, 306 through 309, 404, 505, 507, 515, 701, 707, and 710 through 713 of this act, this act takes effect September 1, 2000.

[1998 c 341 § 714.]

**Chapter 41.40 RCW
WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

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NOTES:

Numerical designations--1998 c 341: See note following chapter 41.26 RCW digest.
Portability of public retirement benefits: Chapter 41.54 RCW.
Transfer of membership to judges' retirement system: RCW 2.12.100.

"PROVISIONS APPLICABLE TO PLAN 1, PLAN 2, AND PLAN 3"

RCW 41.40.005 Provisions applicable to "plan 1" and "plan 2." (Effective until March 1, 2002.)

RCW 41.40.010 through *41.40.112 shall apply to members of plan 1 and plan 2.

[1992 c 72 § 8; 1991 c 35 § 69; 1989 c 273 § 20; 1989 c 272 § 7; 1979 ex.s. c 249 § 6; 1977 ex.s. c 295 § 21.]

Notes:

***Reviser's note:** RCW 41.40.112 was decodified August 1993.
Intent--1991 c 35: See note following RCW 41.26.005.
Severability--1989 c 273: See RCW 41.45.900.
Purpose--1989 c 272: See note following RCW 41.32.005.

RCW 41.40.005 Provisions applicable to "plan 1," "plan 2," and "plan 3." (Effective March 1, 2002.)

RCW 41.40.010 through *41.40.112 shall apply to members of plan 1, plan 2, and plan 3.

[2000 c 247 § 101; 1992 c 72 § 8; 1991 c 35 § 69; 1989 c 273 § 20; 1989 c 272 § 7; 1979 ex.s. c 249 § 6; 1977 ex.s. c 295 § 21.]

Notes:

***Reviser's note:** RCW 41.40.112 was decodified August 1993.
Intent--1991 c 35: See note following RCW 41.26.005.
Severability--1989 c 273: See RCW 41.45.900.
Purpose--1989 c 272: See note following RCW 41.32.005.

RCW 41.40.010 Definitions. (Effective until March 1, 2002.)

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

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

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

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor

guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established

by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

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

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan 2 members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

(A) The compensation earnable the member would have received had such member not

served in the legislature; or

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

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan 2 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the Washington school employees' retirement system, teachers' retirement system, or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the Washington school employees' retirement system, teachers' retirement system, or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

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

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

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

(34) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(35) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(36) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(37) "Index B" means the index for the year prior to index A.

(38) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(39) "Adjustment ratio" means the value of index A divided by index B.

(40) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(41) "Separation from service" occurs when a person has terminated all employment with an employer.

[1998 c 341 § 601. Prior: 1997 c 254 § 10; 1997 c 88 § 6; prior: 1995 c 345 § 10; 1995 c 286 § 1; 1995 c 244 § 3; prior: 1994 c 298 § 2; 1994 c 247 § 5; 1994 c 197 § 23; 1994 c 177 § 8; 1993 c 95 § 8; prior: 1991 c 343 § 6; 1991 c 35 § 70; 1990 c 274 § 3; prior: 1989 c 309 § 1; 1989 c 289 § 1; 1985 c 13 § 7; 1983 c 69 § 1; 1981 c 256 § 6; 1979 ex.s. c 249 § 7; 1977 ex.s. c 295 § 16; 1973 1st ex.s. c 190 § 2; 1972 ex.s. c 151 § 1; 1971 ex.s. c 271 § 2; 1969 c 128 § 1; 1965 c 155 § 1; 1963 c 225 § 1; 1963 c 174 § 1; 1961 c 291 § 1; 1957 c 231 § 1; 1955 c 277 § 1; 1953 c 200 § 1; 1951 c 50 § 1; 1949 c 240 § 1; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-1.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

Intent--1994 c 298: "(1) This act provides cross-references to existing statutes that affect calculation of pensions under the retirement systems authorized by chapters 41.40 and 41.32 RCW to the relevant definition sections of those chapters. Except as provided in subsection (2) of this section, this act is technical in nature and neither enhances nor diminishes existing pension rights. Except for the amendment to RCW 41.40.010(5), it is not the intent of the legislature to change the substance or effect of any statute previously enacted. Rather, this act provides cross-references to applicable statutes in order to aid with the administration of benefits authorized in chapters 41.40 and 41.32 RCW.

(2) The amendments to RCW 41.40.010 (5) and (29) contained in section 2, chapter 298, Laws of 1994, and to RCW 41.32.010(31) contained in section 3, chapter 298, Laws of 1994, clarify the status of certain persons as either members or retirees. RCW 41.04.275 and section 7, chapter 298, Laws of 1994, create the pension funding account in the state treasury and direct the transfer of moneys deposited in the budget stabilization account by the 1993-95 operating appropriations act, section 919, chapter 24, Laws of 1993 sp. sess., for the continuing costs of state retirement system benefits in effect on July 1, 1993, consistent with section 919, chapter 24, Laws of 1993 sp. sess. to the pension funding account." [1994 c 298 § 1.]

Effective date--1994 c 247: See note following RCW 41.32.4991.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Findings--1994 c 177: See note following RCW 41.50.125.

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--Effective date--Construction--1990 c 274: See notes following RCW 41.32.010.

Purpose--Application--Retrospective application--1985 c 13: See notes following RCW 41.04.445.

Applicability--1983 c 69: "Section 1 of this 1983 act applies only to service credit accruing after July 24, 1983." [1983 c 69 § 3.]

Purpose--Severability--1981 c 256: See notes following RCW 41.26.030.

Severability--1973 1st ex.s. c 190: "If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 190 § 16.]

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

Severability--1969 c 128: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 128 § 19.]

Severability--1965 c 155: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1965 c 155 § 10.]

Severability--1963 c 174: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1963 c 174 § 19.]

Severability--1961 c 291: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1961 c 291 § 18.]

RCW 41.40.010 Definitions. (Effective March 1, 2002.)

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

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

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

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

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

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of

this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

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

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

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

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

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or

appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the Washington school employees' retirement system, teachers' retirement system, or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the Washington school employees' retirement system, teachers' retirement system, or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

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

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the

requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

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

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

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

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

(34) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and are not included in plan 3.

(35) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(36) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(37) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(38) "Index B" means the index for the year prior to index A.

(39) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(40) "Adjustment ratio" means the value of index A divided by index B.

(41) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(42) "Separation from service" occurs when a person has terminated all employment with an employer.

(43) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of

plan 3.

[2000 c 247 § 102; 1998 c 341 § 601. Prior: 1997 c 254 § 10; 1997 c 88 § 6; prior: 1995 c 345 § 10; 1995 c 286 § 1; 1995 c 244 § 3; prior: 1994 c 298 § 2; 1994 c 247 § 5; 1994 c 197 § 23; 1994 c 177 § 8; 1993 c 95 § 8; prior: 1991 c 343 § 6; 1991 c 35 § 70; 1990 c 274 § 3; prior: 1989 c 309 § 1; 1989 c 289 § 1; 1985 c 13 § 7; 1983 c 69 § 1; 1981 c 256 § 6; 1979 ex.s. c 249 § 7; 1977 ex.s. c 295 § 16; 1973 1st ex.s. c 190 § 2; 1972 ex.s. c 151 § 1; 1971 ex.s. c 271 § 2; 1969 c 128 § 1; 1965 c 155 § 1; 1963 c 225 § 1; 1963 c 174 § 1; 1961 c 291 § 1; 1957 c 231 § 1; 1955 c 277 § 1; 1953 c 200 § 1; 1951 c 50 § 1; 1949 c 240 § 1; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-1.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

Intent--1994 c 298: "(1) This act provides cross-references to existing statutes that affect calculation of pensions under the retirement systems authorized by chapters 41.40 and 41.32 RCW to the relevant definition sections of those chapters. Except as provided in subsection (2) of this section, this act is technical in nature and neither enhances nor diminishes existing pension rights. Except for the amendment to RCW 41.40.010(5), it is not the intent of the legislature to change the substance or effect of any statute previously enacted. Rather, this act provides cross-references to applicable statutes in order to aid with the administration of benefits authorized in chapters 41.40 and 41.32 RCW.

(2) The amendments to RCW 41.40.010 (5) and (29) contained in section 2, chapter 298, Laws of 1994, and to RCW 41.32.010(31) contained in section 3, chapter 298, Laws of 1994, clarify the status of certain persons as either members or retirees. RCW 41.04.275 and section 7, chapter 298, Laws of 1994, create the pension funding account in the state treasury and direct the transfer of moneys deposited in the budget stabilization account by the 1993-95 operating appropriations act, section 919, chapter 24, Laws of 1993 sp. sess., for the continuing costs of state retirement system benefits in effect on July 1, 1993, consistent with section 919, chapter 24, Laws of 1993 sp. sess. to the pension funding account." [1994 c 298 § 1.]

Effective date--1994 c 247: See note following RCW 41.32.4991.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Findings--1994 c 177: See note following RCW 41.50.125.

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--Effective date--Construction--1990 c 274: See notes following RCW 41.32.010.

Purpose--Application--Retrospective application--1985 c 13: See notes following RCW 41.04.445.

Applicability--1983 c 69: "Section 1 of this 1983 act applies only to service credit accruing after July 24, 1983." [1983 c 69 § 3.]

Purpose--Severability--1981 c 256: See notes following RCW 41.26.030.

Severability--1973 1st ex.s. c 190: "If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 190 § 16.]

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

Severability--1969 c 128: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 128 § 19.]

Severability--1965 c 155: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1965 c 155 § 10.]

Severability--1963 c 174: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not

affected." [1963 c 174 § 19.]

Severability--1961 c 291: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1961 c 291 § 18.]

RCW 41.40.020 System created--Administration.

A state employees' retirement system is hereby created for the employees of the state of Washington and its political subdivisions. The administration and management of the retirement system, the responsibility for making effective the provisions of this chapter, and the authority to make all rules and regulations necessary therefor are hereby vested in the department. All such rules and regulations shall be governed by the provisions of chapter 34.05 RCW, as now or hereafter amended. The retirement system herein provided for shall be known as the Washington Public Employees' Retirement System.

[1991 c 35 § 71; 1969 c 128 § 2; 1967 c 127 § 1; 1949 c 240 § 2; 1947 c 274 § 2; Rem. Supp. 1949 § 11072-2.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.023 Membership.

Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

- (1) Persons in ineligible positions;
- (2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;
- (3)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of

the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan except as follows:

(a) In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide;

(b) An employee shall be allowed membership if otherwise eligible while receiving survivor's benefits;

(c) An employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (i) Membership in the plan created under chapter 2.14 RCW; or (ii) enrollment under the relief and compensation provisions or the pension provisions of the volunteer fire fighters' relief and pension fund under chapter 41.24 RCW;

(d) Except as provided in RCW 41.40.109, on or after July 25, 1999, an employee shall not be excluded from membership or denied service credit pursuant to this subsection solely on account of participation in a defined contribution pension plan qualified under section 401 of the internal revenue code;

(e) Employees who have been reported in the retirement system prior to July 25, 1999, and who participated during the same period of time in a defined contribution pension plan qualified under section 401 of the internal revenue code and operated wholly or in part by the employer, shall not be excluded from previous retirement system membership and service credit on account of such participation;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans

operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(10) Persons appointed after April 1, 1963, by the liquor control board as agency vendors;

(11) Employees of a labor guild, association, or organization: PROVIDED, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: PROVIDED, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from: (a) Transferring all of its current employees to the retirement system established under this chapter, or (b) allowing newly hired employees the option of continuing coverage under the retirement system established by this chapter.

Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded

under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only if payment is made for the noncredited membership service under RCW 41.50.165(2), otherwise service shall be from the date of application;

(17) The city manager or chief administrative officer of a city or town, other than a retiree, who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions.

Persons serving in such positions who have not opted for membership within the specified thirty days, may do so by paying the amount required under RCW 41.50.165(2) for the period from the date of their appointment to the date of acceptance into membership;

(18) Persons serving as: (a) The chief administrative officer of a public utility district as defined in RCW 54.16.100; (b) the chief administrative officer of a port district formed under chapter 53.04 RCW; or (c) the chief administrative officer of a county who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from the date of their appointment to such positions. Persons serving in such positions as of July 25, 1999, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1999, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions upon termination of employment or as otherwise consistent with the plan's tax qualification status as defined in internal revenue code section 401.

Persons serving in such positions who have not opted for membership within the specified thirty days, may do so at a later date by paying the amount required under RCW 41.50.165(2) for the period from the date of their appointment to the date of acceptance into membership;

(19) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by local governments to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan;

(20) Beginning on July 22, 2001, persons employed exclusively as trainers or trainees in resident apprentice training programs operated by housing authorities authorized under chapter 35.82 RCW, (a) if the trainer or trainee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or (b) if the employee is a member of a Taft-Hartley retirement plan.

[2001 c 37 § 1. Prior: 1999 c 286 § 2; 1999 c 244 § 1; 1997 c 254 § 11; prior: 1994 c 298 § 8; 1994 c 197 § 24; 1993 c 319 § 1; prior: 1990 c 274 § 10; 1990 c 192 § 4; 1988 c 109 § 25; 1987 c 379 § 1; 1986 c 317 § 5; 1984 c 184 § 13; 1984 c 121 § 1; 1982 1st ex.s. c 52 § 19; 1975 c 33 § 6; 1974 ex.s. c 195 § 2; 1973 1st ex.s. c 190 § 5; 1971 ex.s. c 271 § 4; 1969 c 128 § 5; 1967 c 127 § 3; 1965 c 155 § 2; 1963 c 225 § 2; 1963 c 210 § 1; 1957 c 231 § 2; 1955 c 277 § 2; 1953 c 200 § 5; 1951 c 50 § 2; 1949 c 240 § 7; 1947 c 274 § 13; Rem. Supp. 1949 § 11072-13. Formerly RCW 41.40.120.]

NOTES:

Intent--1999 c 286: "It is the intent of the legislature that retirement benefits represent a valuable element of the total compensation and benefits employees receive for their service. The value of these benefits is contained in the retirement income and cost-of-living adjustments provided to employees who remain in public service until retirement. For the majority of public employees, this requires membership in the public employees' retirement system.

The legislature recognizes, however, that certain occupations display a pattern of interstate mobility which requires retirement benefits which are highly portable. Incumbents in these occupations gain little value from membership in the public employees' retirement system. In order to remove any barrier to employing qualified personnel in positions with high mobility, membership in the retirement system should be optional in those occupations." [1999 c 286 § 1.]

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Intent--1994 c 298: See note following RCW 41.40.010.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Findings--Construction--1990 c 274: See notes following RCW 41.32.010.

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

Legislative findings--Intent--Severability--1986 c 317: See notes following RCW 41.40.150.

Severability--1984 c 184: See note following RCW 41.50.150.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Severability--1975 c 33: See note following RCW 35.21.780.

Severability--1974 ex.s. c 195: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 195 § 14.]

Severability--1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

Severability--1969 c 128: See note following RCW 41.40.010.

Pension benefits or annuity benefits for certain classifications of school district employees: RCW 28A.400.260.

RCW 41.40.028 Nonelective position employees employed for at least nine months--Deemed in eligible position, when.

Any person who has been employed in a nonelective position for at least nine months and who has made member contributions required under this chapter throughout such period, shall be deemed to have been in an eligible position during such period of employment.

[1980 c 112 § 2. Formerly RCW 41.40.123.]

RCW 41.40.032 Information furnished by employees, appointive and elective officials.

Within thirty days after his or her employment or his or her acceptance into membership each employee or appointive or elective official shall submit to the department a statement of his or her name, sex, title, compensation, duties, date of birth, and length of service as an employee

or appointive or elective official, and such other information as the department shall require. Each employee who becomes a member shall file a detailed statement of all his or her prior service as an employee and shall furnish such other facts as the department may require for the proper operation of the retirement system. Compliance with the provisions set forth in this section shall be considered to be a condition of employment and failure by an employee to comply may result in separation from service.

[1991 c 35 § 76; 1949 c 240 § 8; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-14. Formerly RCW 41.40.130.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.035 Service credit prohibited for certain members of committees, boards, and commissions and for certain appointive and elective officials.

(1) No person appointed to membership on any committee, board, or commission on or after July 1, 1976, who is compensated for service on such committee, board, or commission for fewer than ten days or seventy hours in any month, whichever amount is less, shall receive service credit for such service for that month: PROVIDED, That on and after October 1, 1977, appointive and elective officials who receive monthly compensation earnable from an employer in an amount equal to or less than ninety times the state minimum hourly wage shall not receive any service credit for such employment.

(2) This section does not apply to any person serving on a committee, board, or commission on June 30, 1976, who continued such service until subsequently appointed by the governor to a different committee, board, or commission.

[1987 c 146 § 1; 1977 ex.s. c 295 § 17; 1975-'76 2nd ex.s. c 34 § 4. Formerly RCW 41.40.165.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 41.40.037 Service by retirees--Reduction of retirement allowance upon reemployment--Reestablishment of membership.

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree from plan 1 who has satisfied the break in employment requirement of subsection (1) of this section and who enters employment with an employer may continue to receive pension payments while engaged in such service for up to one thousand five hundred hours of service in a calendar year without a reduction of pension. When a plan 1 member

renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(b) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the joint committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

[2001 2nd sp.s. c 10 § 4; 1997 c 254 § 14.]

NOTES:

Effective dates--2001 2nd sp.s. c 10: "Except for section 12 of this act which takes effect December 31, 2004, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 2nd sp.s. c 10 § 14.]

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

RCW 41.40.037 Service by retirees--Reduction of retirement allowance upon reemployment--Reestablishment of membership (as amended by 2001 2nd sp.s. c 10). (Effective December 31, 2004.)

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to ~~((five months))~~ eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

[2001 2nd sp.s. c 10 § 12; 1997 c 254 § 14.]

NOTES:

Reviser's note: RCW 41.40.037 was amended twice during the 2001 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective dates--2001 2nd sp.s. c 10: "Except for section 12 of this act which takes effect December 31, 2004, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 2nd sp.s. c 10 § 14.]

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

RCW 41.40.038 Duty disability retirement recipients--Continued service credit.

Those members subject to this chapter who became disabled in the line of duty on or after March 27, 1984, and who received or are receiving benefits under Title 51 RCW or a similar federal workers' compensation program shall receive or continue to receive service credit subject to the following:

- (1) No member may receive more than one month's service credit in a calendar month.
- (2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.
- (3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.
- (4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.
- (5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the rate set by the director on both employee and employer contributions. No service credit shall be granted until the employee contribution has been paid.
- (6) The service and compensation credit shall not be granted for a period to exceed twelve consecutive months.
- (7) Nothing in this section shall abridge service credit rights granted in RCW 41.40.220(2) and 41.40.320.
- (8) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

[1987 c 118 § 1; 1986 c 176 § 2. Formerly RCW 41.40.223.]

RCW 41.40.042 Members agree to deductions. (Effective until March 1, 2002.)

The deductions from the compensation of members, provided for in RCW 41.40.330 or 41.40.650, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this chapter and receipt in full for his or her salary or compensation, and payment less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to benefits provided for under this chapter.

[1991 c 35 § 89; 1977 ex.s. c 295 § 18; 1947 c 274 § 35; Rem. Supp. 1947 § 11072-35. Formerly RCW 41.40.340.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.042 Members agree to deductions. (Effective March 1, 2002.)

The deductions from the compensation of members, provided for in RCW 41.40.330, 41.45.060, 41.45.061, or 41.45.067, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this chapter and receipt in full for his or her salary or compensation, and payment less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment, except as to benefits provided for under this chapter.

[2000 c 247 § 103; 1991 c 35 § 89; 1977 ex.s. c 295 § 18; 1947 c 274 § 35; Rem. Supp. 1947 § 11072-35. Formerly RCW 41.40.340.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.048 Employer's contribution--Computation--Billing.

(1) The director shall report to each employer the contribution rates required for the ensuing biennium or fiscal year, whichever is applicable.

(2) Beginning September 1, 1990, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established in chapter 41.45 RCW to the total compensation earnable of employer's members as shown on the current payrolls of the said employer. In addition, the director shall determine and collect the additional employer contribution rate necessary to fund the benefits granted officials holding office pursuant to Articles II and III of the Constitution of the state of Washington and RCW 48.02.010. Each said employer shall compute at the end of each month the amount due for that month and the same shall be paid as are its other obligations. Effective January 1, 1987, however, no contributions are required for any calendar month in which the member is not

granted service credit.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill such employer for such employer's contribution together with such charges as the director deems appropriate in accordance with RCW 41.50.120. Such billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls.

[1989 c 273 § 23; 1986 c 268 § 5; 1985 c 138 § 1; 1982 1st ex.s. c 52 § 22; 1979 c 151 § 63; 1977 ex.s. c 295 § 20; 1963 c 126 § 1; 1961 c 291 § 12; 1949 c 240 § 26; 1947 c 274 § 38; Rem. Supp. 1947 § 11072-38. Formerly RCW 41.40.370.]

Notes:

Severability--1989 c 273: See RCW 41.45.900.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 41.40.052 Exemption from taxation and judicial process--Exceptions--Assignability--Deductions authorized.

(1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2)(a) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules that may be adopted by the state health care authority and/or the department, and this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(b) This section does not prohibit a beneficiary of a retirement allowance from authorizing deductions from that allowance for charitable purposes on the same terms as employees and public officers under RCW 41.04.035 and 41.04.036.

(3) Subsection (1) of this section shall not prohibit the department from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued by the department, (e) a court order directing the department of retirement systems to pay

benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

[1999 c 83 § 1. Prior: 1991 c 365 § 22; 1991 c 35 § 92; 1989 c 360 § 27; 1988 c 107 § 20; 1987 c 326 § 24; 1982 c 135 § 2; 1981 c 294 § 14; 1979 ex.s. c 205 § 6; 1974 ex.s. c 195 § 4; 1967 c 127 § 6; 1947 c 274 § 39; Rem. Supp. 1947 § 11072-39. Formerly RCW 41.40.380.]

Notes:

- Severability--1991 c 365:** See note following RCW 41.50.500.
- Intent--1991 c 35:** See note following RCW 41.26.005.
- Implementation--Effective dates--1988 c 107:** See RCW 41.05.901.
- Effective date--1987 c 326:** See RCW 41.50.901.
- Severability--1981 c 294:** See note following RCW 41.26.115.
- Severability--1974 ex.s. c 195:** See note following RCW 41.40.023.

RCW 41.40.054 Disability retirement--Criminal conduct. (*Effective until March 1, 2002.*)

A member shall not receive a disability retirement benefit under RCW 41.40.200, 41.40.220, 41.40.230, 41.40.235, 41.40.250, or 41.40.670 if the disability is the result of criminal conduct by the member committed after April 21, 1997.

[1997 c 103 § 3.]

NOTES:

- Severability--Effective date--1997 c 103:** See notes following RCW 41.26.061.

RCW 41.40.054 Disability retirement--Criminal conduct. (*Effective March 1, 2002.*)

A member shall not receive a disability retirement benefit under RCW 41.40.200, 41.40.220, 41.40.230, 41.40.235, 41.40.250, 41.40.670, or 41.40.825 if the disability is the result of criminal conduct by the member committed after April 21, 1997.

[2000 c 247 § 104; 1997 c 103 § 3.]

NOTES:

- Severability--Effective date--1997 c 103:** See notes following RCW 41.26.061.

RCW 41.40.055 Penalty for false statements.

Any person who shall knowingly make any false statements, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such act, shall be guilty of a gross misdemeanor.

[1947 c 274 § 41; Rem. Supp. 1947 § 11072-41. Formerly RCW 41.40.400.]

RCW 41.40.056 Establishment of service credit--Former employees--Employers admitted before July 23, 1995.

Except as qualified by RCW 41.40.023, for employers that were admitted into the retirement system before July 23, 1995, membership service may be established for the employer's former employees who are active members of the system if the member or member's former employer pays an amount equal to the employer and member contributions which would have been paid to the retirement system on account of such service to the retirement system. Payment shall be made prior to the retirement of such member.

Payments submitted by the member under this section shall be placed in the member's individual account in the members' savings fund and be treated as any other contribution made by the member, with the exception that the contributions submitted by the member in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall be excluded from the calculation of the member's annuity in the event the member selects a benefit with an annuity option.

[1995 c 286 § 2.]

RCW 41.40.057 Establishment of service credit--Current and former employees--Employers admitted after July 23, 1995. (Effective until March 1, 2002.)

(1) This section applies to the establishment of membership service with employers admitted to the retirement system after July 23, 1995.

(2) For current employees, membership service may be established for periods of employment with an employer prior to the employer's admission into the retirement system by making the payments required by this section.

The employer must select one of the options in this subsection and apply it uniformly, except as provided in subsection (3) of this section. The required payment shall include the total member and employer contributions that would have been required from the date of each current member's hire.

(a) Option A: The employer makes all the required payments within fifteen years from the date of the employer's admission.

(b) Option B: The employer makes a portion of the required payments and the member pays the balance. The employer shall not be required to make its payments until the member has made his or her payments. Each member shall have the option to purchase the membership service.

(c) Option C: The member makes all of the required payments. Each member shall have the option to purchase the membership service.

All payments under options B and C of this subsection must be completed within five years from the date of the employer's admission, or prior to the retirement of the member, whichever occurs sooner. A member may not receive membership service credit under option B or C of this subsection until all required payments have been made.

(3) An employer shall not be required to purchase membership service under option A or B for periods of employment for which the employer made contributions to a qualified retirement plan as defined by 26 U.S.C. Sec. 401(a), if the contributions plus interest accrued cannot be transferred to the retirement system. If the employer does not purchase the

membership credit under this subsection, the member may purchase the membership service under subsection (2)(c) of this section.

(4) A former employee who is an active member of the system and is not covered by subsection (2) of this section may establish membership service by making the required payments under subsection (2)(c) of this section prior to the retirement of the member.

(5) All payments made by the member under this section shall be placed in the member's individual account in the members' savings fund.

[1995 c 286 § 3.]

RCW 41.40.057 Establishment of service credit--Current and former employees--Employers admitted after July 23, 1995. (Effective March 1, 2002.)

(1) This section applies to the establishment of membership service with employers admitted to the retirement system after July 23, 1995.

(2) For current employees, membership service may be established for periods of employment with an employer prior to the employer's admission into the retirement system by making the payments required by this section.

The employer must select one of the options in this subsection and apply it uniformly, except as provided in subsection (3) of this section. The required payment shall include the total member and employer contributions that would have been required from the date of each current member's hire.

(a) Option A: The employer makes all the required payments within fifteen years from the date of the employer's admission.

(b) Option B: The employer makes a portion of the required payments and the member pays the balance. The employer shall not be required to make its payments until the member has made his or her payments. Each member shall have the option to purchase the membership service.

(c) Option C: The member makes all of the required payments. Each member shall have the option to purchase the membership service.

All payments under options B and C of this subsection must be completed within five years from the date of the employer's admission, or prior to the retirement of the member, whichever occurs sooner. A member may not receive membership service credit under option B or C of this subsection until all required payments have been made.

(3) An employer shall not be required to purchase membership service under option A or B for periods of employment for which the employer made contributions to a qualified retirement plan as defined by 26 U.S.C. Sec. 401(a), if the contributions plus interest accrued cannot be transferred to the retirement system. If the employer does not purchase the membership credit under this subsection, the member may purchase the membership service under subsection (2)(c) of this section.

(4) A former employee who is an active member of the system and is not covered by subsection (2) of this section may establish membership service by making the required payments under subsection (2)(c) of this section prior to the retirement of the member.

(5) All payments made by the member under this section shall be placed in the member's individual account in the members' savings fund or the member's account for those members entering plan 3.

[2000 c 247 § 105; 1995 c 286 § 3.]

RCW 41.40.058 Transfer of service credit from state-wide city employees' retirement system.

(1) Any person who was a member of the state-wide city employees' retirement system governed by chapter 41.44 RCW and who also became a member of this retirement system on or before July 26, 1987, may, in a writing filed with the director, elect to:

(a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to this retirement system all service which was previously credited under chapter 41.44 RCW but which was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190. The service may be reestablished and transferred only upon payment by the member to the employees' savings fund of this retirement system of the amount withdrawn plus interest thereon from the date of withdrawal until the date of payment at a rate determined by the director. No additional payments are required for service credit described in this subsection if already established under this chapter; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW, upon payment in full by the member of the total employer's contribution to the benefit account fund of this retirement system that would have been made under this chapter when the initial service was rendered. The payment shall be based on the first month's compensation earnable as a member of the state-wide city employees' retirement system and as defined in RCW 41.44.030(13). However, a person who has established service credit under RCW 41.40.010(13) (c) or (d) shall not establish additional credit under this subsection nor may anyone who establishes credit under this subsection establish any additional credit under RCW 41.40.010(13) (c) or (d). No additional payments are required for service credit described in this subsection if already established under this chapter.

(2)(a) In the case of a member of this retirement system who is employed by an employer on July 26, 1987, the written election required by subsection (1) of this section must be filed and the payments required by subsection (1)(b) and (c) of this section must be completed in full within one year after July 26, 1987.

(b) In the case of a former member of this retirement system who is not employed by an employer on July 26, 1987, the written election must be filed and the payments must be completed in full within one year after reemployment by an employer.

(c) In the case of a retiree receiving a retirement allowance from this retirement system on July 26, 1987, or any person having vested rights as described in RCW 41.40.150 (4), the written election may be filed and the payments may be completed at any time.

(3) Upon receipt of the written election and payments required by subsection (1) of this section from any retiree described in subsection (2) of this section, the department shall recompute the retiree's allowance in accordance with this section and shall pay any additional benefit resulting from such recomputation retroactively to the date of retirement from the system governed by this chapter.

(4) Any person who was a member of the state-wide city employees' retirement system under chapter 41.44 RCW and also became a member of this retirement system, and did not make the election under subsection (1) of this section because he or she was not a member of this retirement system prior to July 27, 1987, or did not meet the time limitations of subsection (2) (a) or (b) of this section, may elect to do any of the following:

(a) Transfer to this retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to this retirement system all service that was previously credited under chapter 41.44 RCW but was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW.

To make the election or elections, the person must pay the amount required under RCW 41.50.165(2) prior to retirement from this retirement system.

[1994 c 197 § 25; 1987 c 417 § 1; 1984 c 184 § 9. Formerly RCW 41.40.403.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.40.059 Credit for service in Seattle's police relief and pension fund system.

Any active member of this retirement system who has previously established ten or more years' service credit in the city of Seattle's police relief and pension fund system, who withdrew his or her contributions from Seattle's police relief and pension fund system prior to July 1, 1961, and who has never been a member of the law enforcement officers' and fire fighters' pension system created in chapter 41.26 RCW, may receive credit in this retirement system for such service, subject to the terms and conditions specified in RCW 41.40.061.

[1992 c 157 § 3.]

RCW 41.40.061 Credit for service in Seattle's police relief and pension fund system--Terms and conditions.

(1) A member who fulfills the requirements of RCW 41.40.059 may file a written declaration no later than September 30, 1992, with the department and the Seattle police relief and pension fund system indicating the member's desire to make an irrevocable transfer of credit from the Seattle system to this retirement system. The member shall restore his or her

contributions, with interest since the date of withdrawal as determined by the director, no later than December 31, 1992.

(2) Upon receipt of the written declaration, the Seattle police relief and pension fund system shall send the department a report of the member's service credit. It shall also transfer to the department the portion of such member's contributions that was retained in the Seattle police relief and pension fund pursuant to RCW 41.20.150, plus a sum equal to such member's total contributions to the Seattle police relief and pension fund, which shall be treated as matching contributions by the employer, plus the compound interest that would have been generated by such sums, as determined by the Seattle city treasurer. The Seattle police relief and pension fund system shall send the service credit report and transfer the funds within ninety days of receiving the member's written declaration.

[1992 c 157 § 4.]

RCW 41.40.062 Optional entry of system by political subdivisions or associations of political subdivisions--Procedure--School districts declared employers and eligible employees members of system--Exception. (Effective until March 1, 2002.)

(1) The members and appointive and elective officials of any political subdivision or association of political subdivisions of the state may become members of the retirement system by the approval of the local legislative authority.

(2) On and after September 1, 1965, every school district of the state of Washington shall be an employer under this chapter. Every member of each school district who is eligible for membership under RCW 41.40.023 shall be a member of the retirement system and participate on the same basis as a person who first becomes a member through the admission of any employer into the retirement system on and after April 1, 1949, except that after August 31, 2000, school districts will no longer be employers for the public employees' retirement system plan 2.

[1998 c 341 § 602; 1995 c 286 § 4; 1991 c 35 § 93; 1971 ex.s. c 271 § 12; 1969 c 128 § 13; 1965 c 84 § 1; 1963 c 174 § 16; 1961 c 291 § 13; 1953 c 200 § 19; 1951 c 50 § 13; 1949 c 240 § 27; 1947 c 274 § 43; Rem. Supp. 1949 § 11072-42. Formerly RCW 41.40.410.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.062 Optional entry of system by political subdivisions or associations of political subdivisions--Procedure--School districts declared employers and eligible employees members of system--Exception. (Effective March 1, 2002.)

(1) The members and appointive and elective officials of any political subdivision or association of political subdivisions of the state may become members of the retirement system

by the approval of the local legislative authority.

(2) On and after September 1, 1965, every school district of the state of Washington shall be an employer under this chapter. Every member of each school district who is eligible for membership under RCW 41.40.023 shall be a member of the retirement system and participate on the same basis as a person who first becomes a member through the admission of any employer into the retirement system on and after April 1, 1949, except that after August 31, 2000, school districts will no longer be employers for the public employees' retirement system plan 2 or plan 3.

[2000 c 247 § 106; 1998 c 341 § 602; 1995 c 286 § 4; 1991 c 35 § 93; 1971 ex.s. c 271 § 12; 1969 c 128 § 13; 1965 c 84 § 1; 1963 c 174 § 16; 1961 c 291 § 13; 1953 c 200 § 19; 1951 c 50 § 13; 1949 c 240 § 27; 1947 c 274 § 43; Rem. Supp. 1949 § 11072-42. Formerly RCW 41.40.410.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.068 Hearing prior to appeal--Required--Notice.

Any person aggrieved by any decision of the department affecting his or her legal rights, duties, or privileges must before he or she appeals to the courts, file with the director by mail or personally within sixty days from the day the decision was communicated to the person, a notice for a hearing before the director's designee. The notice of hearing shall set forth in full detail the grounds upon which the person considers the decision unjust or unlawful and shall include every issue to be considered by the department, and it must contain a detailed statement of facts upon which the person relies in support of the appeal. These persons shall be deemed to have waived all objections or irregularities concerning the matter on which the appeal is taken, other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system.

[1991 c 35 § 94; 1969 c 128 § 14; 1963 c 174 § 17; 1953 c 200 § 22. Formerly RCW 41.40.412.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.073 Hearing prior to appeal--Conduct of hearing.

Following its receipt of a notice for hearing in accordance with RCW 41.40.068, a hearing shall be held by the director or a duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be conducted and governed in all respects by the provisions of chapter 34.05 RCW.

[1989 c 175 § 87; 1969 c 128 § 15; 1953 c 200 § 23. Formerly RCW 41.40.414.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.078 Judicial review in accordance with administrative procedure act.

Judicial review of any final decision and order by the director is governed by the provisions of chapter 34.05 RCW.

[1989 c 175 § 88; 1969 c 128 § 16; 1963 c 174 § 18; 1953 c 200 § 20; 1951 c 50 § 14. Formerly RCW 41.40.420.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.082 Appeal--No bond required.

No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a finding of the department affecting the claimant's right to retirement or disability benefits.

[1991 c 35 § 95; 1971 c 81 § 105; 1951 c 50 § 16. Formerly RCW 41.40.440.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.088 Education employment--Service credit--Computation. *(Effective until March 1, 2002.)*

(1) A plan 1 member who is employed by a school district or districts, an educational service district, the state school for the deaf, the state school for the blind, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for six hundred thirty hours or more during that period, and is employed during nine months of that period, except that a member may not receive credit for any period prior to the member's employment in an eligible position;

(b) If a member in an eligible position does not meet the requirements of (a) of this subsection, the member is entitled to a service credit month for each month of the period he or she earns earnable compensation for seventy or more hours; and the member is entitled to a one-quarter service credit month for those calendar months during which he or she earned compensation for less than seventy hours.

(2) Except for any period prior to the member's employment in an eligible position, a plan 2 member who is employed by a school district or districts, an educational service district, the state school for the blind, the state school for the deaf, institutions of higher education, or

community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten hours during that period, and is employed nine months of that period.

(c) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(i) One service credit month for each month in which compensation is earned for ninety or more hours;

(ii) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(iii) One-quarter service credit month for each month in which compensation is earned for less than seventy hours.

(d) After August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(3) The department shall adopt rules implementing this section.

[1998 c 341 § 603. Prior: 1991 c 343 § 9; 1991 c 35 § 96; 1990 c 274 § 4; 1989 c 289 § 2; 1987 c 136 § 1; 1983 c 69 § 2; 1973 c 23 § 1. Formerly RCW 41.40.450.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--Intent--Reservation--Effective date--Construction--1990 c 274: See notes following RCW 41.32.010.

RCW 41.40.088 Education employment--Service credit--Computation. (Effective March 1, 2002.)

(1) A plan 1 member who is employed by a school district or districts, an educational service district, the state school for the deaf, the state school for the blind, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for six hundred thirty hours or more during that period, and is employed during nine months of that period, except that a member may not receive credit for any period prior to the member's employment in an eligible position;

(b) If a member in an eligible position does not meet the requirements of (a) of this subsection, the member is entitled to a service credit month for each month of the period he or

she earns earnable compensation for seventy or more hours; and the member is entitled to a one-quarter service credit month for those calendar months during which he or she earned compensation for less than seventy hours.

(2) Except for any period prior to the member's employment in an eligible position, a plan 2 or plan 3 member who is employed by a school district or districts, an educational service district, the state school for the blind, the state school for the deaf, institutions of higher education, or community colleges:

(a) Shall receive a service credit month for each month of the period from September through August of the following year if he or she is employed in an eligible position, earns compensation earnable for eight hundred ten hours or more during that period, and is employed during nine months of that period;

(b) If a member in an eligible position for each month of the period from September through August of the following year does not meet the hours requirements of (a) of this subsection, the member is entitled to one-half service credit month for each month of the period if he or she earns earnable compensation for at least six hundred thirty hours but less than eight hundred ten hours during that period, and is employed nine months of that period;

(c) In all other instances, a member in an eligible position is entitled to service credit months as follows:

(i) One service credit month for each month in which compensation is earned for ninety or more hours;

(ii) One-half service credit month for each month in which compensation is earned for at least seventy hours but less than ninety hours; and

(iii) One-quarter service credit month for each month in which compensation is earned for less than seventy hours;

(d) After August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2 or plan 3.

(3) The department shall adopt rules implementing this section.

[2000 c 247 § 107; 1998 c 341 § 603. Prior: 1991 c 343 § 9; 1991 c 35 § 96; 1990 c 274 § 4; 1989 c 289 § 2; 1987 c 136 § 1; 1983 c 69 § 2; 1973 c 23 § 1. Formerly RCW 41.40.450.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--Intent--Reservation--Effective date--Construction--1990 c 274: See notes following RCW 41.32.010.

RCW 41.40.092 Transfer of cadet service credit to Washington state patrol retirement system. (Effective until March 1, 2002.)

(1) Active members of the Washington state patrol retirement system who have previously established service credit in the public employees' retirement system while employed by the state patrol as a cadet as defined in RCW 43.43.120(6)(b) may have such service credit

transferred to the state patrol retirement system subject to the terms and conditions specified in chapter 43.43 RCW, including reestablishment of such service for the sole purpose of transfer. Service reestablishment shall be subject to the interest requirements of RCW 41.40.150(2).

(2) Service credit established for employment other than that specified in subsection (1) of this section is not eligible for transfer.

[1983 c 81 § 3. Formerly RCW 41.40.530.]

Notes:

Effective date--1983 c 81: See note following RCW 43.43.120.

RCW 41.40.092 Transfer of cadet service credit to Washington state patrol retirement system. (Effective March 1, 2002.)

(1) Active members of the Washington state patrol retirement system who have previously established service credit in the public employees' retirement system, plan 1 or plan 2 while employed by the state patrol as a cadet as defined in RCW 43.43.120(6)(b) may have such service credit transferred to the state patrol retirement system subject to the terms and conditions specified in chapter 43.43 RCW, including reestablishment of such service for the sole purpose of transfer. Service reestablishment shall be subject to the interest requirements of RCW 41.40.150(2).

(2) Service credit established for employment other than that specified in subsection (1) of this section is not eligible for transfer.

[2000 c 247 § 108; 1983 c 81 § 3. Formerly RCW 41.40.530.]

Notes:

Effective date--1983 c 81: See note following RCW 43.43.120.

RCW 41.40.0931 Death benefit--Death in the course of employment as a police officer.

(1) A one hundred fifty thousand dollar death benefit for members who had the opportunity to transfer to the law enforcement officers' and fire fighters' retirement system pursuant to chapter 502, Laws of 1993, but elected to remain in the public employees' retirement system, shall be paid to the member's estate, or such person or persons, trust, or organization as the member has nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's legal representatives.

(2) Subject to subsection (3) of this section, the benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment as a general authority police officer. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(3) The benefit under this section shall not be paid in the event the member was in the act

of committing a felony when the fatal injuries were suffered.

[1998 c 157 § 1.]

Notes:

Effective date--1998 c 157: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 1998]." [1998 c 157 § 6.]

RCW 41.40.094 Fire fighters--Optional transfer to LEOFF plan 2. (Effective until March 1, 2002.)

(1) An employee who was a member of the public employees' retirement system on or before January 1, 1996, and, on June 6, 1996, is employed by an institution of higher education as a fire fighter as defined in RCW 41.26.030, has the following options:

(a) Remain a member of the public employees' retirement system; or

(b) Make an irrevocable choice, filed in writing with the department of retirement systems no later than January 1, 1997, to transfer to the law enforcement officers' and fire fighters' retirement system plan 2 as defined in RCW 41.26.030. An employee transferring membership under this subsection (1)(b) shall be a dual member as provided in RCW 41.54.010 unless the employee exercises the option to transfer service credit under subsection (2) of this section.

(2)(a) An employee who transferred membership under subsection (1)(b) of this section may choose to transfer service credit as a fire fighter previously earned under the public employees' retirement system, to the law enforcement officers' and fire fighters' retirement system plan 2, by making an irrevocable choice filed in writing with the department of retirement systems within one year of the department's announcement of the ability to make such a transfer.

(b) Any fire fighter choosing to transfer under this subsection shall have transferred from the retirement system to the law enforcement officers' and fire fighters' retirement system plan 2: (i) All the employee's applicable accumulated contributions and employer contributions attributed to such employee; and (ii) all applicable months of service, as defined in RCW 41.26.030(14)(b), credited to the employee under chapter 41.40 RCW, as though such service was rendered as a member of the law enforcement officers' and fire fighters' retirement system.

(c) For the applicable period of service, the employee shall pay the difference between the contributions such employee paid to the retirement system, and the contributions which would have been paid by the employee had the employee been a member of the law enforcement officers' and fire fighters' retirement system, plus interest as determined by the director. This payment shall be made no later than December 31, 1998, or the date of retirement, whichever comes first. If the payment required by this subsection is not paid in full by the deadline, the transferred service credit shall not be used to determine eligibility for benefits nor to calculate benefits under the law enforcement officers' and fire fighters' retirement system. In such case, the additional employee contributions transferred under this subsection, and any payments made under this subsection, shall be refunded to the employee and the employer shall be entitled to a credit for the payments made under (d) of this subsection.

(d) For the applicable period of service, the employer shall pay:

(i) The difference between the employer contributions paid to the public employees' retirement system, and the combined employer and state contributions which would have been payable to the law enforcement officers' and fire fighters' retirement system; and

(ii) An amount sufficient to ensure that the contribution level of current members of the law enforcement officers' and fire fighters' retirement system will not increase due to this transfer.

For the purpose of this subsection (2)(d), the state contribution shall not include the contribution related to the amortization of the costs of the law enforcement officers' and fire fighters' retirement system plan 1 as required by chapter 41.45 RCW.

(e) An individual who transfers service credit and contributions under this subsection shall be permanently excluded from the public employees' retirement system for all service as a fire fighter.

[1996 c 38 § 1.]

RCW 41.40.095 Transfer of membership from judicial retirement system.

(1) Any member of the Washington judicial retirement system who wishes to transfer such membership to the retirement system provided for in this chapter shall file a written request with the director as required by RCW 2.10.040 on or before December 31, 1989, or within one year after reentering service as a judge.

Upon receipt of such request, the director shall transfer from the judicial retirement system to this retirement system: (a) An amount equal to the employee and employer contributions the judge would have made if the judge's service under chapter 2.10 RCW had originally been earned under this chapter, which employee contributions shall be credited to the member's account established under this chapter; and (b) a record of service credited to the member. The judge's accumulated contributions that exceed the amount credited to the judge's account under this subsection shall be deposited in the judge's retirement account created pursuant to chapter 2.14 RCW.

(2) The member shall be given year-for-year credit for years of service, as determined under RCW 2.10.030(8), earned under the judicial retirement system. Service credit granted under the judicial retirement system pursuant to RCW 2.10.220 shall not be transferred under this section. The director instead shall reverse the transfer of contributions and service credit previously made under RCW 2.10.220 and shall credit the member for such periods of service and contributions under this chapter as though no transfer had ever occurred.

(3) All employee contributions transferred pursuant to this section shall be treated the same as other employee contributions made under this chapter.

[1988 c 109 § 5. Formerly RCW 41.40.540.]

Notes:

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

RCW 41.40.098 Transfer of former service from judicial retirement system.

A former member of the Washington judicial retirement system who: (1) Is not serving as a judge on July 1, 1988; (2) has not retired under the applicable provisions of chapter 2.10 RCW; and (3) subsequently reacquires membership in the public employees' retirement system may, by written request filed with the director of retirement systems, transfer to the public employees' retirement system all periods of time served as a judge, as defined in RCW 2.10.030(2). Upon such membership transfer being made, the department of retirement systems shall transfer the employer contributions and the employee's contributions and service from the judicial retirement system to the public employees' retirement system. The service shall be transferred and credited to the member as though the service was originally earned as a member of the public employees' retirement system.

[1988 c 109 § 6. Formerly RCW 41.40.542.]

Notes:

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

RCW 41.40.102 Effect of certain accumulated vacation leave on retirement benefits.

RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter.

[1983 c 283 § 4. Formerly RCW 41.40.800.]

RCW 41.40.103 Benefit calculation--Limitation.

(1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section.

[1995 c 145 § 3.]

RCW 41.40.104 Establishing, restoring service credit.

Notwithstanding any provision to the contrary, persons who fail to:

(1) Establish allowable membership service not previously credited;

(2) Restore all or a part of that previously credited membership service represented by withdrawn contributions; or

(3) Restore service credit represented by a lump sum payment in lieu of benefits, before the deadline established by statute, may do so under the conditions set forth in RCW 41.50.165.

[1998 c 17 § 3.]

RCW 41.40.105 Chapter not applicable to officers and employees of state convention and trade center.

The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW.

[1984 c 210 § 6. Formerly RCW 41.40.810.]

Notes:

Savings--Severability--1984 c 210: See notes following RCW 67.40.020.

RCW 41.40.108 Higher education classified employees--Membership in the public employees' retirement system.

(1) All classified employees employed by Washington State University on and after April 24, 1973, and otherwise eligible shall become members of the Washington public employees' retirement system to the exclusion of any other retirement benefit system at the institution unless otherwise provided by law.

(2) All classified employees employed by the University of Washington or each of the regional universities or The Evergreen State College on and after May 6, 1974, and otherwise eligible shall become members of the Washington public employees' retirement system at the institution unless otherwise provided by law: PROVIDED, That persons who, immediately prior to the date of their hiring as classified employees, have for at least two consecutive years held membership in a retirement plan underwritten by the private insurer of the retirement plan of their respective educational institution may irrevocably elect to continue their membership in the retirement plan notwithstanding the provisions of this chapter, if the election is made within thirty days from the date of their hiring as classified employees. If these persons elect to become members of the public employees' retirement system, contributions by them and their employers shall be required from their first day of employment.

[1991 c 35 § 107.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.109 Retirement system employer--Termination of status.

(1) Employers that are organized pursuant to chapter 36.100, 36.102, or 81.112 RCW, who have become retirement system employers since 1993, and who have previously excluded some of their employees from retirement system membership pursuant to the limitation in RCW 41.40.023(4), shall have the option until December 31, 1999, to terminate their status as a retirement system employer with regard to persons employed after the date of their election.

(2) If a government unit terminates its status as an employer pursuant to this section its employees as of the date of the election who are members shall be eligible to continue their membership in the retirement system, if otherwise eligible under this chapter, for the duration of their continuous employment with that employer.

(3) If a government unit subject to this section does not elect to terminate its status as a retirement system employer it may either: (a) Continue to exclude from membership those employees who were excluded pursuant to the limitation in RCW 41.40.023(4) prior to July 25, 1999; or [(b)] include such employees in the retirement system, if otherwise eligible under this chapter, for service rendered on or after July 25, 1999, and after the employer's election.

[1999 c 244 § 2.]

RCW 41.40.111 Retirement system employer--Unit of government.

(1) When a unit of government has become a retirement system employer, all of its employees must be included in the plan membership, if otherwise eligible under this chapter, unless the employee is exempted from membership or qualifies for optional membership pursuant to RCW 41.40.023 or other provision of this chapter.

(2) A unit of government which has become a retirement system employer may not withdraw from the retirement system.

[1999 c 244 § 3.]

"PLAN 1"

RCW 41.40.145 Provisions applicable to plan 1.

RCW 41.40.150 through 41.40.363 shall apply only to members of plan 1.

[1992 c 72 § 9; 1991 c 35 § 105.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.150 Termination of membership--Restoration of service credit.

Should any member die, or should the individual separate or be separated from service without leave of absence before attaining age sixty years, or should the individual become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.188, the individual shall thereupon cease to be a member except;

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of six months of continuous service and upon the restoration, in one lump sum or in annual installments, of all withdrawn contributions: (a) With interest as computed by the director, which restoration must be completed within a total period of five years of membership service following the member's first resumption of employment or (b) paying the amount required under RCW 41.50.165(2), be returned to the status, either as an original member or new member which the member held at time of separation.

(3) A member who separates or has separated after having completed at least five years

of service shall remain a member during the period of absence from service for the exclusive purpose of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

(4) The recipient of a retirement allowance elected to office or appointed to office directly by the governor, and who shall apply for and be accepted in membership as provided in RCW 41.40.023(3) shall be considered to have terminated his or her retirement status and shall become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended from the date of return to membership until the date when the member again retires and the member shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed: AND PROVIDED FURTHER, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in RCW 41.40.023(3), the member shall be considered to remain in a retirement status and the individual's retirement benefits shall continue without interruption.

(5) Any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of this retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue membership therein until attaining age sixty, shall remain a member for the exclusive purpose of receiving a retirement allowance without the limitation found in RCW 41.40.180(1) to begin on attainment of age sixty-five; however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits commencing at age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

[1997 c 254 § 12; 1994 c 197 § 26; 1992 195 § 1; 1990 c 249 § 17. Prior: 1987 c 384 § 1; 1987 c 88 § 1; 1986 c 317 § 3; 1983 c 233 § 2; 1982 1st ex.s. c 52 § 20; 1979 ex.s. c 249 § 10; 1974 ex.s. c 195 § 3; 1973 1st ex.s. c 190 § 6; 1969 c 128 § 6; 1967 c 127 § 4; 1965 c 155 § 3; 1963 c 174 § 8; 1955 c 277 § 3; 1953 c 200 § 7; 1951 c 50 § 3; 1949 c 240 § 10; 1947 c 274 § 16; Rem. Supp. 1949 § 11072-16.]

Notes:

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Effective date--1992 c 195 § 1: "Section 1 of this act shall take effect January 1, 1994." [1992 c 195 § 3.]

Findings--1990 c 249: See note following RCW 2.10.146.

Effective dates--1987 c 384: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1987. Section 2 of this act shall take effect July 1, 1988." [1987 c 384 § 3.]

Legislative findings--Intent--1986 c 317: "The legislature finds that in the past public employees and teachers who had terminated employment, withdrawn their retirement contributions, and subsequently returned to public employment or teaching either did not receive proper notification of the procedure to reinstate their withdrawn contributions or they did not fully understand the limitation on such reinstatement. In 1973, the legislature recognized this fact and provided an extraordinary reinstatement period for such employees. Further in 1983, the legislature established clear notification procedures for the proper notification of the reinstatement policy for all such returning employees. Therefore, it is the intent of this 1986 act to provide one last opportunity for reinstatement of withdrawn contributions to those who may have not been properly informed or misunderstood the reinstatement procedure." [1986 c 317 § 1.]

Severability--1986 c 317: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 317 § 11.]

Severability--1983 c 233: See note following RCW 41.32.500.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Severability--1974 ex.s. c 195: See note following RCW 41.40.023.

Severability--1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.160 Creditable service.

(1) Subject to the provisions of RCW 41.40.150, at retirement the total service credited to a member shall consist of all membership service and, if he or she is an original member, all of the certified prior service.

(2) Employees of a public utility or other private enterprise all or any portion of which has been heretofore or may be hereafter acquired by a public agency as a matter of public convenience and necessity, where it is in the public interest to retain the trained personnel of such enterprise, all service to that enterprise shall, upon the acquiring public agency becoming an employer as defined in RCW 41.40.010(4) be credited on the same basis as if rendered to the said employer: PROVIDED, That this shall apply only to those employees who were in the service of the enterprise at or prior to the time of acquisition by the public agency and who remain in the service of the acquiring agency until they attain membership in the state employees' retirement system; and to those employees who were in the service of the enterprise at the time of acquisition by the public agency and subsequently attain membership through employment with any participating agency: PROVIDED FURTHER, In the event that the acquiring agency is an employer at the time of the acquisition, employer's contributions in connection with members achieving service credit hereunder shall be made on the same basis as set forth in RCW *41.40.045 and 41.40.048 for an employer admitted after April 1, 1949, and before July 23, 1995, and on the same basis as set forth in RCW 41.40.057 for an employer admitted after July 23, 1995.

[1995 c 286 § 5; 1991 c 35 § 77; 1989 c 273 § 27; 1965 c 155 § 4; 1963 c 174 § 9; 1953 c 200 § 8; 1951 c 50 § 4; 1949 c 240 § 11; 1947 c 274 § 17; Rem. Supp. 1949 § 11072-17.]

Notes:

***Reviser's note:** RCW 41.40.045 was repealed by 1995 c 286 § 6.

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1989 c 273: See RCW 41.45.900.

RCW 41.40.163 Purchase of service credit--Service at Washington State University.

Notwithstanding any provision to the contrary, employees of Washington State University who first established membership in the public employees' retirement system plan 1 under RCW 41.40.500 through 41.40.507, as existing on July 28, 1991, and *RCW 41.40.508, as existing on June 7, 1990, may purchase, as set forth under RCW 41.50.165, plan 1 service credit for the period of service at Washington State University prior to his or her contributory membership in the Washington State University retirement system.

[1998 c 17 § 4.]

Notes:

***Reviser's note:** RCW 41.40.508 was repealed by 1990 c 249 § 22.

RCW 41.40.170 Credit for military service.

(1) A member who has served or shall serve on active federal service in the military or naval forces of the United States and who left or shall leave an employer to enter such service shall be deemed to be on military leave of absence if he or she has resumed or shall resume employment as an employee within one year from termination thereof.

(2) If he or she has applied or shall apply for reinstatement of employment, within one year from termination of the military service, and is refused employment for reasons beyond his or her control, he or she shall, upon resumption of service within ten years have such service credited to him or her.

(3) In any event, after completing twenty-five years of creditable service, any member may have service in the armed forces credited to him or her as a member whether or not he or she left the employ of an employer to enter the armed service: PROVIDED, That in no instance, described in this section, shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance the member must restore all withdrawn accumulated contributions, which restoration must be completed within five years of membership service following the first resumption of employment or complete twenty-five years of creditable service: AND PROVIDED FURTHER, That this section will not apply to any individual, not a veteran within the meaning of RCW 41.04.005, as now or hereafter amended: AND PROVIDED FURTHER, That in no instance, described in this section, shall military service be credited to any member who is receiving full military retirement benefits pursuant to Title 10 United States Code.

[1991 c 35 § 78; 1981 c 294 § 12; 1973 1st ex.s. c 190 § 14; 1972 ex.s. c 151 § 3; 1969 c 128 § 7; 1967 c 127 § 8;

1963 c 174 § 10; 1953 c 200 § 9; 1949 c 240 § 12; 1947 c 274 § 18; Rem. Supp. 1949 § 11072-18.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1981 c 294: See note following RCW 41.26.115.

Severability--1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.175 Service credit for paid leave of absence--Application to elected officials of labor organizations.

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided under the provisions of RCW 41.40.145 through 41.40.363.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

[1993 c 95 § 1.]

Notes:

Retroactive application--1993 c 95: "This act applies on a retroactive basis to members for whom compensation and hours were reported under the circumstances described in sections 1 through 6 of this act. This act may also be applied on a retroactive basis to January 1, 1992, to members for whom compensation and hours would have been reported except for chapter 3, Laws of 1992, or explicit instructions from the department of retirement systems." [1993 c 95 § 9.]

Effective date--1993 c 95: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 21, 1993]." [1993 c 95 § 11.]

RCW 41.40.180 Retirement--Length of service.

(1) Any member with five years of creditable service who has attained age sixty and any original member who has attained age sixty may retire on written application to the director, setting forth at what time the member desires to be retired: PROVIDED, That in the national interest, during time of war engaged in by the United States, the director may extend beyond age sixty, subject to the provisions of subsection (2) of this section, the age at which any member may be eligible to retire.

(2) Any member who has completed thirty years of service may retire on written application to the director setting forth at what time the member desires to be retired, subject to war measures.

(3) Any member who has completed twenty-five years of service and attained age fifty-five may retire on written application to the director setting forth at what time the member desires to be retired, subject to war measures.

(4) Any individual who is eligible to retire pursuant to subsections (1) through (3) of this section shall be allowed to retire while on any authorized leave of absence not in excess of one hundred and twenty days.

[1982 1st ex.s. c 52 § 21; 1973 1st ex.s. c 190 § 7; 1972 ex.s. c 151 § 4; 1971 ex.s. c 271 § 7; 1967 c 127 § 5; 1963 c 174 § 11; 1955 c 277 § 4; 1953 c 200 § 10; 1951 c 81 § 1; 1949 c 240 § 13; 1947 c 274 § 19; Rem. Supp. 1949 § 11072-19.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Severability--1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

RCW 41.40.185 Retirement allowances--Members retiring after February 25, 1972.

Upon retirement from service, as provided for in RCW 41.40.180 or 41.40.210, a member shall be eligible for a service retirement allowance computed on the basis of the law in effect at the time of retirement, together with such post-retirement pension increases as may from time to time be expressly authorized by the legislature. The service retirement allowance payable to members retiring on and after February 25, 1972 shall consist of:

(1) An annuity which shall be the actuarial equivalent of his or her additional contributions made pursuant to RCW 41.40.330(2).

(2) A membership service pension, subject to the provisions of subsection (4) of this section, which shall be equal to two percent of his or her average final compensation for each service credit year or fraction of a service credit year of membership service.

(3) A prior service pension which shall be equal to one-seventieth of his or her average final compensation for each year or fraction of a year of prior service not to exceed thirty years credited to his or her service accounts. In no event, except as provided in *this 1972 amendatory act, shall any member receive a retirement allowance pursuant to subsections (2) and (3) of this section of more than sixty percent of his or her average final compensation: PROVIDED, That no member shall receive a pension under this section of less than nine hundred dollars per annum if such member has twelve or more years of service credit, or less than one thousand and two hundred dollars per annum if such member has sixteen or more years of service credit, or less than one thousand five hundred and sixty dollars per annum if such member has twenty or more years of service credit.

(4) Notwithstanding the provisions of subsections (1) through (3) of this section, the retirement allowance payable for service where a member was elected or appointed pursuant to Articles II or III of the Constitution of the state of Washington or RCW 48.02.010 and the implementing statutes shall be a combined pension and annuity. Said retirement allowance shall be equal to three percent of the average final compensation for each year of such service. Any member covered by this subsection who upon retirement has served ten or more years shall

receive a retirement allowance of at least one thousand two hundred dollars per annum; such member who has served fifteen or more years shall receive a retirement allowance of at least one thousand eight hundred dollars per annum; and such member who has served twenty or more years shall receive a retirement allowance of at least two thousand four hundred dollars per annum: PROVIDED, That the initial retirement allowance of a member retiring only under the provisions of this subsection shall not exceed the average final compensation upon which the retirement allowance is based. The minimum benefits provided in this subsection shall apply to all retired members or to the surviving spouse of deceased members who were elected to the office of state senator or state representative.

[1991 c 343 § 7; 1990 c 249 § 7; 1987 c 143 § 2; 1973 1st ex.s. c 190 § 8; 1972 ex.s. c 151 § 5.]

Notes:

***Reviser's note:** For codification of "this 1972 amendatory act" [1972 ex.s. c 151], see Codification Tables, Volume 0.

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Findings--1990 c 249: See note following RCW 2.10.146.

Severability--1973 1st ex.s. c 190: See note following RCW 41.40.010.

RCW 41.40.188 Retirement allowance--Options--Retirement allowance adjustment.

(1) Upon retirement for service as prescribed in RCW 41.40.180 or retirement for disability under RCW 41.40.210 or 41.40.230, a member shall elect to have the retirement allowance paid pursuant to one of the following options calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) A member may elect to include the benefit provided under RCW 41.40.640 along with the retirement options available under this section. This retirement allowance option shall be calculated so as to be actuarially equivalent to the options offered under this subsection.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

[2000 c 186 § 7; 1998 c 340 § 8; 1996 c 175 § 6; 1995 c 144 § 1; 1990 c 249 § 9.]

Notes:

Effective date--1998 c 340: See note following RCW 41.31.010.

Findings--1990 c 249: See note following RCW 2.10.146.

RCW 41.40.189 Retirement allowance--Adjustment eligibility.

(1) A retiree who receives state-funded long-term care services on or after June 1, 1998, is not eligible for the increase provided by section 8, chapter 340, Laws of 1998, if the increase would make the retiree ineligible for state-funded long-term care services. For the purposes of this section "state-funded long-term care services" means a state-funded adult family home, adult residential care, assisted living, enhanced adult residential care, in-home care, or nursing home service, as defined in RCW 74.39A.009, for which the retiree is required to contribute all income other than a specified amount reserved for the retiree's personal maintenance needs. Retirees who are subject to this section shall notify the department in writing. The department has no affirmative duty to identify retirees who are subject to this subsection.

(2) This section applies to all payments under section 8, chapter 340, Laws of 1998, made on or after May 17, 1999, regardless of the date of retirement.

[1999 c 362 § 3.]

Notes:

Effective date--1999 c 362 § 3: "Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 17, 1999]." [1999 c 362 § 4.]

RCW 41.40.190 Retirement allowance--In lieu of allowance provided in RCW 41.40.185.

In lieu of the retirement allowance provided in RCW 41.40.185, an individual employed on or before April 25, 1973 may, after complying with RCW 41.40.180 or 41.40.210, make an irrevocable election to receive the retirement allowance provided by this section which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement; and

(2) A basic service pension of one hundred dollars per annum; and

(3) A membership service pension, subject to the provisions of subdivision (4) of this section, which shall be equal to one one-hundredth of his or her average final compensation for each year or fraction of a year of membership service credited to his or her service account; and

(4) A prior service pension which shall be equal to one-seventieth of his or her average

final compensation for each year or fraction of a year of prior service not to exceed thirty years credited to his or her service accounts. In no event shall any original member upon retirement at age seventy with ten or more years of service credit receive less than nine hundred dollars per annum as a retirement allowance, nor shall any member upon retirement at any age receive a retirement allowance of less than nine hundred dollars per annum if such member has twelve or more years of service credit, or less than one thousand and two hundred dollars per annum if such member has sixteen or more years of service credit, or less than one thousand five hundred and sixty dollars per annum if such member has twenty or more years of service credit. In the event that the retirement allowance as to such member provided by subdivisions (1), (2), (3), and (4) hereof shall amount to less than the aforesaid minimum retirement allowance, the basic service pension of the member shall be increased from one hundred dollars to a sum sufficient to make a retirement allowance of the applicable minimum amount.

(5) Notwithstanding the provisions of subsections (1) through (4) of this section, the retirement allowance payable for service where a member was elected or appointed pursuant to Articles II or III of the Constitution of the state of Washington or RCW 48.02.010 and the implementing statutes shall be a combined pension and annuity. Said retirement allowance shall be equal to three percent of the average final compensation for each year of such service. Any member covered by this subsection who upon retirement has served ten or more years shall receive a retirement allowance of at least one thousand two hundred dollars per annum; such member who has served fifteen or more years shall receive a retirement allowance of at least one thousand eight hundred dollars per annum; and such member who has served twenty or more years shall receive a retirement allowance of at least two thousand four hundred dollars per annum: PROVIDED, That the initial retirement allowance of a member retiring only under the provisions of this subsection shall not exceed the average final compensation upon which the retirement allowance is based. The minimum benefits provided in this subsection shall apply to all retired members or to the surviving spouse of deceased members who were elected under the provisions of Article II of the Washington state Constitution.

(6) Unless payment shall be made under RCW 41.40.270, a joint and one hundred percent survivor benefit under RCW 41.40.188 shall automatically be given effect as if selected for the benefit of the surviving spouse upon the death in service, or while on authorized leave of absence for a period not to exceed one hundred and twenty days from the date of payroll separation, of any member who is qualified for a service retirement allowance or has completed ten years of service at the time of death, except that if the member is not then qualified for a service retirement allowance, such option II benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

[1990 c 249 § 8; 1987 c 143 § 3; 1973 1st ex.s. c 190 § 9; 1972 ex.s. c 151 § 6; 1971 ex.s. c 271 § 5; 1969 c 128 § 8; 1967 c 127 § 7; 1961 c 291 § 6; 1953 c 200 § 11; 1951 c 50 § 5; 1949 c 240 § 14; 1947 c 274 § 20; Rem. Supp. 1949 § 11072-20.]

Notes:

Findings--1990 c 249: See note following RCW 2.10.146.

Severability--1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.191 Retirement allowance--Members with thirty years of service--Irrevocable election.

A member may make the irrevocable election under this section no later than six months after attaining thirty years of service. The election shall become effective at the beginning of the calendar month following department receipt of employee notification.

(1) The sum of member contributions made for periods of service after the effective date of the election plus seven and one-half percent interest shall be paid to the member at retirement without a reduction in the member's monthly retirement benefit as determined under RCW 41.40.185.

(2) Upon retirement, the member's benefit shall be calculated using only the compensation earnable credited prior to the effective date of the member's election. Calculation of the member's average final compensation shall include eligible cash outs of sick and annual leave based on the member's salary and leave accumulations at the time of retirement, except that the amount of a member's average final compensation cannot be higher than if the member had not taken advantage of the election offered under this section.

(3) Members who have already earned thirty years of service credit prior to July 25, 1999, may participate in the election by notifying the department in writing of their intention by December 31, 1999.

The department shall continue to collect employer contributions as required in RCW 41.45.060.

[1999 c 362 § 2.]

RCW 41.40.193 Dates upon which retirement allowances accrue.

Retirement allowances paid to members eligible to retire under the provisions of RCW 41.40.180, 41.40.200, 41.40.210, 41.40.220, 41.40.230, and 41.40.250 shall accrue from the first day of the calendar month immediately following the calendar month during which the member is separated from service. Retirement allowance paid to members eligible to retire under any other provisions of *this 1972 amendatory act shall accrue from the first day of a calendar month but in no event earlier than the first day of the calendar month immediately following the calendar month during which the member is separated from service.

[1983 c 3 § 94; 1973 1st ex.s. c 190 § 10; 1972 ex.s. c 151 § 7.]

Notes:

***Reviser's note:** For codification of "this 1972 amendatory act" [1972 ex.s. c 151], see Codification Tables, Volume 0.

Severability--1973 1st ex.s. c 190: See note following RCW 41.40.010.

RCW 41.40.197 Retirement allowance--Annual increases--Eligibility.

(1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary who has received a retirement allowance for at least one year and has attained at least age sixty-six by July 1st in the calendar year in which the annual increase is given; or

(b) A beneficiary whose retirement allowance is lower than the minimum benefit provided under RCW 41.40.1984.

(3) The following persons shall also be eligible for the benefit provided in subsection (1) of this section:

(a) A beneficiary receiving the minimum benefit on June 30, 1995, under *RCW 41.40.198; or

(b) A recipient of a survivor benefit on June 30, 1995, which has been increased by **RCW 41.40.325.

(4) If otherwise eligible, those receiving an annual adjustment under RCW 41.40.188(1)(c) shall be eligible for the annual increase adjustment in addition to the benefit that would have been received absent this section.

(5) Those receiving a benefit under RCW 41.40.220(1), or a survivor of a disabled member under RCW 41.44.170(5) shall be eligible for the benefit provided by this section.

(6) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this postretirement adjustment not granted prior to that time.

[1995 c 345 § 5.]

Notes:

Reviser's note: *(1) RCW 41.40.198 was repealed by 1995 c 345 § 11.

***(2) RCW 41.40.325 was repealed by 1995 c 345 § 11.

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

RCW 41.40.1971 Definition--"Beneficiary."

For the purposes of RCW 41.40.197, 41.40.1984, and 41.40.1986, "beneficiary" means a beneficiary under RCW 41.40.010 or 41.44.030, or both RCW 41.40.010 and 41.44.030.

[1995 c 345 § 6.]

Notes:

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

RCW 41.40.1984 Minimum retirement allowance--Annual adjustment--Persons who become beneficiaries after June 30, 1995.

(1) Except as provided in subsections (4) and (5) of this section, no one who becomes a beneficiary after June 30, 1995, shall receive a monthly retirement allowance of less than twenty-four dollars and twenty-two cents times the number of years of service creditable to the person whose service is the basis of such retirement allowance.

(2) Where the retirement allowance payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum allowance provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Beginning July 1, 1996, the minimum benefit set forth in subsection (1) of this section shall be adjusted annually by the annual increase.

(4) Those receiving a benefit under RCW 41.40.220(1) or under RCW 41.44.170 (3) and (5) shall not be eligible for the benefit provided by this section.

(5) For persons who served as elected officials and whose accumulated employee contributions and credited interest was less than seven hundred fifty dollars at the time of retirement, the minimum benefit under subsection (1) of this section shall be ten dollars per month per each year of creditable service.

[1995 c 345 § 7.]

Notes:

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

RCW 41.40.1985 Permanent retirement allowance adjustment.

The dollar amount of the temporary postretirement allowance adjustment granted by section 1, chapter 519, Laws of 1993 shall be provided as a permanent retirement allowance adjustment as of July 1, 1995.

[1994 c 247 § 4.]

Notes:

Effective date--1994 c 247: See note following RCW 41.32.4991.

Temporary postretirement allowance--1993 c 519: See note following RCW 41.32.4991.

RCW 41.40.1986 Permanent increase for specified beneficiaries age seventy or over.

(1) The amount of the July 1, 1993, increase to the retirement allowance of beneficiaries under this chapter as a result of the temporary adjustment authorized by section 3, chapter 519, Laws of 1993, shall be made a permanent adjustment on July 1, 1995.

(2) Beneficiaries receiving a benefit under *RCW 41.40.198 who are at least age seventy-nine shall receive on July 1, 1995, a permanent adjustment of one dollar and eighteen cents per month per year of service.

(3) Beneficiaries under this chapter who are not subject to subsection (1) of this section and are not receiving a benefit under *RCW 41.40.198 shall receive the following permanent adjustment to their retirement allowance on July 1, 1995:

(a) Those who are age seventy, thirty-nine cents per month per year of service;

(b) Those who are age seventy-one, seventy-nine cents per month per year of service; and

(c) Those who are at least age seventy-two, one dollar and eighteen cents per month per year of service.

[1995 c 345 § 8.]

Notes:

***Reviser's note:** RCW 41.40.198 was repealed by 1995 c 345 § 11.

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

RCW 41.40.200 Retirement for disability in line of duty--Applicability to certain judges.

(1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his or her employer, a member who becomes totally incapacitated for duty as the natural and proximate result of an accident occurring in the actual performance of duty or who becomes totally incapacitated for duty and qualifies to receive benefits under Title 51 RCW as a result of an occupational disease, as now or hereafter defined in RCW 51.08.140, while in the service of an employer, without willful negligence on his or her part, shall be retired subject to the following conditions:

(a) That the medical adviser, after a medical examination of such member made by or under the direction of the medical adviser, shall certify in writing that the member is mentally or physically totally incapacitated for the further performance of his or her duty and that such member should be retired;

(b) That the director concurs in the recommendation of the medical adviser;

(c) That no application shall be valid or a claim thereunder enforceable unless, in the case of an accident, the claim is filed within two years after the date upon which the injury occurred or, in the case of an occupational disease, the claim is filed within two years after the member separated from service with the employer; and

(d) That the coverage provided for occupational disease under this section may be restricted in the future by the legislature for all current and future members.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the director, shall be considered a retirement under subsection (1) of this section.

[1991 c 35 § 80; 1986 c 207 § 1; 1982 c 18 § 3; 1955 c 277 § 5; 1951 c 50 § 6; 1949 c 240 § 15; 1947 c 274 § 21; Rem. Supp. 1949 § 11072-21.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.210 Duty disability retirement allowance for disability after age sixty.

Upon retirement for disability, as provided in RCW 41.40.200, a member who has attained age sixty, regardless of his creditable service shall receive a service retirement

allowance.

[1972 ex.s. c 151 § 8; 1947 c 274 § 22; Rem. Supp. 1947 § 11072-22.]

RCW 41.40.220 Allowance on retirement for duty disability--Before sixty.

Upon retirement for disability, as provided in RCW 41.40.200, a member who has not attained age sixty shall receive the following benefits, subject to the provisions of RCW 41.40.310 and 41.40.320:

(1) A disability retirement pension of two-thirds of his or her average final compensation to his or her attainment of age sixty, subject to the provisions of RCW 41.40.310. The disability retirement pension provided by the employer shall not exceed forty-two hundred dollars per annum, and

(2) Upon attainment of age sixty, the disabled member shall receive a service retirement allowance as provided in RCW 41.40.210. The department shall grant the disabled member membership service for the period of time prior to age sixty he or she was out of such service due to disability.

(3) During the period a disabled member is receiving a disability pension, as provided for in subsection (1) of this section, his or her contributions to the employees' savings fund shall be suspended and his or her balance in the employees' savings fund, standing to his or her credit as of the date his or her disability pension is to begin, shall remain in the employees' savings fund. If the disabled member should die before attaining age sixty, while a disability beneficiary, upon receipt by the department of proper proof of death, the member's accumulated contributions standing to his or her credit in the employees' savings fund, shall be paid to the member's estate, or such person or persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department. If there is no designated person or persons still living at the time of the member's death, the accumulated contributions standing to the member's credit in the employees' savings fund shall be paid to his or her surviving spouse, or if there is no surviving spouse, then to the member's legal representative.

[1995 c 144 § 2; 1991 c 35 § 81; 1972 ex.s. c 151 § 9; 1971 ex.s. c 271 § 8; 1961 c 291 § 7; 1953 c 200 § 12; 1949 c 240 § 16; 1947 c 274 § 23; Rem. Supp. 1949 § 11072-23.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

RCW 41.40.230 Nonduty disability--Applicability to certain judges.

(1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his or her employer, a member who has been an employee at least five years, and who becomes totally and permanently incapacitated for duty as the result of causes occurring not in the performance of his or her duty, may be retired by the department, subject to the following conditions:

(a) That the medical adviser, after a medical examination of the member made by or

under the direction of the medical adviser, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired; and

(b) That the department concurs in the recommendation of the medical adviser.

(2) The retirement for disability of a judge, who is a member of the retirement system and who has been an employee at least five years, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (Amendment 71), with the concurrence of the department, shall be considered a retirement under subsection (1) of this section.

[1991 c 35 § 82; 1982 c 18 § 4; 1969 c 128 § 9; 1951 c 50 § 7; 1949 c 240 § 17; 1947 c 274 § 24; Rem. Supp. 1949 § 11072-24.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.235 Nonduty disability retirement allowance--Amount--Maximum--Death benefit.

(1) Upon retirement, a member shall receive a nonduty disability retirement allowance equal to two percent of average final compensation for each service credit year of service: PROVIDED, That this allowance shall be reduced by two percent of itself for each year or fraction thereof that his or her age is less than fifty-five years: PROVIDED FURTHER, That in no case may the allowance provided by this section exceed sixty percent of average final compensation.

(2) If the recipient of a retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse or, if there is neither a designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

[1995 c 144 § 3. Prior: 1991 c 343 § 8; 1991 c 35 § 83; 1986 c 176 § 4; 1972 ex.s. c 151 § 10.]

Notes:

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.250 Allowance on retirement for nonduty disability--Election.

An individual who was a member on February 25, 1972, may upon qualifying pursuant to RCW 41.40.230, make an irrevocable election to receive the nonduty disability retirement allowance provided in subsections (1) and (2) of this section subject to the provisions of RCW

41.40.310 and 41.40.320. Upon attaining or becoming disabled after age sixty the member shall receive a service retirement allowance as provided for in RCW 41.40.190 except that the annuity portion thereof shall consist of a continuation of the cash refund annuity previously provided to him or her. The disability retirement allowance prior to age sixty shall consist of:

(1) A cash refund annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of his or her retirement; and

(2) A pension, in addition to the annuity, equal to one one-hundredth of the member's average final compensation for each year of service. If the recipient of a retirement allowance under this section dies before the total of the annuity portions of the retirement allowance paid to him or her equals the amount of his or her accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department, or if there is no designated person or persons, still living at the time of his or her death, then to his or her surviving spouse, or if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representatives.

[1995 c 144 § 4; 1991 c 35 § 84; 1972 ex.s. c 151 § 11; 1969 c 128 § 10; 1961 c 291 § 8; 1953 c 200 § 13; 1947 c 274 § 26; Rem. Supp. 1947 § 11072-26.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1969 c 128: See note following RCW 41.40.010.

Nonduty disability retirement allowance--1972 act: See RCW 41.40.235.

RCW 41.40.260 Withdrawal from system--Refund of contributions--Waiver of allowance, when.

Subject to the provisions of RCW 41.40.280, should a member cease to be an employee, he or she may request upon a form provided by the department a refund of all or part of the funds standing to his or her credit in the employees' savings fund and this amount shall be paid to him or her. Withdrawal of all or part of the funds, other than additional contributions under RCW 41.40.330(2) by a member who is eligible for a service retirement allowance in RCW 41.40.180 or a disability retirement allowance in RCW 41.40.200, 41.40.210, 41.40.220, 41.40.230, or 41.40.250 shall constitute a waiver of any service or disability retirement allowance.

[1991 c 35 § 85; 1983 c 3 § 95; 1971 ex.s. c 271 § 9; 1963 c 174 § 12; 1949 c 240 § 18; 1947 c 274 § 27; Rem. Supp. 1949 § 11072-27.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

RCW 41.40.262 Elected officials--Restoration of withdrawn contributions.

Any active member or separated member who was not eligible to restore contributions

under section 3, chapter 317, Laws of 1986, solely because he or she was an elected official, other than an elected official under Articles II or III of the Constitution of the state of Washington, shall be permitted to restore withdrawn contributions for periods of nonelected service no later than June 30, 1994, with interest as determined by the director.

[1993 c 506 § 2.]

RCW 41.40.270 Death before retirement or within sixty days following application for disability retirement--Payment of contributions to nominee, surviving spouse, or legal representative--Waiver of payment, effect--Benefits.

(1) Except as specified in subsection (4) of this section, should a member die before the date of retirement the amount of the accumulated contributions standing to the member's credit in the employees' savings fund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of death:

(a) Shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there be no such designated person or persons still living at the time of the member's death, or if a member fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, such accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the surviving spouse as if in fact such spouse had been nominated by written designation as aforesaid, or if there be no such surviving spouse, then to the member's legal representatives.

(2) Upon the death in service, or while on authorized leave of absence for a period not to exceed one hundred and twenty days from the date of payroll separation, of any member who is qualified but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the payment provided by subsection (1) of this section. Upon such an election, a joint and one hundred percent survivor option under RCW 41.40.188, calculated under the retirement allowance described in RCW 41.40.185 or 41.40.190, whichever is greater, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 shall automatically be given effect as if selected for the benefit of the designated beneficiary. If the member is not then qualified for a service retirement allowance, such benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(3) Subsection (1) of this section, unless elected, shall not apply to any member who has applied for service retirement in RCW 41.40.180, as now or hereafter amended, and thereafter

dies between the date of separation from service and the member's effective retirement date, where the member has selected a survivorship option under RCW 41.40.188. In those cases the beneficiary named in the member's final application for service retirement may elect to receive either a cash refund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, or monthly payments according to the option selected by the member.

(4) If a member dies within sixty days following application for disability retirement under RCW 41.40.230, the beneficiary named in the application may elect to receive the benefit provided by:

(a) This section; or

(b) RCW 41.40.235, according to the option chosen under RCW 41.40.188 in the disability application.

[1997 c 73 § 2; 1996 c 227 § 2; 1995 c 144 § 5; 1991 c 365 § 27; 1990 c 249 § 11; 1979 ex.s. c 249 § 11; 1972 ex.s. c 151 § 12; 1969 c 128 § 11; 1965 c 155 § 5; 1963 c 174 § 13; 1961 c 291 § 9; 1953 c 201 § 1; 1953 c 200 § 14; 1951 c 141 § 1; 1949 c 240 § 19; 1947 c 274 § 28; Rem. Supp. 1949 § 11072-28.]

Notes:

Effective date--1997 c 73: See note following RCW 41.32.520.

Severability--1991 c 365: See note following RCW 41.50.500.

Findings--1990 c 249: See note following RCW 2.10.146.

Severability--1969 c 128: See note following RCW 41.40.010.

RCW 41.40.280 Department may withhold refunds of contributions.

The department may, in its discretion, withhold payment of all or part of a member's contributions for not more than six months after a member has ceased to be an employee. A member who files a request for a refund and subsequently enters into employment with an employer prior to the refund being made shall not be eligible for a refund. For purposes of this section, a written or oral employment agreement shall be considered entering into employment.

[1994 c 177 § 7; 1991 c 35 § 86; 1973 2nd ex.s. c 14 § 2; 1947 c 274 § 29; Rem. Supp. 1947 § 11072-29.]

Notes:

Findings--1994 c 177: See note following RCW 41.50.125.

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.300 Benefits offset by workers' compensation or similar benefits.

Any amounts which may be paid or payable under the provisions of any workers' compensation, or pension, or similar law on account of any disability shall be offset against and payable in lieu of any benefits payable from funds provided by the employer under the provisions of this chapter on account of the same disability.

[1987 c 185 § 14; 1949 c 240 § 21; 1947 c 274 § 31; Rem. Supp. 1949 § 11072-31.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

RCW 41.40.310 Periodical examination of disability beneficiaries--Benefits upon resumption of gainful employment.

Once each year during the first five years following the retirement of a member on a disability pension or retirement allowance, and at least once in every three year period thereafter the department may, and upon the member's application shall, require any disability beneficiary, who has not attained age sixty years, to undergo a medical examination; such examination to be made by or under the direction of the medical adviser at the place of residence of the beneficiary, or other place mutually agreed upon. Should any disability beneficiary, who has not attained age sixty years, refuse to submit to a medical examination in any period, his or her disability pension or retirement allowance may be discontinued until his or her withdrawal of the refusal, and should the refusal continue for one year, all his or her rights in and to his or her disability pension, or retirement allowance, may be revoked by the department. If upon a medical examination of a disability beneficiary, the medical adviser reports and his or her report is concurred in by the department, that the disability beneficiary is no longer totally incapacitated for duty as the result of the injury or illness for which the disability was granted, or that he or she is engaged in a gainful occupation, his or her disability pension or retirement allowance shall cease.

If the disability beneficiary resumes a gainful occupation and his or her compensation is less than his or her compensation earnable at the date of disability, the department shall continue the disability benefits in an amount which when added to his or her compensation does not exceed his or her compensation earnable at the date of separation, but the disability benefit shall in no event exceed the disability benefit originally awarded. The compensation earnable at the date of separation shall be adjusted July 1 of each year by the ratio of the average consumer price index (Seattle, Washington area) for urban consumers, compiled by the United States department of labor, bureau of labor statistics, for the calendar year prior to the adjustment to the average consumer price index for the calendar year in which separation from service occurred but in no event shall the adjustment result in an amount lower than the original compensation earnable at the date of separation.

[1991 c 35 § 87; 1984 c 184 § 14; 1965 c 155 § 7; 1963 c 174 § 14; 1955 c 277 § 7; 1951 c 50 § 9; 1949 c 240 § 22; 1947 c 274 § 32; Rem. Supp. 1949 § 11072-32.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1984 c 184: See note following RCW 41.50.150.

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

RCW 41.40.320 Disability beneficiary--Restoration to service.

A disability beneficiary who has been or shall be reinstated to active service shall from the date of restoration again become a member of the retirement system; and shall contribute to

the retirement system in the same manner as prior to the disability retirement. Any prior service and membership service, on the basis of which retirement allowances were computed at the time of retirement, shall be restored to full force and effect, and, except in the case of retirement for nonduty disability as provided in RCW 41.40.230, he or she shall be given membership service for the period of time out of service due to the disability.

[1991 c 35 § 88; 1953 c 200 § 16; 1951 c 50 § 10; 1949 c 240 § 23; 1947 c 274 § 33; Rem. Supp. 1949 § 11072-33.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.330 Contributions.

(1) Each employee who is a member of the retirement system shall contribute six percent of his or her total compensation earnable. Effective January 1, 1987, however, no contributions are required for any calendar month in which the member is not granted service credit. The officer responsible for making up the payroll shall deduct from the compensation of each member, on each and every payroll of such member for each and every payroll period subsequent to the date on which he or she became a member of the retirement system the contribution as provided by this section.

(2) Any member may, pursuant to regulations formulated from time to time by the department, provide for himself or herself, by means of an increased rate of contribution to his or her account in the employees' savings fund, an increased prospective retirement allowance pursuant to RCW 41.40.190 and 41.40.185.

(3) The officer responsible for making up the payroll shall deduct from the compensation of each member covered by the provisions of RCW 41.40.190(5) and 41.40.185(4) on each and every payroll of such member for each and every payroll period subsequent to the date on which he or she thereafter becomes a member of the retirement system, an amount equal to seven and one-half percent of such member's compensation earnable.

[1990 c 8 § 4; 1986 c 268 § 3; 1973 1st ex.s. c 190 § 12; 1972 ex.s. c 151 § 13; 1971 ex.s. c 271 § 10; 1969 c 128 § 12; 1953 c 200 § 17; 1951 c 50 § 11; 1949 c 240 § 24; 1947 c 274 § 34; Rem. Supp. 1949 § 11072-34.]

Notes:

Findings--1990 c 8: See note following RCW 41.50.065.

Severability--1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

Severability--1969 c 128: See note following RCW 41.40.010.

Members' retirement contributions--Payment by employer: RCW 41.04.445.

RCW 41.40.363 Employer's contributions--Labor guild, association or organization.

Any labor guild, association, or organization qualifying as an employer under this chapter and which is required to make contributions for an elective official qualifying for membership under RCW 41.40.023(11) shall make contributions as any other employer within this chapter:

PROVIDED, That the department shall cause an actuarial computation to be made of all prior service liability for which contributions are required from the employer to be computed on an actual dollar basis, and if the department determines that the contributions being made therefor under this chapter are insufficient to defray any cost to the state, the department shall require additional contributions from the employer in amounts and at times as will defray all costs to the state, the additional contributions to be completed within ten years from the date the elective official is accepted by the department.

[1991 c 35 § 91; 1963 c 225 § 3.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

"PLAN 2"

RCW 41.40.610 Provisions applicable to plan 2. (Effective until March 1, 2002.)

RCW 41.40.620 through 41.40.740 shall apply only to plan 2 members.

[1991 c 35 § 97; 1977 ex.s. c 295 § 2.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement--1977 ex.s. c 295: "Sections 1 through 15 of this 1977 amendatory act shall be added to chapter 41.40 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 295 § 23.]

Section headings--1977 ex.s. c 295: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 295 § 22.]

RCW 41.40.610 Provisions applicable to plan 2. (Effective March 1, 2002.)

RCW 41.40.620 through 41.40.750 shall apply only to plan 2 members.

[2000 c 247 § 201; 1991 c 35 § 97; 1977 ex.s. c 295 § 2.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement--1977 ex.s. c 295: "Sections 1 through 15 of this 1977 amendatory act shall be added to chapter 41.40 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 ex.s. c 295 § 23.]

Section headings--1977 ex.s. c 295: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 ex.s. c 295 § 22.]

RCW 41.40.620 Computation of the retirement allowance.

A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each service credit year of service.

[1991 c 343 § 10; 1977 ex.s. c 295 § 3.]

Notes:

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.625 Lump sum retirement allowance--Reentry--Conditions for reinstatement of service.

(1) On or after June 10, 1982, the director may pay a member eligible to receive a retirement allowance or the member's beneficiary, subject to the provisions of subsection (5) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.40.620 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of the monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A retiree or a beneficiary, subject to the provisions of subsection (5) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) If a member fails to meet the time limitations under subsection (3) of this section, reinstatement of all previous service will occur if the member pays the amount required under RCW 41.50.165(2). The amount, however, shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(5) Only persons entitled to or receiving a service retirement allowance under RCW 41.40.620 or an earned disability allowance under RCW 41.40.670 qualify for participation under this section.

(6) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system.

[1994 c 197 § 27; 1991 c 35 § 98; 1982 c 144 § 3.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.40.630 Retirement for service.

(1) NORMAL RETIREMENT. Any member with at least five service credit years who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) EARLY RETIREMENT. Any member who has completed at least twenty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

[2000 c 247 § 901; 1991 c 343 § 11; 1977 ex.s. c 295 § 4.]

Notes:

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.600.

RCW 41.40.640 Post-retirement cost-of-living.

Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index--Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

[1977 ex.s. c 295 § 5.]

Notes:

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.650 Employer and member contributions. (Effective until March 1, 2002.)

The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates. The employer contribution rate calculated under this section shall be used only for the purpose of determining the amount of employer contributions to be deposited in the plan 2 fund from the total employer contributions collected under RCW 41.40.048.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members compensation earnable each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

[1989 c 273 § 24; 1986 c 268 § 6; 1984 c 184 § 12; 1977 ex.s. c 295 § 6.]

Notes:

Severability--1989 c 273: See RCW 41.45.900.

Severability--1984 c 184: See note following RCW 41.50.150.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

Members' retirement contributions--Payment by employer: RCW 41.04.445.

RCW 41.40.660 Options for payment of retirement allowances--Retirement allowance adjustment.

(1) Upon retirement for service as prescribed in RCW 41.40.630 or retirement for disability under RCW 41.40.670, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement

allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

[2000 c 186 § 8; 1998 c 340 § 9; 1996 c 175 § 7; 1995 c 144 § 6; 1990 c 249 § 10; 1977 ex.s. c 295 § 7.]

Notes:

Effective date--1998 c 340: See note following RCW 41.31.010.

Findings--1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.670 Earned disability allowance--Applicability to certain judges--Disposition upon death of recipient.

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the department shall be eligible to receive an allowance under the provisions of RCW 41.40.610 through 41.40.740. The member shall receive a monthly disability allowance computed as provided for in RCW 41.40.620 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington

(Amendment 71), with the concurrence of the department, shall be considered a retirement under subsection (1) of this section.

(3)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions.

[1995 c 144 § 7; 1991 c 35 § 99; 1990 c 249 § 21; 1989 c 191 § 3; 1982 c 18 § 5; 1977 ex.s. c 295 § 8.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Findings--1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.680 Application for and effective date of retirement allowances.

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.40.630, 41.40.670, or 41.40.700 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.40.630 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.40.630, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.40.670 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.40.700 shall accrue from the first day of the calendar month immediately following the member's death.

[1977 ex.s. c 295 § 9.]

Notes:

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW

41.40.610.

RCW 41.40.690 Suspension of retirement allowance upon reemployment--Exceptions--Reinstatement.

(1) Except as provided in RCW 41.40.037, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

[1998 c 341 § 606; 1997 c 254 § 13; 1990 c 274 § 11; 1988 c 109 § 11; 1987 c 379 § 2; 1977 ex.s. c 295 § 10.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Application--Reservation--1991 c 35; 1990 c 274 §§ 11, 12, 14, and 15: "Beginning on June 7, 1990, the 1990 amendments to RCW 41.40.690, 41.26.500, 41.32.800, and 2.10.155 regarding postretirement employment are available prospectively to all members of the retirement systems defined in RCW 2.10.040, 41.26.005(2), 41.32.005(2), and 41.40.005(2), regardless of the member's date of retirement. The legislature reserves the right to revoke or amend the 1990 amendments to RCW 41.40.690, 41.26.500, 41.32.800, and 2.10.155. The 1990 amendments to RCW 41.40.690, 41.26.500, 41.32.800, and 2.10.155 do not grant a contractual right to the members or retirees of the affected systems." [1991 c 35 § 11; 1990 c 274 § 19.]

Findings--Construction--1990 c 274: See notes following RCW 41.32.010.

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

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.700 Death benefits. (Effective until March 1, 2002.)

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such

member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.40.630(1), actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.40.660 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.630(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, estate, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

[1995 c 144 § 8; 1993 c 236 § 5; 1991 c 365 § 28; 1990 c 249 § 18; 1977 ex.s. c 295 § 11.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

Findings--1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.700 Death benefits. (Effective March 1, 2002.)

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or

such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.40.630, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.40.660 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.630; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, estate, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

[2000 c 247 § 1004; 1995 c 144 § 8; 1993 c 236 § 5; 1991 c 365 § 28; 1990 c 249 § 18; 1977 ex.s. c 295 § 11.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

Findings--1990 c 249: See note following RCW 2.10.146.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW

41.40.610.

RCW 41.40.710 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (Effective until March 1, 2002.)

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.40.610 through 41.40.740.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes both the plan 2 employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner; or

(b) If not within five years of resumption of service but prior to retirement, pay the amount required under RCW 41.50.165(2).

The contributions required under (a) of this subsection shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.40.650 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.40.650 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

[1996 c 61 § 4; 1994 c 197 § 28; 1993 c 95 § 2; 1992 c 119 § 3; 1991 c 35 § 100; 1977 ex.s. c 295 § 12.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

Retroactive application--1992 c 119: See note following RCW 41.26.520.

Intent--1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.710 Service credit for paid leave of absence, officers of labor organizations, unpaid leave of absence, military service. (Effective March 1, 2002.)

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.40.610 through 41.40.740.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The compensation earnable reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes both the plan 2 employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner; or

(b) If not within five years of resumption of service but prior to retirement, pay the amount required under RCW 41.50.165(2).

The contributions required under (a) of this subsection shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was

granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(a) The member qualifies for service credit under this subsection if:

(i) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(ii) The member makes the employee contributions required under RCW 41.45.061 and 41.45.067 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(iii) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(b) Upon receipt of member contributions under (a)(ii) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.45.060, 41.45.061, and 41.45.067 for the period of military service, plus interest as determined by the department.

(c) The contributions required under (a)(ii) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

[2000 c 247 § 1106; 1996 c 61 § 4; 1994 c 197 § 28; 1993 c 95 § 2; 1992 c 119 § 3; 1991 c 35 § 100; 1977 ex.s. c 295 § 12.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Retroactive application--Effective date--1993 c 95: See notes following RCW 41.40.175.

Retroactive application--1992 c 119: See note following RCW 41.26.520.

Intent--1991 c 35: See note following RCW 41.26.005.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.720 Vested membership.

A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.40.630 if such member maintains the member's accumulated contributions intact.

[1977 ex.s. c 295 § 13.]

Notes:

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.730 Refund of contributions.

A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.40.610 through 41.40.740.

[1982 1st ex.s. c 52 § 23; 1977 ex.s. c 295 § 14.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.740 Reentry.

(1) A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first.

(2) If a member fails to meet the time limitations of subsection (1) of this section, the member may receive service credit destroyed by the withdrawn contributions if the amount required under RCW 41.50.165(2) is paid.

[1994 c 197 § 29; 1977 ex.s. c 295 § 15.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Legislative direction and placement--Section headings--1977 ex.s. c 295: See notes following RCW 41.40.610.

RCW 41.40.750 Transfer of membership and service credit--Restoration of contributions and service credit.

(1) Effective September 1, 2000, the membership of all plan 2 members currently employed in eligible positions in a school district or educational service district and all plan 2 service credit for such members, is transferred to the Washington school employees' retirement system plan 2. Plan 2 members who have withdrawn their member contributions for prior plan 2 service may restore contributions and service credit to the Washington school employees'

retirement system plan 2 as provided under RCW 41.40.740.

(2)(a) The membership and previous service credit of a plan 2 member not employed in an eligible position on September 1, 2000, will be transferred to the Washington school employees' retirement system plan 2 when he or she becomes employed in an eligible position. Plan 2 members not employed in an eligible position on September 1, 2000, who have withdrawn their member contributions for prior plan 2 service may restore contributions and service credit to the Washington school employees' retirement system plan 2 as provided under RCW 41.40.740.

(b) The membership and previous service credit of a plan 2 member last employed by a school district or educational service district and retired prior to September 1, 2000, will be transferred to the Washington school employees' retirement system plan 2 if the member opts to reestablish membership.

(3) Members who restore contributions and service credit under subsection (1) or (2) of this section shall have their contributions and service credit transferred to the Washington school employees' retirement system.

[2001 2nd sp.s. c 10 § 13; 1998 c 341 § 113.]

NOTES:

Effective dates--2001 2nd sp.s. c 10: See note following RCW 41.40.037.

Effective date--1998 c 341: See RCW 41.35.901.

"PLAN 3"

RCW 41.40.780 Provisions applicable to plan 3--Plan 3 elements. (Effective March 1, 2002.)

(1) RCW 41.40.780 through 41.40.850 and 41.40.930 apply only to plan 3 members.

(2) Plan 3 consists of two separate elements: (a) A defined benefit portion covered under this subchapter; and (b) a defined contribution portion covered under chapter 41.34 RCW.

(3) Unless otherwise specified, all references to "plan 3" in this subchapter refer to the defined benefit portion of plan 3.

[2000 c 247 § 301.]

RCW 41.40.785 Membership in plan 2 or plan 3--Irrevocable choice--Default to plan 3. (Effective March 1, 2002.)

(1) All employees who first become employed by an employer in an eligible position on or after March 1, 2002, for state agencies or institutes of higher education, or September 1, 2002, for other employers, shall have a period of ninety days to make an irrevocable choice to become a member of plan 2 or plan 3. At the end of ninety days, if the member has not made a choice to become a member of plan 2, he or she becomes a member of plan 3.

(2) For administrative efficiency, until a member elects to become a member of plan 3, or becomes a member of plan 3 by default pursuant to subsection (1) of this section, the member

shall be reported to the department in plan 2, with member and employer contributions. Upon becoming a member of plan 3 by election or by default, all service credit shall be transferred to the member's plan 3 defined benefit, and all employee accumulated contributions shall be transferred to the member's plan 3 defined contribution account.

[2000 c 247 § 302.]

RCW 41.40.790 Computation of retirement allowance. (*Effective March 1, 2002.*)

(1) A member of the retirement system shall receive a retirement allowance equal to one percent of such member's average final compensation for each service credit year.

(2) The retirement allowance payable under RCW 41.40.820 to a member who separates after having completed at least twenty service credit years shall be increased by twenty-five one-hundredths of one percent, compounded for each month from the date of separation to the date that the retirement allowance commences.

[2000 c 247 § 303.]

RCW 41.40.795 Transfer period and basis--Additional transfer payment. (*Effective March 1, 2002.*)

(1) As used in this section, unless the context clearly requires otherwise:

(a) "Transfer period" means the time during which a member of one of the groups of plan 2 members identified in subsection (2) of this section may choose to irrevocably transfer from plan 2 to plan 3.

(b) "Transfer basis" means the accumulated contributions present in a member's savings fund on March 1, 2002, less fifty percent of any contributions made pursuant to RCW 41.50.165(2), which is the basis for calculation of the plan 2 to plan 3 additional transfer payment.

(c) "Additional transfer payment date" means June 1, 2003, the date of the additional transfer payment made according to subsection (6) of this section.

(2) Every plan 2 member employed by an employer in an eligible position has the option during their transfer period to make an irrevocable transfer to plan 3 according to the following schedule:

(a) For those members employed by state agencies and institutes of higher education the transfer period means the period between March 1, 2002, and September 1, 2002.

(b) For those members employed by other organizations the transfer period means the period between September 1, 2002, and June 1, 2003.

(c) For those members employed by more than one employer within the retirement system, and whose transfer period is different between one employer and another, the member's transfer period is the last period that is available from any of that member's employers within the retirement system.

(3) All service credit in plan 2 shall be transferred to the defined benefit portion of plan 3.

(4)(a) Anyone who first became a state or higher education member of plan 2 before

March 1, 2002, or a local government member of plan 2 before September 1, 2002, who wishes to transfer to plan 3 after their transfer period may transfer during the month of January in any following year, provided that the member earns service credit for that month.

(b) Anyone who chose to become a state or higher education member of plan 2 on or after March 1, 2002, or a local government member of plan 2 on or after September 1, 2002, is prohibited from transferring to plan 3 under (a) of this subsection.

(5) The accumulated contributions in plan 2, less fifty percent of any contributions made pursuant to RCW 41.50.165(2) shall be transferred to the member's account in the defined contribution portion established in chapter 41.34 RCW, pursuant to procedures developed by the department and subject to RCW 41.34.090. Contributions made pursuant to RCW 41.50.165(2) that are not transferred to the member's account shall be transferred to the fund created in RCW 41.50.075(3), except that interest earned on all such contributions shall be transferred to the member's account.

(6) Anyone who requests to transfer under this section during their transfer period, and establishes service credit for February 2003, shall have their member account:

(a) If a member's transfer period is that described in subsection (2)(a) of this section, increased by one hundred ten percent of the transfer basis;

(b) If a member's transfer period is that described in subsection (2)(b) of this section, increased by one hundred eleven percent of the transfer basis; and

(c) Deposited into the member's individual account on the additional transfer payment date.

(7) If a member who requests to transfer dies before June 1, 2003, the additional payment provided by this section shall be paid to the member's estate, or the person or persons, trust, or organization the member nominated by written designation duly executed and filed with the department.

(8) Anyone previously retired from plan 2 is prohibited from transferring to plan 3.

(9) The legislature reserves the right to discontinue the right to transfer under this section and to modify and to discontinue the right to an additional payment under this section for any plan 2 members who have not previously transferred to plan 3.

[2000 c 247 § 304.]

RCW 41.40.801 Application for and effective date of retirement allowances. (*Effective March 1, 2002.*)

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.40.820, 41.40.825, or 41.40.835 is eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances payable to eligible members no longer in service, but qualifying for such an allowance pursuant to RCW 41.40.068 shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits shall accrue from the first day of the calendar month immediately following the member's death.

[2000 c 247 § 305.]

RCW 41.40.805 Leaves of absence--Military service. (Effective March 1, 2002.)

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The earnable compensation reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

(3) Except as specified in subsection (4) of this section, a member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if:

(a) The member makes the contribution on behalf of the employer, plus interest, as determined by the department; and

(b) The member makes the employee contribution, plus interest, as determined by the department, to the defined contribution portion.

The contributions required shall be based on the average of the member's earnable compensation at both the time the authorized leave of absence was granted and the time the member resumed employment.

(4) A member who leaves the employ of an employer to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service if within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

The department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.45.060 and 41.45.067 for the period of military service, plus interest as determined by the department. Service credit under this subsection may be obtained only if the member makes the employee contribution to the defined contribution portion

as determined by the department.

The contributions required shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

[2000 c 247 § 306.]

RCW 41.40.811 Purchased service credit--Allocation. (Effective March 1, 2002.)

(1) Contributions on behalf of the employer paid by the employee to purchase plan 3 service credit shall be allocated to the defined benefit portion of plan 3 and shall not be refundable when paid to the fund described in RCW 41.50.075(3). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the statutory time limitations to purchase plan 3 service credit, it may be purchased under the provisions of RCW 41.50.165(2). One-half of the purchase payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

(2) No purchased plan 3 membership service may be credited until all payments required of the member are made, with interest. Upon receipt of all payments owed by the member, the department shall bill the employer for any contributions, plus interest, required to purchase membership service.

[2000 c 247 § 307.]

RCW 41.40.815 Lump sum payments--Reentry. (Effective March 1, 2002.)

(1) The director may pay a member eligible to receive a retirement allowance or the member's beneficiary a lump sum payment in lieu of a monthly benefit if the initial monthly benefit would be less than one hundred dollars. The one hundred dollar limit shall be increased annually as determined by the director. The lump sum payment shall be the actuarial equivalent of the monthly benefit.

(2) Persons covered under the provisions of subsection (1) of this section may upon returning to member status reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to retiring again, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(3) Any member who receives a settlement under this section is deemed to be retired from this system.

[2000 c 247 § 308.]

RCW 41.40.820 Retirement eligibility. (Effective March 1, 2002.)

(1) NORMAL RETIREMENT. Any member who is at least age sixty-five and who has:

(a) Completed ten service credit years; or
(b) Completed five service credit years, including twelve service credit months after attaining age fifty-four; or
(c) Completed five service credit years by the transfer payment date specified in RCW 41.40.795, under the public employees' retirement system plan 2 and who transferred to plan 3 under RCW 41.40.795;
shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790.

(2) EARLY RETIREMENT. Any member who has attained at least age fifty-five and has completed at least ten years of service shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

(3) ALTERNATE EARLY RETIREMENT. Any member who has completed at least thirty service credit years and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.790, except that a member retiring pursuant to this subsection shall have the retirement allowance reduced by three percent per year to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five.

[2000 c 247 § 309.]

RCW 41.40.825 Disability allowance--Death of recipient. (*Effective March 1, 2002.*)

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department shall be eligible to receive an allowance under the provisions of plan 3. The member shall receive a monthly disability allowance computed as provided for in RCW 41.40.790 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(2) If the recipient of a monthly retirement allowance under this section dies, any further benefit payments shall be conditioned by the payment option selected by the retiree as provided in RCW 41.40.845.

[2000 c 247 § 310.]

RCW 41.40.830 Restored, purchased service credit under plan 2--Transfer to plan 3.

(Effective March 1, 2002.)

(1) Any member who elects to transfer to plan 3 and has eligible unrestored withdrawn contributions in plan 2, may restore such contributions under the provisions of RCW 41.40.740 with interest as determined by the department. The restored plan 2 service credit will be automatically transferred to plan 3. Restoration payments will be transferred to the member account in plan 3. If the member fails to meet the time limitations of RCW 41.40.740, they may restore such contributions under the provisions of RCW 41.50.165(2). The restored plan 2 service credit will be automatically transferred to plan 3. One-half of the restoration payments under RCW 41.50.165(2) plus interest shall be allocated to the member's account.

(2) Any member who elects to transfer to plan 3 may purchase plan 2 service credit under RCW 41.40.740. Purchased plan 2 service credit will be automatically transferred to plan 3. Contributions on behalf of the employer paid by the employee shall be allocated to the defined benefit portion of plan 3 and shall not be refundable when paid to the fund described in RCW 41.50.075(3). Contributions on behalf of the employee shall be allocated to the member account. If the member fails to meet the time limitations of RCW 41.40.740, they may subsequently restore such contributions under the provisions of RCW 41.50.165(2). Purchased plan 2 service credit will be automatically transferred to plan 3. One-half of the payments under RCW 41.50.165(2), plus interest, shall be allocated to the member's account.

[2000 c 247 § 311.]

RCW 41.40.835 Death benefits. *(Effective March 1, 2002.)*

If a member dies prior to retirement, the surviving spouse or eligible child or children shall receive a retirement allowance computed as provided in RCW 41.40.790 actuarially reduced to reflect a joint and one hundred percent survivor option and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.820.

If the surviving spouse who is receiving the retirement allowance dies leaving a child or children under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority.

If there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance, share and share alike. The allowance shall be calculated with the assumption that the age of the spouse and member were equal at the time of the member's death.

[2000 c 247 § 312.]

RCW 41.40.840 Postretirement cost-of-living. *(Effective March 1, 2002.)*

Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index--Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

[2000 c 247 § 313.]

RCW 41.40.845 Options for payment of retirement allowances. (Effective March 1, 2002.)

(1) Upon retirement for service as prescribed in RCW 41.40.820 or retirement for disability under RCW 41.40.825, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is

married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

[2000 c 247 § 314.]

**RCW 41.40.850 Suspension of retirement allowance upon
reemployment--Exception--Reinstatement. (Effective March 1, 2002.)**

(1) Except as provided in RCW 41.40.037, no retiree under the provisions of plan 3 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

[2000 c 247 § 315.]

RCW 41.40.900 Severability--1977 ex.s. c 295.

If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1977 ex.s. c 295 § 24.]

RCW 41.40.920 Effective date--1977 ex.s. c 295.

This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect October 1, 1977.

[1977 ex.s. c 295 § 25.]

RCW 41.40.930 Benefits not contractual right until March 1, 2002. (Effective March 1, 2002.)

The benefits provided pursuant to chapter 247, Laws of 2000 are not provided to employees as a matter of contractual right prior to March 1, 2002. The legislature retains the right to alter or abolish these benefits at any time prior to March 1, 2002.

[2000 c 247 § 316.]

RCW 41.40.931 Effective dates--2000 c 247.

(1) Except for sections 408 and 901 through 906 of this act, this act takes effect March 1, 2002.

(2) Section 408 of this act takes effect January 1, 2004.

(3) Sections 901 through 906 of this act take effect September 1, 2000.

[2000 c 247 § 1201.]

RCW 41.40.932 Subchapter headings not law--2000 c 247.

Subchapter headings in this act are not any part of the law.

[2000 c 247 § 1202.]

Chapter 41.41 RCW

STATE EMPLOYEES' RETIREMENT--FEDERAL SOCIAL SECURITY

Sections

41.41.010	Plan for covering members under OASI approved.
41.41.020	Terms and provisions of plan.
41.41.030	Effective date for coverage of members.
41.41.900	Severability--1957 c 222.

RCW 41.41.010 Plan for covering members under OASI approved.

The plan for covering the state employee members of the state employees' retirement system under the old age and survivorship provisions of Title II of the federal social security act as amended, required by RCW 41.48.050 as amended by section 5, chapter 4, Laws of the extraordinary session of 1955, approved by the state employees' retirement board of the state employees' retirement system on the 1st day of August, 1955, and approved by the governor of the state of Washington on the 16th day of August, 1955, is hereby approved.

[1957 c 222 § 1.]

RCW 41.41.020 Terms and provisions of plan.

The terms and provisions of the plan are as follows:

(1) Each political subdivision of the state employing members of the state employees' retirement system, and such employees, after approval of this plan by its governing body as provided in RCW 41.48.030(4)(f) and after approval by its eligible employees through referendum as provided in RCW 41.48.030 (3) and (4), and the state itself as such a subdivision, and its employees, after approval of this plan by the legislature as provided in RCW 41.48.050(d) and RCW 41.48.030(4)(f) and after approval by its eligible employees through referendum as provided in RCW 41.48.030 (3) and (4), shall be deemed to have accepted and agreed to be bound by the following terms and conditions in consideration of extension of the existing agreement between the secretary of health, education and welfare and the governor to make the protection of the federal old age and survivors insurance program available and applicable to such employees.

(2) As used in this plan the terms quoted below shall have the meanings assigned thereto in this subsection.

"Political subdivision" means any political subdivision, or instrumentality of one or more such subdivisions, or proprietary enterprise acquired, purchased or originated by one or more such subdivisions after December, 1950, which employs members of the state employees' retirement system. The state, its agencies, instrumentalities and institutions of higher learning shall be grouped and considered as a single political subdivision.

"Employee" means any person who is a member of the state employees' retirement system and is employed by a political subdivision, except persons serving in policeman's or fireman's positions and officials compensated on a fee basis.

"Wages" shall have the meaning given in RCW 41.48.020(1) and section 209 of the social security act (42 U.S.C.A. Sec. 409); and refers to the first four thousand two hundred dollars paid to any employee in any calendar year.

"State", where not otherwise clearly indicated by the context, means the commissioner of employment security or other officer designated by the governor to administer the plan at the state level for all participating political subdivisions.

(3) The terms and conditions of this plan are intended and shall be construed to be in conformity with the requirements of the federal social security act as amended and with the requirements of chapter 41.48 RCW, and particularly RCW 41.48.050, as amended by chapter 4, Laws of the extraordinary session of 1955.

(4) The rights and benefits accruing to employees from membership in the state employees' retirement system shall in no way be altered or impaired by this plan or by the additional and supplementary OASI coverage which such employees may receive hereunder. Nothing herein shall be construed to alter in any way the obligations of any political subdivision or its employees to the retirement system.

(5) There shall be no additional cost to or involvement of the state with respect to OASI coverage for state employee members of the state employees' retirement system until this plan has been approved by the legislature.

(6) OASI coverage shall be applicable to all services performed by its employees for a political subdivision which has approved this plan.

(7) Each employee to whom OASI coverage is made applicable under this plan pursuant to an extension or modification under RCW 41.48.030 of the existing agreement between the secretary of health, education and welfare and the governor shall be required to pay into the *OASI contribution fund established by RCW 41.48.060 during the period of such coverage contributions with respect to his wages in an amount equal to the employee tax imposed by the federal insurance contributions act (section 3101, Internal Revenue Code of 1954), in consideration of the employee's retention in service by the political subdivision. The subdivision shall withhold such contributions from the wages paid to the employee; and shall remit the contributions so withheld in each calendar quarter to the state for deposit in the *contribution fund not later than the twentieth calendar day of the month following that quarter.

(8) Each political subdivision shall pay into the *contribution fund with respect to the wages of its employees during the period of their OASI coverage pursuant to this plan contributions in an amount equal to the employer tax imposed by the federal insurance contributions act (section 3111, Internal Revenue Code of 1954), from the fund of the subdivision from which such employees' wages are paid. The subdivision shall remit such contributions to the state for deposit in the *contribution fund on a quarterly basis, not later than the twentieth calendar day of the month following each calendar quarter.

(9) If any political subdivision other than that comprising the state, its agencies, instrumentalities and institutions of higher learning fails to remit as provided herein employer contributions or employee contributions, or any part of either, such delinquent contributions may be recovered with interest at the rate of six percent per annum by action in a court of competent jurisdiction against the political subdivision; or such delinquent contributions may at the request of the governor be deducted from any moneys payable to such subdivision by the state.

(10) Each political subdivision shall be charged with a share of the cost of administration of this plan by the state, to be computed as that proportion of the overall cost of administration which its total annual contributions bear to the total annual contributions paid by all subdivisions on behalf of employees covered by the plan. The state shall compute the share of cost allocable to each subdivision and bill the subdivision therefor at the end of each fiscal year. The subdivision shall within ninety days thereafter remit its share of the cost to the state for deposit in the general fund of the state.

(11) Each political subdivision shall submit to the state, through the employment security department, P.O. Box 367, Olympia, Washington, or such other officer or agency as the governor may subsequently designate, on forms furnished by the state, not later than the twentieth calendar day of the month following the end of each calendar quarter, the following information:

- A. The social security account number of each employee;
- B. the name of each employee;
- C. the amount of wages subject to contributions as required hereunder paid to each employee during the quarter;
- D. the total amount of wages subject to contributions paid to all employees during the

quarter;

E. the total amount of employee contributions withheld and remitted for the quarter; and

F. the total amount of employer contributions paid by the subdivision for the quarter.

(12) Each political subdivision shall furnish in the same manner as provided in subsection (11), upon reasonable notice, such other and further reports or information as the governor may from time to time require. Each subdivision shall comply with such requirements as the secretary of health, education and welfare or the governor may from time to time establish with respect to any or all of the reports or information which are or may be provided for under subsection (11) or this subsection in order to assure the correctness and verification thereof.

(13) The governing body of each political subdivision shall designate an officer of the subdivision to administer such accounting, reporting and other functions as will be required for the effective operation of this plan within the subdivision, as provided herein. The commissioner of employment security, or such other officer as the governor may designate, shall perform or supervise those functions with respect to employees of the subdivision comprising the state, its agencies, instrumentalities and institutions of higher learning; and shall serve as the representative of the participating political subdivisions in the administration of this plan with the secretary of health, education and welfare.

(14) OASI coverage may be made applicable as provided herein to employees of any political subdivision regardless of the approval or disapproval of this plan by any other subdivision.

(15) Each political subdivision, with the approval of a majority of its employees as indicated by vote thereon in conjunction with the referendum to be held pursuant to RCW 41.48.030 (3) and (4), may designate the first day of any month beginning with January of 1955 as the effective date of OASI coverage for such employees; except that after January 1, 1958, a subdivision may not so designate an effective date prior to the first day of the current calendar year.

(16) The governor may terminate the operation of this plan in its entirety with respect to any political subdivision, in his discretion, if he finds that the subdivision has failed to comply substantially with any requirement or provision of this plan. The plan shall not be so terminated until reasonable notice and opportunity for hearing thereon have been given to the subdivision under such conditions, consistent with the provisions of the social security act, as shall have been established in regulations by the governor.

[1957 c 222 § 2.]

Notes:

***Reviser's note:** The "OASI contribution fund" was redesignated the "OASI contribution account" by 1991 sp.s. c 13 § 112.

RCW 41.41.030 Effective date for coverage of members.

The effective date of OASI coverage for state employee members of the state employees' retirement system shall be the 1st day of July, 1957; provided the terms and conditions set forth in RCW 41.48.030(3) have been fulfilled.

[1957 c 222 § 3.]

RCW 41.41.900 Severability--1957 c 222.

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

[1957 c 222 § 4.]

**Chapter 41.44 RCW
STATE-WIDE CITY EMPLOYEES' RETIREMENT**

Sections

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Notes:

Portability of public retirement benefits: Chapter 41.54 RCW.

RCW 41.44.010 Title of chapter.

This chapter shall be known and may be cited as the "State-wide City Employees' Retirement System Law".

[1947 c 71 § 1; Rem. Supp. 1947 § 9592-130.]

Notes:

Severability--1947 c 71: "If any provision of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the provision or application so held invalid, and for such purposes the provisions of this act are declared to be severable." [1947 c 71 § 26.] This applies to RCW 41.44.010 through 41.44.250.

RCW 41.44.020 Purpose of chapter.

The purpose of this chapter is to provide for an actuarially sound system for the payment of annuities and other benefits to officers and employees and to beneficiaries of officers and employees of cities and towns thereby enabling such employees to provide for themselves and their dependents in case of old age, disability and death, and effecting economy and efficiency in the public service by furnishing an orderly means whereby such employees who have become aged or otherwise incapacitated may, without hardship or prejudice, be retired from active service.

[1947 c 71 § 2; Rem. Supp. 1947 § 9592-131.]

RCW 41.44.030 Terms defined.

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

(1) "Retirement system" means the state-wide city employees retirement system provided for herein.

(2) "City" or "cities" includes town or towns.

(3) "Employee" means any appointive officer or employee and shall include elective officials to the extent specified herein.

(4) "Member" means any person included in the membership of the retirement system as provided herein.

(5) "Board" means the "board of trustees" provided for herein.

(6) "Retirement fund" means "state-wide city employees retirement fund" provided for herein.

(7) "Service" means service rendered to a city for compensation; and for the purpose of this chapter a member shall be considered as being in service only while he is receiving compensation from the city for such service or is on leave granted for service in the armed forces of the United States as contemplated in RCW 41.44.120.

(8) "Prior service" means the service of a member for compensation rendered a city prior

to the effective date and shall include service in the armed forces of the United States to the extent specified herein and service specified in RCW 41.44.120(5).

(9) "Current service" means service after the employee has become a member of the system.

(10) "Creditable service" means such service as is evidenced by the record of normal contributions, plus prior service as evidenced by prior service certificate.

(11) "Beneficiary" means any person in receipt of a pension, annuity, retirement allowance, disability allowance, or any other benefit herein.

(12) "Compensation" means the compensation payable in cash, plus the monetary value, as determined by the board of trustees, of any allowance in lieu thereof (but for the purposes of this chapter such "compensation" shall not exceed three hundred dollars per month, except as to those employees of any member city the legislative body of which shall not later than July 1, 1953, have irrevocably elected by resolution or ordinance to increase the limitation herein contained, effective as to all of its employees, from three hundred dollars to four hundred dollars, commencing on said date, or which shall so elect prior to January 1st of any succeeding year, effective as of January 1st of any such succeeding year, and as to such employees shall, commencing on the specified date, not exceed four hundred dollars or an amount equal to such increased limitation established by such ordinance or resolution per month): PROVIDED HOWEVER, That the foregoing limitation shall not apply to uniformed personnel.

(13) "Compensation earnable" means the full rate of compensation that would be payable to an employee if he worked the full normal working time (but for the purposes of this chapter, such "compensation earnable" shall not exceed three hundred dollars per month, except as to those employees of any member city the legislative body of which shall not later than July 1, 1953, have irrevocably elected by resolution or ordinance to increase the limitation herein contained, effective as to all of its employees, from three hundred dollars to four hundred dollars, commencing on said date, or which shall so elect prior to January 1st of any succeeding year, effective as of January 1st of any such succeeding year, and as to such employees shall, commencing on the specified date, not exceed four hundred dollars or an amount equal to such increased limitation established by such ordinance or resolution per month): PROVIDED, HOWEVER, That the foregoing limitation shall not apply to uniformed personnel: PROVIDED FURTHER, That after January 1, 1968 this term shall mean the full rate of compensation payable to an employee if he worked the full normal working time.

(14) "Final compensation" means the highest average annual compensation earnable in any five consecutive years of actual service rendered during the ten years immediately preceding retirement, or where the employee has less than five consecutive years of actual service, the earnable compensation for the last five years preceding his retirement.

(15) "Matching contribution" means the contribution of the city deposited in an amount equal to the normal contributions of the employee.

(16) "Normal contributions" means the contributions at the rate provided for in RCW 41.44.130, excluding those referred to in subsection (6).

(17) "Released matching contributions" means such "matching contributions" as are no longer held for the benefit of the employee.

(18) "Regular interest" means interest compounded annually at such rate as shall have been adopted by the board of trustees in accordance with the provisions of this chapter.

(19) "Accumulated normal contributions" means the sum of all normal contributions, deducted from the compensation of a member, standing to the credit of his individual account, together with regular interest thereon.

(20) "Pension" means payments derived from contributions made by the city as provided herein.

(21) "Annuity" means payments derived from contributions made by a member as provided herein.

(22) "Retirement allowance" means the pension plus annuity.

(23) "Fiscal year" means any year commencing with January 1st and ending with December 31st next following.

(24) "Miscellaneous personnel" means officers and employees other than those in the uniformed police or fire service: PROVIDED, Those members of the fire department who are ineligible to the benefits of a firemen's pension system established by or pursuant to any other state law, are also included in the miscellaneous personnel.

(25) "Uniformed personnel" means any employee who is a policeman in service or who is subject to call to active service or duty as such.

(26) "Effective date" when used with regard to employees means the date on which any individual or group of employees became members of any retirement system and when used with regard to any city or town shall mean the date on which it became a participant.

(27) "Actuarial equivalent" means a benefit of equal value when computed at regular interest upon the basis of such mortality tables as shall be adopted by the board of trustees.

(28) "Persons having an insurable interest in his life" means and includes only such persons who, because of relationship from ties of blood or marriage, have reason to expect some benefit from the continuation of the life of the member.

(29) "Additional contributions" means contributions made pursuant to subsection (6) of RCW 41.44.130.

(30) "Accumulated additional contributions" means the sum of all "additional contributions" made by a member standing to the credit of the individual account, together with regular interest thereon.

(31) "Part time employees" means those employees who, although regularly and continuously employed, do not regularly perform their duties the full number of hours required of other regular employees, including but not confined to such employees as police judges, city attorneys and other officers and employees who are also engaged in outside employment or occupations.

(32) "Excess interest income" means that interest income earned and received from investments in excess of the interest income on investments required to meet actuarial funding requirements.

[1967 ex.s. c 28 § 6; 1961 c 227 § 1; 1959 c 70 § 1; 1953 c 228 § 1; 1951 c 275 § 2; 1947 c 71 § 3; Rem. Supp. 1947 § 9592-132.]

Notes:

Purpose--1967 ex.s. c 28: "It is the purpose of this act to provide amendments to existing legislation relating to the state-wide city employees retirement system to provide for an increase of investment earnings to be used for costs in purchasing, safekeeping, servicing and handling of securities, to amend the mandatory retirement age of uniformed personnel from attained age fifty-five to the minimum age for social security benefits, to change the time required for vested rights from ten years to five years in accordance with the recommendation of the federal committee on intergovernmental relations and to help meet competition with private industry by providing additional fringe benefits or an incentive program for city employees to attract and retain competent employees in public service." [1967 ex.s. c 28 § 1.]

Severability--1967 ex.s. c 28: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 28 § 8.]

RCW 41.44.040 System created--Operative date.

A retirement system is hereby authorized for employees of cities, same to become operative after the requisite city or cities or combination thereof, have signified their intention to participate in the retirement system and the board has been appointed and qualified as herein provided. The board may begin to function, establish an office, employ an actuary and such other personnel as necessary and undertake the work of establishing the retirement system but it shall not be required to undertake such work unless necessary moneys are made available through negotiated loans or advances from cities or otherwise.

Whenever cities have notified the governor of election to join the retirement system to an extent which would place three hundred or more employees under the system, the governor shall appoint board members as provided herein and the system so created and established shall be forthwith constituted. The date when the system shall become operative as to any city shall be fixed by the board.

[1947 c 71 § 4; Rem. Supp. 1947 § 9592-133.]

Notes:

Reviser's note: Caption for 1947 c 71 § 4 reads as follows: "*Sec. 4. AUTHORIZATION AND CREATION.*"

RCW 41.44.050 Election to participate.

Any city or town may elect to participate in the retirement system established by this chapter: PROVIDED, That a first class city may establish or maintain any other retirement system authorized by any other law or its charter. The manner of election to participate in a retirement system under this chapter shall be as follows:

- (1) The legislative body therein by ordinance making such election;
- (2) Approval by vote of the people of an ordinance initiated by the voters making such election;
- (3) Approval by vote of the people of an ordinance making such election referended to the people by the legislative body.

Any ordinance providing for participation therein may on petition of the voters be

referred to the voters for approval or disapproval.

The referendum or initiative herein provided for shall be exercised under the law relating to legislative initiative or referendum of the particular city or town; and if the city or town be one for which the law does not now provide such initiative or referendum, it shall be exercised in the manner provided for legislative initiative and referendum of cities having a commission form of government under chapter 35.17 RCW, the city or town council performing the duties and functions under that law devolving on the commission. A majority vote in the legislative body or by the electorate shall be sufficient to carry or reject. Whenever any city or town has elected to join the retirement system proper authorities in such city [or town] shall immediately file with the board an application for participation under the conditions included in this chapter on a form approved by the board. In such application the city or town shall agree to make the contributions required of participating cities [or towns] in the manner prescribed herein and shall state which employee group or groups are to originally have membership in the system.

In the case of a state association of cities and towns, election to participate shall be by majority vote of the board of directors of the association.

[1994 c 81 § 76; 1971 ex.s. c 271 § 13; 1947 c 71 § 5; Rem. Supp. 1947 § 9592-134.]

Notes:

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

RCW 41.44.060 Persons excluded.

Policemen in first class cities and all city firemen shall be excluded from the provisions of this chapter, except those employees of the fire department who are not eligible to the benefits of any firemen's pension system established by or pursuant to state law, and who shall be included in the miscellaneous personnel.

[1951 c 275 § 3; 1947 c 71 § 6; Rem. Supp. 1947 § 9592-135.]

Notes:

Firemen's relief and pensions: Chapters 41.16, 41.18 RCW.

Police relief and pensions in first class cities: Chapter 41.20 RCW.

Volunteer fire fighters' relief and pensions: Chapter 41.24 RCW.

RCW 41.44.070 Board of trustees.

(1) The board of trustees shall consist of seven members, one of whom shall be the state insurance commissioner, ex officio; three elective city officials eligible to the benefits of the system who shall be appointed by the governor from a list of six city officials submitted by the executive committee of the association of Washington cities as the official representative of cities and towns in the state. Original terms of office of the appointees shall be one, two and three years as designated by the governor; thereafter terms shall be for three years duration. Appointments to fill vacancies other than those caused by expiration of a term, shall be for the unexpired term. Appointees shall serve until successors have been appointed and qualified.

In addition to these four members, there shall be three city employees who shall be elected by a secret ballot vote of the city employees who are members of the system. The method and details of such election shall be determined by the board of trustees. The first such election shall be held in June of 1968. The original terms of office for the elected city employee members shall be one, two and three years as designated by the board of trustees, and such terms shall begin July 1, 1968; thereafter terms shall be for three years' duration. In the case of vacancies of elected city employee positions the board of trustees shall appoint city employees to serve for the unexpired terms. Such appointees shall serve until successors have been elected.

(2) The board shall annually, dating from the first officially recorded meeting, elect a chairman and secretary. Four members shall constitute a quorum.

(3) Each member of the board shall take an oath of office that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or wilfully permit to be violated any of the provisions of this chapter.

[1967 ex.s. c 28 § 7; 1947 c 71 § 7; Rem. Supp. 1947 § 9592-136.]

Notes:

Purpose--Severability--1967 ex.s. c 28: See notes following RCW 41.44.030.

RCW 41.44.080 Powers and duties of board--Compensation--Liability.

The administration of the system is hereby vested in the board of trustees created in RCW 41.44.070 of this chapter and the board shall:

(1) Keep in convenient form such data as shall be deemed necessary for actuarial valuation purposes;

(2) From time to time, through its actuary, make an actuarial investigation into the mortality and service experience of the beneficiaries under this chapter and the various accounts created for the purpose of showing the financial status of the retirement fund;

(3) Adopt for the retirement system the mortality tables and such other tables as shall be deemed necessary;

(4) Certify annually the amount of appropriation which each city shall pay into the retirement fund in the next fiscal year, at such a time that the local authorities shall have ample opportunity for including such expense in the budget;

(5) Keep a record of all its proceedings, which shall be open to inspection by the public;

(6) From time to time adopt such rules and regulations not inconsistent with this chapter, for the administration of the provisions of this chapter, for the administration of the fund created by this chapter and the several accounts thereof, and for the transaction of the business of the board;

(7) Provide for investment, reinvestment, deposit and withdrawal of funds;

(8) Prepare and publish annually a financial statement showing the condition of the fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the state-wide city employees retirement system, and furnish a copy thereof to each city which has joined the retirement

system, and to such members as may request copies thereof;

(9) Serve without compensation but shall be reimbursed for expense incident to service as individual members thereof;

(10) Determine equitable amount of administrative expense and death-in-line-of-duty benefit expense to be borne by each city;

(11) Make available to any city considering participation in the system, the services of the actuary employed by the board for the purpose of ascertaining the probable cost of such participation. The cost of any such calculation or valuation shall be paid by the city requesting same to the retirement system;

(12) Perform such other functions as are required for the execution of the provisions of this chapter;

(13) No member of the board shall be liable for the negligence, default or failure of any employee or of any other member of the board to perform the duties of his office and no member of the board shall be considered or held to be an insurer of the funds or assets of the retirement system but shall be liable only for his own personal default or individual failure to perform his duties as such member and to exercise reasonable diligence to provide for the safeguarding of the funds and assets of the system.

(14) Fix the amount of interest to be credited at a rate which shall be based upon the net annual earnings of the fund for the preceding twelve-month period and from time to time make any necessary changes in such rate.

(15) Distribute excess interest income to retired members on a cost of living index basis, as published by the United States department of health, education and welfare, applied only to the annuity and current service portion of the retired members' retirement allowance: PROVIDED, That such distribution shall not exceed the income earned and received on open end investments.

[1961 c 227 § 2; 1951 c 275 § 4; 1949 c 171 § 1; 1947 c 71 § 8; Rem. Supp. 1949 § 9592-137.]

RCW 41.44.090 Contributions by cities--Withdrawal from system.

(1) There shall be paid into the retirement fund by contributions of each city the amounts necessary to pay the following:

(a) Contributions equal to those deposited by employees;

(b) Prior service credits at such rate as may be selected;

(c) That part of a retirement allowance necessary to raise it to a specified minimum;

(d) An equitable share of the administrative costs, all of which costs are to be paid by the cities;

(e) An equitable share of the cost of the death-in-the-line-of-duty benefit, all of which costs are to be paid by the cities.

Any city having in its employ ten or more employees who are members of the system may elect to contribute, in lieu of its contributions set forth in item (a) above, an amount estimated actuarially necessary to match at retirement the accumulated normal contributions of those of its members who will ultimately retire for service or disability; provided that such

election shall be made by resolution or ordinance of the legislative body of such city and, in order to become effective for the remainder of the year 1953, shall be made on or before July 1, 1953, and thereafter any election so made shall be made prior to January 1, 1954, to become then effective or prior to January 1st of any succeeding year to become effective on January 1st of such succeeding year.

Any city may, with the approval of the board, further elect to contribute in lieu of its contributions set forth in items (b) and (c) above, an amount estimated actuarially, necessary to amortize over a period of not to exceed thirty years, all liabilities on account of the participation of such a city, which are not covered by the contributions of its employees, its funds on hand and its contributions provided for in item (a) above or the contributions elected to be made in lieu thereof in cases where such city shall have elected to make said contribution in lieu of the contributions required in said item (a); provided that such election shall be made by resolution or ordinance of the legislative body of such city and, in order to become effective for the remainder of the year 1953, shall be made on or before July 1, 1953, and thereafter any election so made shall be made prior to January 1, 1954, to become then effective or prior to January 1st of any succeeding year to become effective on January 1st of such succeeding year.

In the event that any city shall be making either of the lieu contributions as hereinabove set forth, the resulting contributions shall be adjusted to conform with facts and conditions disclosed by each succeeding actuarial valuation.

(2) Payment of the obligation set forth in subsection (1) of this section may be made in advance or may be paid currently as contributions are received from employees and pensions are paid to retired members: PROVIDED, That the share of administrative expense and expense of the death-in-the-line-of-duty benefits shall be paid as soon as funds are available to make such payment and the board shall have the right to require any city that has withdrawn from the system, to annually, at the beginning of each calendar year, deposit and pay in cash an amount estimated by the board to be sufficient to meet the obligation of such city for the ensuing year to those of its members receiving a retirement allowance. From time to time each city may apply reserves in payment of the obligations set forth above as contemplated in RCW 41.44.200.

(3) The board shall furnish each city with an estimate of the amount necessary to pay the obligations of the city in the ensuing fiscal year and the city shall provide therefor in its budget. The board shall cause to be kept an account with each city, crediting the account with such advances and payments as are made by the city and debiting the account with such charges as properly accrue against the city. The board shall furnish each city with a monthly statement of the amount of matching contributions, prior service charges and charges for minimum retirement allowances properly accruing by reason of payment of retirement allowances and deposit of contributions of members.

(4) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any retirement allowances or other benefits on account of the employees or retired members of any city under this chapter, for which reserves or guarantees have not been properly set up by such city or its employees to pay such retirement allowances or other benefits: PROVIDED, That nothing herein contained shall be so construed to prevent the establishment of a reserve account for annuities and pensions in which shall be placed at the time of retirement of

any member the balances of the retiring member's contribution and the city's matching funds for such member and from which account all annuities and current service pensions shall be paid.

(5) Any city may, by majority vote of its electors, withdraw from participation in the retirement system two years after giving written notice to the board of such action by the electorate. It is hereby specifically provided, however, that the city's obligation to those members receiving or eligible to a retirement allowance prior to such termination of participation shall continue in full force and effect as provided in this chapter. Members not receiving or being eligible to a retirement allowance at time of such termination shall be paid their accumulated contributions on demand. Should it develop that any such city is entitled to a refund such refund shall be made within one year following demand of city entitled thereto.

[1953 c 228 § 2; 1951 c 275 § 5; 1949 c 171 § 2; 1947 c 71 § 9; Rem. Supp. 1949 § 9592-138.]

RCW 41.44.100 Retirement fund--Deposit--Investment--Cost.

(1) A fund is hereby created and established to be known as the "state-wide city employees retirement fund," and shall consist of all moneys paid into it in accordance with the provisions of this chapter, whether such moneys shall take the form of cash, securities, or other assets: PROVIDED, That such assets shall be public funds to the extent necessary to authorize any bank to deposit such collateral security necessary and required under the laws of the state to secure the deposit of public funds belonging to a city.

(2) The board of trustees shall be the custodian of the retirement fund and shall arrange for the safekeeping thereof. Subject to such provisions as may be prescribed by law for the deposit of city funds in banks, cash belonging to the retirement fund may be deposited in any licensed national bank or banks in the state, or in any bank, banks or corporations authorized or licensed to do a banking business and organized under the laws of the state of Washington; and may be withdrawn on order of the board for the purpose of making such payments as are authorized and required by this chapter.

(3) The board may invest pension fund moneys in such securities of the United States, states, Dominion of Canada, public housing authorities, municipal corporations and other public bodies, as are designated by the laws of the state as lawful investments for the funds of mutual savings banks, and to invest not to exceed twenty-five percent of the system's total investments in the securities of any corporations or public utility bodies as are designated by the laws of the state as lawful investments for the funds of mutual savings banks: PROVIDED, That not more than five percent of the system's total investments may be made in the securities of any one of such corporations or public utility bodies.

(4) Subject to the limitations hereinafter provided, investment of pension funds may also be made in amounts not to exceed twenty-five percent of the system's total investments in the shares of certain open-end investment companies: PROVIDED, That not more than five percent of the system's total investments may be made in the shares of any one such open-end investment company. The total amount invested in any one company shall not exceed five percent of the assets of such company, and shall only be made in the shares of such companies as are registered as "open-end companies" under the federal investment company act of 1940, as amended. Such

company must be at least ten years old and have net assets of at least five million dollars. It must have no outstanding bonds, debentures, notes, or other evidences of indebtedness, or any stock having priority over the shares being purchased, either as to distribution of assets or payment of dividends. It must have paid dividends from investment income in each of the ten years next preceding purchase. The maximum selling commission on its shares may not exceed seven and one-half percent of the sum of the asset value plus such commission.

(5) Investment of pension funds may also be made in the bonds of any municipal corporation or other public body of the state; and in any of the bonds or warrants, including local improvement bonds or warrants within the protection of the local improvement guaranty fund law, issued by any city or town which is a member of the system. Investment of pension funds may also be made in the bonds or other obligations of any other state or territory of the United States or of any political subdivision, agency or instrumentality of any such state, territory, or political subdivision thereof.

Investment of pension funds may also be made in bonds or other obligations insured or guaranteed or which are covered by a repurchase agreement in whole or in part by the federal government or through any corporation, administrator, agency or instrumentality which is or hereafter may be created by the federal government.

(6) In order to provide for an equitable apportionment of the cost of the making and handling of the system's investments, the board may charge against the annual earnings from the system's investments, including income from the same and gains realized from the purchase and sale of its securities, a portion of such earnings computed on the book value of the investments held by the system at the end of its fiscal year, for the purpose of paying the cost of purchasing, safekeeping, servicing and handling its securities: PROVIDED, That such portion shall not exceed one-half of one percent of such value and shall not exceed the net gain from the operations for the year: PROVIDED FURTHER, That such charge shall not be considered as an administrative expense payable solely by the cities.

[1967 ex.s. c 28 § 3; 1965 ex.s. c 99 § 1; 1957 c 158 § 1; 1953 c 228 § 3; 1951 c 275 § 6; 1949 c 171 § 3; 1947 c 71 § 10; Rem. Supp. 1949 § 9592-139.]

Notes:

Purpose--Severability--1967 ex.s. c 28: See notes following RCW 41.44.030.

RCW 41.44.105 Supplemental benefits fund.

(1) The board of trustees shall establish, in addition to the several benefits provided for, an additional and separate fund to be known as the "supplemental benefits fund" to provide for the payment of supplemental benefits, as hereinafter provided for employees of municipalities electing to participate in said fund.

(2) Any municipality which has elected to participate in this retirement system may elect to have the employees of the municipality participate in and be covered by the supplemental benefits fund. Such election is authorized to be made in any manner authorized by RCW 41.44.050, as now or hereafter amended, as it relates to participation in the system.

(3) A municipality which once elects to participate in the supplemental benefits fund shall never discontinue participation in the fund as to members who are covered in the fund.

(4) Membership in the fund shall be terminated by cessation of membership in the system.

(5) Each municipality which elects to participate in the supplemental benefits fund shall contribute to that fund, in addition to normal contributions and prior service contributions as required, such additional percentage of each payment of earnings as may be fixed by the board, on recommendation of the actuary, as necessary to accumulate the reserves needed to pay the anticipated benefit: PROVIDED, That the rate of contribution to the supplemental benefits fund shall be on the full compensation of the member.

(6) The supplemental benefit for covered employees shall be an allowance not to exceed fifteen percent of average final compensation payable at the time of retirement.

(7) Should the service of a member be discontinued by other than death or retirement, the benefits and privileges as provided by RCW 41.44.190 as now or hereafter amended, shall apply.

(8) A municipality which elects to participate in the supplemental benefits fund shall provide such benefits for all members employed by such city.

[1967 ex.s. c 28 § 2.]

Notes:

Purpose--Severability--1967 ex.s. c 28: See notes following RCW 41.44.030.

RCW 41.44.110 Membership.

(1) Subject to subsection (2) of this section, membership of this retirement system shall be composed of the following groups of employees in any participating city or cities:

(a) Miscellaneous personnel as defined in this chapter;

(b) Uniformed personnel as defined in this chapter;

(c) Elective officials, who shall have the right to membership in this retirement system upon filing written notice of such election with the board of trustees;

(d) Employees of the retirement system itself shall be entitled to membership and any costs in connection with such membership shall be a part of the cost of administration.

(e) Employees of any state association of cities and towns shall be entitled to membership, upon election to participate made by the board of directors pursuant to RCW 41.44.050, and any costs in connection with such membership which would be borne by a city in the case of employees of a city shall be borne by the association.

(2) Any city may, when electing to participate in this retirement system in the manner set forth in RCW 41.44.050, include any one group or combination of the groups mentioned in subsection (1) of this section. For an initial period not to exceed one year from the effective date of any city's entry into this system, if so provided at the time of its election to participate, only a majority of the employees of any group or combination of groups must be members of the system.

At all times subsequent to the effective date of the city's entry into this system, or at all

times after expiration of such initial period, if such initial period is established at the time of the city's election to participate, all employees of any group or combination of groups must be included or excluded as members of this system. Groups (c) and (d) shall be considered as being composed of miscellaneous personnel as far as benefits and obligations are concerned except when the contrary is clearly indicated.

(3) Subject to subsection (2) of this section, membership in the retirement system shall be compulsory for all employees in groups (a) and (b), after qualification as provided in subsection (4) of this section.

(4) Subject to subsection (2) of this section, all employees in city service, on the effective date, or on June 9, 1949, or on expiration of the initial period therein provided if they have completed six consecutive months' service or six months' service in any calendar year prior to the expiration of such initial period, shall be members of the system, provided that such employees who are not regular full time employees and are earning less than one hundred dollars per month, or are part time employees serving in an official or special capacity may with the acquiescence of the legislative body of the city or town in which they are employed, elect on or before January 1, 1950, to discontinue membership by giving written notice of such election to the board. All other regular employees earning more than one hundred dollars per month shall become members upon the completion of six consecutive months' service or six months' service in any calendar year. Any employee otherwise eligible, employed in a permanent position, may elect in writing to become a member of the system at any time during the initial period, or at any time prior to completing such six months' service. Such individual employees other than regular employees, who are earning less than one hundred dollars per month or who are serving in an official or special capacity may elect to become members with the acquiescence of the legislative body of the city or town in which they are employed upon the completion of six months of consecutive service or six months' service in any calendar year.

(5) It shall be the duty of the proper persons in each city to immediately report to the board routine changes in the status of personnel and to immediately furnish such other information regarding the employment of members as the board may from time to time require.

(6) Should any member withdraw more than one-quarter of his accumulated contributions, or should he die or be retired, he shall thereupon cease to be a member.

(7) Transfer of any employee from one city to another shall not cause the employee to lose membership in the system providing the city to which he transfers participates in the retirement system created herein.

[1971 ex.s. c 271 § 14; 1965 ex.s. c 99 § 2; 1961 c 227 § 3; 1953 c 228 § 4; 1951 c 275 § 7; 1949 c 171 § 4; 1947 c 71 § 11; Rem. Supp. 1949 § 9592-140.]

Notes:

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

RCW 41.44.120 Prior service credit.

(1) Subject to subsections (4) and (5) of this section the following members shall be

entitled to prior service credit:

(a) Each member in service on the effective date.

(b) Each member entering after the effective date if such entry is within one year after rendering service prior to the effective date.

(c) Each member entering in accordance with the provisions and subject to the conditions and limitations prescribed in subsection (5) of this section.

As soon as practicable, the board shall issue to each member entitled to prior service credit a certificate certifying the aggregate length of service rendered prior to the effective date. Such certificate shall be final and conclusive as to his prior service unless hereafter modified by the board, upon application of the member.

(2) Each city joining the system shall have the privilege of selecting the rate at which prior service pensions shall be calculated for its employees and may select any one of the three rates set forth below:

(a) 1.33% of final compensation multiplied by the number of years of prior service credited to the member. This rate may be referred to as "full prior service credit."

(b) 1.00% of final compensation multiplied by the number of years of prior service credited to the member. This rate may be referred to as "full [*three-fourths*] prior service credit."

(c) .667% of final compensation multiplied by the number of years of prior service credited to the member. This rate may be referred to as "one-half prior service credit."

(3) The above rates shall apply at the age of sixty-two or over for members included in the miscellaneous personnel and at age sixty or over for members in the uniformed personnel: PROVIDED, That if a member shall retire before attaining either of the ages above referred to, the total prior service pension shall be reduced to the percentages computed and established in accordance with the following tables, to wit:

Miscellaneous Personnel					
Percent of Full Prior Service Allowable					
Male			Female		
Age		Factor	Age		Factor
45	.....	65.48	45	.....	66.78
46	.....	66.86	46	.....	67.91
47	.....	68.29	47	.....	69.09
48	.....	69.77	48	.....	70.34
49	.....	71.28	49	.....	71.67
50	.....	72.82	50	.....	73.10
51	.....	74.43	51	.....	74.71
52	.....	76.13	52	.....	76.41
53	77.93	53	78.21
54	79.84	54	80.11
55	81.86	55	82.12
56	84.00	56	84.24
57	86.28	57	86.50

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58	88.69	58	88.89
59	91.26	59	91.42
60	94.00	60	94.11
61	96.90	61	96.96
62	100.00	62	100.00

Percent of Full Prior Service Allowable
Uniformed Personnel

Age	Factor
45	69.66
46	71.13
47	72.65
48	74.22
49	75.83
50	77.47
51	79.18
52	80.99
53	82.91
54	84.93
55	87.09
56	89.37
57	91.79
58	94.36
59	97.09
60	100.00

(4) If sickness, injury or service in the armed forces of the United States during the national emergency identified with World War I or World War II and/or service in the armed forces of the United States of America for extended active duty by any employee who shall have been regularly granted a leave of absence from the city service by reason thereof, prevents any regular employee from being in service on the effective date, the board shall grant prior service credit to such person when he is again employed. The legislative authority in each participating city shall specify the amount of prior service to be granted or current service credit to be made available to such employees: PROVIDED, That in no case shall such service credit exceed five years. Certificate of honorable discharge from or documentary evidence of such service shall be submitted to the board before any such credit may be granted or made available. Prior or current service rates, or both, for such employees shall not exceed the rates established for fellow employees.

(5) There shall be granted to any person who was an employee of a private enterprise or a portion thereof which shall be hereafter acquired by a city as a matter of public convenience or necessity, where it is in the public interest to retain the trained personnel of such enterprise or

portion thereof, credit for prior service for the period such person was actually employed by such private enterprise, except that this shall apply only to those persons who shall be employees of such enterprise or portion thereof at the time of its acquisition by the city and who remain in the service of such city until the effective date of membership of such person under this chapter.

There shall be granted to any person who was an employee of any state association of cities and towns, which association elects to participate in the retirement system established by this chapter, credit for prior service for the period such person was actually employed by such association, except that this shall apply only to those persons who shall be employees of such association on May 21, 1971.

Credit for such prior service shall be given only if payment for the additional cost of including such service has been made or if payment of such additional cost or reimbursement therefor has been otherwise provided for to the satisfaction of the board or if such person be entitled to any private pension or retirement benefits as a result of such service with such private enterprise, credit will be given only if he agrees at the time of his employment by the municipality to accept a reduction in the payment of any benefits payable under this chapter that are based in whole or in part on such added and accredited service by the amount of these private pension or retirement benefits received. The conditions and limitations provided for in this subsection (5) shall be embodied in any certificate of prior service issued or granted by the board where any portion of the prior service credited under this subsection is included therein.

The city may receive payments for these purposes from a third party and shall make from such payments contributions with respect to such prior service as may be necessary to enable the fund to assume its obligations.

[1971 ex.s. c 271 § 15; 1959 c 70 § 2; 1957 c 158 § 2; 1951 c 275 § 8; 1947 c 71 § 12; Rem. Supp. 1947 § 9592-141.]

Notes:

Reviser's note: In subsection (2)(b), the word "full" was substituted for "three-fourths" in the 1971 amendatory act [1971 ex.s. c 271], but the change was not indicated by deletion and addition marks.

Severability--1971 ex.s. c 271: See note following RCW 41.32.260.

RCW 41.44.130 Contributions by employees.

(1) The normal rates of contribution of members shall be based on sex and age at time of entry into the system, which age shall be the age at the birthday nearest the date of such entry.

(2) The normal rates of contribution for miscellaneous personnel shall be so fixed as to provide an annuity which, together with the pension provided by the city, shall produce as nearly as may be, a retirement allowance at the age of sixty-two years, of one and one-third percent of the final compensation multiplied by the number of years of service of the retiring employee. The normal rate established for age sixty shall be the rate for any member who has attained a greater age before entrance into the retirement system and the normal contribution established for age twenty-four shall be the rate for any member who enters the system at an earlier age.

(3) The normal rates of contribution for uniformed personnel shall be so fixed as to provide an annuity which, together with the pension that would be derived from equal

contributions by the city, shall produce as nearly as may be for members who enter service at age thirty-seven or below, a retirement allowance, at age fifty-five with twenty-five or more years of service, or at an age greater than fifty-five after twenty-five years of service, equal to fifty percent of final compensation; and for members entering service at ages over thirty-seven, a retirement allowance at age sixty-two which shall be the same proportion of fifty percent of final compensation as the member's actual years credited bear to twenty-five years. The normal rate established for age fifty shall be the rate for any member who has attained a greater age before entrance into the retirement system.

(4) Subject to the provisions of this chapter, the board shall adopt rules and regulations governing the making of deductions from the compensation of employees and shall certify to the proper officials in each city the normal rate of contribution for each member provided for in subsections (2) and (3) of this section. The proper officials in each city shall apply such rate of contribution to the full compensation of uniformed personnel and to so much of the compensation of miscellaneous personnel as does not exceed three hundred dollars per month, or four hundred dollars per month, or to any increased amount of such compensation as to members whose member cities have duly elected to increase the limitation provided for in subsection (12) of RCW 41.44.030 and shall certify to the board on each and every payroll the total amount to be contributed and shall furnish immediately to the board a copy of each and every payroll; and each of said amounts shall be forwarded immediately to the board and the board shall credit the deduction shown on such payroll to individual accounts of the members represented on such payrolls.

(5) Every member shall be deemed to consent and agree to the contribution made and provided for herein, and shall receipt in full for his salary or compensation. Payment less said contributions shall be a full and complete discharge of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except his claim to the benefits to which he may be entitled under the provisions of this chapter.

(6) Any member may elect to contribute in excess of the contributions provided for in this section in accordance with rules to be established by the board for the purpose of providing additional benefits, but the exercise of this privilege shall not place on the member city or cities any additional financial obligation. The board shall have authority to fix the rate of interest to be paid or allowed upon the additional contributions and from time to time make any necessary changes in said rate. Refunds of additional contributions shall be governed by the same rules as those covering normal contributions unless the board shall establish separate rules therefor.

[1965 ex.s. c 99 § 3; 1961 c 227 § 4; 1957 c 158 § 3; 1951 c 275 § 9; 1947 c 71 § 13; Rem. Supp. 1947 § 9592-142.]

RCW 41.44.140 Retirement for service.

Retirement of a member for service shall be made by the board as follows:

(1) Each member included in the miscellaneous personnel in service on the effective date, who, on or before such effective date, has attained the age of sixty-five years or over shall be compulsorily retired forthwith: PROVIDED, That there shall be no compulsory retirements for a

period of two years immediately following the effective date, but any member having attained the age of sixty-five may voluntarily retire at any time after attaining such age. Members included in the miscellaneous personnel attaining age sixty-five after effective date shall be retired on the first day of the calendar month next succeeding the month in which the member shall have attained sixty-five, but none of such members shall be subject to compulsory retirement until two years after the effective date. The legislative authority of the city shall have the privilege at all times of extending time for retirement of any such member to his attainment of any age not exceeding age seventy: PROVIDED, That any such extension shall not increase the retirement age of such member in excess of one year at a time.

(2) Any member included in the miscellaneous personnel may retire by filing with the board a written application duly attested, setting forth on what date he desires to be retired, such application to be made at least thirty days prior to date of retirement: PROVIDED, That said member, at the time specified for his retirement, shall have attained the age of sixty years, or shall have thirty years of creditable service regardless of attained age: PROVIDED FURTHER, That during the two years immediately following the effective date voluntary service retirement of such members under sixty-two years of age shall not be granted.

(3) Each member included in the uniformed personnel in service on the effective date who on or before such effective date has attained the minimum age for social security benefits shall be compulsorily retired forthwith: PROVIDED, That there shall be no compulsory service retirements for a period of two years immediately following the effective date, but any such member having attained the minimum age for social security benefits may voluntarily retire at any time after attaining such age. Members included in the uniformed personnel attaining the minimum age for social security benefits after the effective date shall be retired on the first day of the calendar month next succeeding the month in which the members shall have attained the minimum age for social security benefits, but none of such members shall be subject to compulsory retirement until two years after the effective date. The legislative authority shall have the privilege at all times of extending time for retirement of any such member: PROVIDED, That any such extension shall not increase the retirement age of such member in excess of one year at a time.

(4) Any member included in the uniformed personnel may retire by filing with the board a written application duly attested, setting forth on what date he desires to be retired, such application to be made at least thirty days prior to date of retirement: PROVIDED, That said members, at the time specified for retirement, shall have twenty-five years of creditable service regardless of age, or shall have attained the age of fifty-five years regardless of years of creditable service: PROVIDED FURTHER, That during the two years immediately following the effective date voluntary service retirement of such members under the minimum age for social security benefits shall not be granted.

(5) After the retirement of any employee, any member city, by unanimous vote of its legislative body and with the consent of the board, may reemploy or retain such employee in its service to fill a supervisory or key position.

[1967 ex.s. c 28 § 4; 1965 ex.s. c 99 § 4; 1961 c 227 § 5; 1953 c 228 § 5; 1951 c 275 § 10; 1947 c 71 § 14; Rem.

Supp. 1947 § 9592-143.]

Notes:

Purpose--Severability--1967 ex.s. c 28: See notes following RCW 41.44.030.

RCW 41.44.150 Allowance on retirement for service.

(1) A member upon retirement for service, shall receive a retirement allowance subject to the provisions of subsection (2) of this section, which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated normal contributions at the time of his retirement; and

(b) A pension provided by the contributions of the city, equal to the annuity purchased by the accumulated normal contributions of the member;

(c) For any member having credit for prior service an additional pension, provided by the contributions of the city, as set forth in RCW 41.44.120 at the rate selected by the city employing the member;

(d) Any member, excepting a part time employee, who has ten or more years of creditable service and who is retired by reason of attaining the age of sixty-five or over if included in the miscellaneous personnel or the age of fifty-five or over if included in the uniformed personnel, and whose retirement allowance is calculated to be less than sixty dollars per month, shall receive such additional pension, provided by the contributions of the city, as will make his total retirement allowance equal to sixty dollars per month. An annuity purchased by accumulated additional contributions in such case shall be paid in addition to the minimum guaranteed as herein provided. A part time employee having ten or more years of creditable service, retired by reason of attaining the ages in this subdivision specified and whose retirement allowance is calculated to be less than forty dollars per month, shall receive such additional pension, provided by the contributions of the city, as will make the total retirement allowance equal to forty dollars per month, together with an annuity purchased by his accumulated additional contributions, if any, in addition to the minimum guaranteed.

Nothing herein contained shall be construed in a manner to increase or to decrease any pension being paid or to be paid to a member retired prior to June 11, 1953.

(e) Any member, excepting a part time employee, who has been or is retired by reason of attaining the age of sixty-five or over if included in the miscellaneous personnel or the age of fifty-five or over if included in the uniformed personnel, and whose retirement allowance is calculated to be less than sixty dollars per month, shall receive such additional pension, provided by the contributions of the city, as will make his total retirement allowance equal to six dollars per month for each year of his creditable service: PROVIDED, That the total additional retirement allowance shall be limited to an amount equal to such amount as will make his total retirement allowance not more than sixty dollars per month. An annuity purchased by accumulated additional contributions, if any, in such case shall be paid in addition to the minimum guaranteed, as herein provided.

Nothing herein contained shall be construed in a manner to increase or to decrease any pension being paid or to be paid to a member retired prior to June 11, 1953.

(f) The normal retirement age for uniformed personnel shall be age fifty-five with twenty-five years of creditable service, or shall be at an age greater than age fifty-five upon the completion of twenty-five years or more of creditable service. Upon retirement at the normal age, the retirement allowance shall be equal to fifty percent of final compensation. If retirement occurs at an age other than the normal age, the retirement allowance shall be the same proportion of fifty percent of final compensation as the member's actual years of service bears to the years of service that were or would have been served up to the normal retirement age: PROVIDED, That if retirement occurs prior to the normal age of retirement, said allowance shall be the actuarial equivalent of said allowance at the normal age of retirement.

Nothing herein contained shall be construed in a manner to increase or to decrease any pension being paid or to be paid to a member retired prior to August 6, 1965.

(2) If the retirement allowance of the member as provided in this section, is in excess of three-fourths of his final compensation, the pension of the member, purchased by the contributions of the city, shall be reduced to such an amount as shall make the member's retirement allowance equal to three-fourths of his final compensation, except as provided in subdivision (3) of this section.

(3) A member, upon retirement from service, shall receive in addition to the retirement allowance provided in this section, an additional annuity which shall be the actuarial equivalent of any accumulated additional contributions which he has to his credit at the time of his retirement.

[1965 ex.s. c 99 § 5; 1961 c 227 § 6; 1957 c 158 § 4; 1953 c 228 § 6; 1951 c 275 § 11; 1949 c 171 § 5; 1947 c 71 § 15; Rem. Supp. 1949 § 9592-144.]

RCW 41.44.160 Retirement for disability.

Any member who has at least ten years of creditable service within the fifteen years immediately preceding retirement and has not attained the age of sixty-five years, or who attains or has attained the age of sixty-five years prior to two years after the effective date, may be retired by the board for permanent and total disability, either ordinary or accidental not incurred in line of duty, and any member, regardless of his age or years of service, may be retired by the board for any permanent and total disability incurred in line of duty, upon examination as follows:

Any member while in service, or while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinuance of city service, shall be examined by such medical authority as the board shall employ, upon the application of the head of the office or department in which the member is employed with approval of the legislative body, or upon application of said member, or a person acting in his behalf, stating that said member is permanently and totally incapacitated, either physically or mentally, for the performance of duty and ought to be retired. If examination shows, to the satisfaction of the board, that the member should be retired, he shall be retired forthwith: PROVIDED, That no such application shall be considered or granted upon the application of a member unless said member or someone in his behalf, in case of the incapacity of a member, shall have filed the

application within a period of one year from and after the discontinuance of service of said member: PROVIDED, The board shall retire the said member for disability forthwith: PROVIDED, That the disability retirement allowance shall be effective on the first of the month following that in which the member last received salary or wages in city service.

The board shall secure such medical services and advice as it may deem necessary to carry out the purpose of this section and RCW 41.44.180.

[1965 ex.s. c 99 § 6; 1951 c 275 § 12; 1949 c 171 § 6; 1947 c 71 § 16; Rem. Supp. 1947 § 9592-145.]

RCW 41.44.170 Allowance on retirement for disability.

On retirement for permanent and total disability not incurred in line of duty a member shall receive a retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his accumulated normal contributions; and

(2) A pension provided by the contributions of the city which, together with his annuity provided by his accumulated normal contributions, shall make his retirement allowance equal to thirty percent of his final compensation for the first ten years of service, which allowance shall be increased by one and one-half percent for each year of service in excess of ten years to a maximum of fifty percent of his final compensation; otherwise he shall receive a retirement allowance of forty dollars per month or, except as to a part time employee, such sum, monthly, not in excess of sixty dollars per month, as is equal to six dollars per month for each year of his creditable service, whichever is greater. If the retirement allowance of a part time employee, based upon the pension hereinabove provided, does not exceed forty dollars per month, then such part time employee shall receive a retirement allowance of forty dollars per month and no more.

Nothing herein contained shall be construed in a manner to increase or to decrease any pension being paid or to be paid to a member retired prior to August 6, 1965.

(3) If it appears to the satisfaction of the board that permanent and total disability was incurred in line of duty, a member shall receive in lieu of the retirement allowance provided under subdivisions (1) and (2) of this section full pay from, and be furnished all hospital and medical care by, the city for a period of six months from the date of his disability, and commencing at the expiration of such six month period, shall receive a retirement allowance, regardless of his age or years of service, equal to fifty percent of his final compensation exclusive of any other benefit he may receive.

(4) No disability retirement allowance shall exceed seventy-five percent of final compensation, anything herein to the contrary notwithstanding, except as provided in subdivision (7) of this section.

(5) Upon the death of a member while in receipt of a disability retirement allowance, his accumulated contributions, as they were at the date of his retirement, less any annuity payments made to him, shall be paid to his estate, or to such persons having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board. In the alternative, if there be a surviving spouse, or if no surviving spouse, there are surviving a child

or children under the age of eighteen years, upon written notice to the board by such spouse, or if there be no such spouse, by the duly appointed, qualified and acting guardian of such child or children, within sixty days of the date of such member's death, there shall be paid to such spouse during his or her lifetime, or, if there be no such spouse, to such child or children, until they shall reach the age of eighteen years, a monthly pension equal to one-half of the monthly final compensation of such deceased member. If any such spouse or child or children shall marry, then such person so marrying shall thereafter receive no further pension herein provided.

(6) If disability is due to intemperance, wilful misconduct, or violation of law, on the part of the member, the board, in its discretion, may pay to said member, in one lump sum his accumulated contribution, in lieu of a retirement allowance, and such payment shall constitute full satisfaction of all obligations of the city to such member.

(7) In addition to the annuity and pension provided for in subdivisions (1) and (2) of this section, a member shall receive an annuity which shall be the actuarial equivalent of his accumulated additional contributions.

[1973 1st ex.s. c 154 § 78; 1965 ex.s. c 99 § 7; 1961 c 227 § 7; 1957 c 158 § 5; 1953 c 228 § 7; 1951 c 275 § 13; 1947 c 71 § 17; Rem. Supp. 1947 § 9592-146.]

Notes:

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

RCW 41.44.180 Examination of disability beneficiary--Reentry.

(1) The board may, at its pleasure, require any disability beneficiary under age sixty-two in the miscellaneous personnel and under age fifty-five in the uniformed personnel to undergo medical examination by medical authority designated by the board. Upon the basis of such examination the board shall determine whether such disability beneficiary is still totally and permanently incapacitated, either physically or mentally, for service in the office or department of the city where he was employed or in any other position in that city, the duties of which he might reasonably be expected to carry out.

(2) If the board shall determine that the beneficiary is not so incapacitated his retirement allowance shall be canceled and he shall be reinstated forthwith in city service. If the city is unable to find employment for a disability beneficiary found to be no longer totally and permanently disabled, the board shall continue the disability retirement allowance of the beneficiary until such time as employment is available, except as provided in paragraph (4) of this section.

(3) Should a disability beneficiary reenter city service and be eligible for membership in the retirement system, his retirement allowance shall be canceled and he shall immediately become a member of the retirement system, his rate of contribution for future years being that established for his age at the time of such reentry. His individual account shall be credited with his accumulated contributions less the annuity payments made to him. An amount equal to the accumulated normal contributions so credited to him shall again be held for the benefit of said member and shall no longer be included in the amounts available to meet the obligations of the

city on account of benefits that have been granted. Such member shall receive credit for prior service in the same manner as if he had never been retired for disability.

(4) Should any disability beneficiary under age sixty-two in the miscellaneous personnel or under age fifty-five in the uniformed personnel, refuse to submit to medical examination, his retirement allowance may be discontinued until his withdrawal of such refusal, and should refusal continue for one year, his retirement allowance may be canceled. Should said disability beneficiary, prior to attaining age sixty-two or age fifty-five, as the case may be, engage in a gainful occupation the board shall reduce the amount of his retirement allowance to an amount, which when added to the compensation earned by him in such occupation, shall not exceed the amount of the final compensation on the basis of which his retirement allowance was determined. Should the earning capacity of such beneficiary be further altered, the board may further alter his retirement allowance as indicated above. When said disability beneficiary reaches age sixty-two, if included in the miscellaneous personnel, or age fifty-five, in the uniformed personnel, his retirement allowance shall be made equal to the amount upon which he was originally retired, and shall not again be modified for any cause except as provided in RCW 41.44.250.

(5) Should the retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into city service, he shall be paid his accumulated contributions, less annuity payments made to him.

[1961 c 227 § 8; 1947 c 71 § 18; Rem. Supp. 1947 § 9592-147.]

RCW 41.44.190 Withdrawal from system--Reentry--Payment on death of member.

(1) Should service of a member of the miscellaneous personnel be discontinued except by death or retirement, he shall be paid six months after the day of discontinuance such part of his accumulated contributions as he shall demand. Six months after the date of such discontinuance, unless on leave of absence regularly granted, or unless he has exercised the option hereinafter provided, his rights to all benefits as a member shall cease, without notice, and his accumulated contributions shall be returned to him in any event or held for his account if for any reason the return of the same is prevented. Should service of a member of the uniformed personnel be discontinued except by death or retirement, he shall be paid six months after the day of discontinuance such part of his accumulated contributions as he shall demand, and six months after the date of such discontinuance, unless on leave of absence regularly granted, his rights to all benefits as a member shall cease, without notice, and his accumulated contributions shall be returned to him in any event, or held for his account if for any reason the same is prevented: PROVIDED, That the board may in its discretion, grant the privilege of withdrawal in the amounts above specified at any time following such discontinuance. Any member whose service is discontinued except by death or retirement, and who has five or more years of creditable service when such discontinuance occurs, may, at his option, leave his accumulated contributions in the fund and thereby be entitled to receive a deferred retirement allowance commencing at retirement age sixty for miscellaneous personnel and at age fifty-five for uniformed personnel, such retirement allowance to be computed in the same manner provided in

subsection (1) of RCW 41.44.150: PROVIDED, That this option may be revoked at any time prior to commencement of annuity payments by filing a written notice of such intention with the board together with a written application for a refund of such accumulated contributions. The board may establish rules and regulations to govern withdrawal and redeposit of contributions.

(2) Should a former member, within five years after discontinuance of service, return to service in the same city in which he was employed he may restore to the fund in such manner as may be agreed upon by such person and the board, his withdrawn normal accumulated contributions as they were at the time of his separation from service and upon completion of such redeposit all his rights and privileges existing at the time of discontinuance of service shall be restored and his obligations as a member shall begin again. The rate of contribution of such returning member shall be the same as it was at the time he separated from service.

(3) Upon the death of any person who has not been retired, pursuant to the provisions hereof, there shall be paid to his estate, or to such persons having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board, his accumulated contributions less any payments therefrom already made to him. Such payment may be made in one lump sum or may be paid in installments over a period of not to exceed five years, as may be designated by the member or his beneficiary, with such rate of interest as may be determined by the board.

(4) In lieu of the death benefit otherwise payable under subsection (3) of this section, there shall be paid a total allowance equal to one-fourth average final compensation per month to the surviving spouse of a member with at least twenty years service as such, at the time of death and who has not been retired and who, by reason of membership in the system, is covered by the Old Age and Survivors Insurance provisions of the Federal Social Security Act, but not at the time of death qualified to receive the benefits thereof. Said allowance shall become payable upon the death of said member or upon the date the surviving spouse becomes ineligible for any benefit payment from the Federal OASI, if later, and shall cease upon death or remarriage, or upon the date the surviving spouse would become entitled, upon application therefor; to any insurance benefit from the Federal OASI system, whichever event shall first occur: PROVIDED, That said benefit shall cease upon the beneficiary becoming employed by any member city of said system: PROVIDED FURTHER, That this allowance shall consist of:

(a) An amount which shall be the actuarial equivalent of the normal contributions at the time specified for retirement;

(b) An amount provided by the contributions of the city, equal to the annuity purchased by the accumulated normal contributions of the member;

(c) Such additional amount, provided by the contributions of the city, as will make the total allowance equal to one-fourth average final compensation per month;

(d) An annuity purchased by the accumulated additional contributions, if any, in addition to the minimum guaranteed.

(5) In lieu of the death benefit otherwise payable under subsection (3) of this section, the surviving spouse of a member who dies after having attained the minimum requirements for his service retirement as required by RCW 41.44.140 may elect to receive the allowance which would have been paid to such surviving spouse had the member been retired on the date of his

death and had he elected to receive the lesser retirement allowances provided for in option C of RCW 41.44.220.

(6) If a former member shall, within one year from date of discontinuance of service, be employed by another city participating in this retirement system he shall have the privilege of redepositing and the matching contributions deposited by the city or cities in which he was formerly employed shall again be held for the benefit of such member. If such redepositing member possessed a prior service certificate the city employing him at time of retirement shall accept the liability evidenced by such certificate.

Reinstatement of a prior service certificate shall be effective only upon a showing that normal contributions are on deposit in the retirement fund, to the credit of the member, covering all current service.

[1967 ex.s. c 28 § 5; 1965 ex.s. c 99 § 8; 1961 c 227 § 9; 1951 c 275 § 14; 1947 c 71 § 19; Rem. Supp. 1947 § 9592-148.]

Notes:

Purpose--Severability--1967 ex.s. c 28: See notes following RCW 41.44.030.

RCW 41.44.200 Withdrawal--Procedure as to city's contribution.

Whenever a member withdraws his accumulated normal contributions the matching contributions of the city so released shall be transferred to a reserve account created for the purpose of showing the amount of credits due each city through such operation. Such credits may be used by the city to apply on any charges made against the city but only so much thereof as will insure leaving in such account an amount estimated to be sufficient to again match contributions redeposited by employees returning to service as contemplated in RCW 41.44.190. The board may credit such reserve accounts with interest at such rate as the board deems equitable: PROVIDED, That as to any member city which has elected to and is making contributions in lieu of those required in RCW 41.44.090(1)(a), there shall be no release of the city's matching contributions after the date of its commencement to make such lieu contributions: PROVIDED FURTHER, That any released contributions of any such city which have been credited to its reserve account prior to the date of such commencement, shall be available to it for the purposes hereinabove specified, unless the board shall determine that their immediate use for such purposes would result in a harmful effect upon the assets of the system, in which event the board shall have the right to defer their use for a reasonable time in which to permit it to make adjustments in the current assets of the system to prevent the same.

[1953 c 228 § 8; 1947 c 71 § 20; Rem. Supp. 1947 § 9592-140.]

RCW 41.44.210 Benefit on death in line of duty.

Upon the death of any member who dies from injuries or disease arising out of or incurred in the performance of his duty or duties, of which the board of trustees shall be the judge, if death occurs within one year from date of discontinuance of city service caused by such

injury, there shall be paid to his estate or to such person or persons having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board, the sum of one thousand dollars, purchased by the contributions of the cities participating in the retirement system; and in addition thereto there shall be paid to the surviving spouse during such spouse's lifetime, or if there be no surviving spouse, then to his minor child or children until they shall have reached the age of eighteen years, a monthly pension equal to one-half the monthly final compensation of such deceased member. If any such spouse, or child or children shall marry, then such person so marrying shall thereafter receive no further pension herein provided. Cost of the lump sum benefit above provided shall be determined by actuarial calculation and prorated equitably to each city. The benefits provided in this section shall be exclusive of any other benefits due the member under this chapter.

[1973 1st ex.s. c 154 § 79; 1961 c 227 § 10; 1957 c 158 § 6; 1947 c 71 § 21; Rem. Supp. 1947 § 9592-150.]

Notes:

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

RCW 41.44.220 Optional allowance on retirement.

A member may elect to receive in lieu of the retirement allowance provided for in RCW 41.44.150, its actuarial equivalent in the form of a lesser retirement allowance, payable in accordance with the terms and conditions of one of the options set forth below in this section. Election of any option must be made by written application filed with the board at least thirty days in advance of retirement, or may be made by any member after he has attained the minimum requirements for his service retirement as required by RCW 41.44.140, and shall not be effective unless approved by the board prior to retirement of the member.

Option A. The lesser retirement allowance shall be payable to the member throughout his life: PROVIDED, That if he die before he receives in annuity payments referred to in paragraph (a) of subsection (1) of RCW 41.44.150 a total amount equal to the amount of his accumulated contributions as it was at date of his retirement, the balance of such accumulated contributions shall be paid in one sum to his estate or to such person having an insurable interest in his life as he shall nominate by written designation duly executed and filed with the board.

Option B. The lesser retirement allowance shall be payable to the member throughout life, and after death of the member, one-half of the lesser retirement allowance shall be continued throughout the life of and paid to the wife or husband of this member.

Option C. The lesser retirement allowance shall be payable to the member throughout life, and after death of the member it shall be continued throughout the life of and paid to the wife or husband of the member.

A member may apply for some other benefit or benefits and the board may grant such application provided such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent value to his retirement allowance.

The surviving spouse may elect to receive a cash refund of the member's accumulated contributions in lieu of the monthly benefit under either Option B or Option C.

[1965 ex.s. c 99 § 9; 1947 c 71 § 22; Rem. Supp. 1947 § 9592-151.]

RCW 41.44.230 Monthly payments.

A pension, annuity, or a retirement allowance granted under the provisions of this chapter, unless otherwise specified herein, shall be payable in monthly installments, and each installment shall cover for the current calendar month.

[1947 c 71 § 23; Rem. Supp. 1947 § 9592-152.]

RCW 41.44.240 Rights immune from legal process--Exceptions.

The right of a person to a pension, annuity or a retirement allowance, to the return of contribution, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter shall not be subject to execution, garnishment, or any other process whatsoever. This section shall not apply to child support collection actions taken under chapter 26.18, 26.23, or 74.20A RCW against benefits payable under any such plan or arrangement. Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

[1989 c 360 § 28; 1979 ex.s. c 205 § 7; 1947 c 71 § 24; Rem. Supp. 1947 § 9592-153.]

RCW 41.44.250 Suspension of retirement allowance.

The payment of any retirement allowance to a member who has been retired from service shall be suspended during the time that the beneficiary is in receipt of compensation for service to any city or town that is a member of the state-wide city employees' retirement system, except as to the amount by which such retirement allowance may exceed such compensation for the same period. It is the intent of this section to prevent any retired person from being able to receive both his retirement allowance and compensation for service to any city or town that is a member of the state-wide city employees' retirement system: PROVIDED, That nothing in this section shall prevent county or state welfare departments from furnishing to any retired employee under the terms of this chapter the hospital, medical, dental and other benefits granted to pensioners under the provisions of Title 74 RCW.

[1951 c 275 § 15; 1947 c 71 § 25; Rem. Supp. 1947 § 9592-154.]

RCW 41.44.260 Merger of existing or new systems into state-wide system--Contract.

The council or other legislative body of any city or town in which there has been established or may hereafter be established by ordinance or pursuant to authority granted, or

hereafter granted, by any of the laws of the state of Washington, any retirement system, pension, relief or disability system, excluding any system directly established by the legislature of the state of Washington and by its terms made compulsory, shall have the right by a legal contract in writing to merge or integrate its existing system with that of the state-wide city employees' retirement system established by chapter 71, Laws of 1947 [chapter 41.44 RCW]. Any such contract shall contain appropriate provisions granting to any member of the systems integrated or merged the right to elect to withdraw his or her accumulated contributions accrued to the effective date of the merger or integration where the contract would result in a reduction or impairment of the benefits provided for in the existing system of which he or she is a member, and no such contracts shall be effective which shall reduce or impair the benefits which employees who are receiving benefits from either of the integrated systems would have received had the integration or merger not been effected.

[1949 c 137 § 1; Rem. Supp. 1949 § 9592-133a.]

RCW 41.44.270 Agreements between board and cities which accept social security act benefits.

Should any member city of the state-wide city employees retirement system established pursuant to this chapter, hereafter take advantage of any benefits lawfully available to its employees and their survivors under the old age and survivors insurance system embodied in the social security act, or should any city which has lawfully taken advantage of such benefits desire to become a member of the state-wide city employees retirement system, such city and the board shall have the power to enter into an agreement mutually satisfactory to both parties adjusting the contributions to be made by such city and by its employees and the benefits to be paid by the state-wide city employees retirement system, in such a manner to permit the participation of such city in the system as a member with reduced benefits to its employees and reduced contributions by the city and by its employees: PROVIDED, That such adjustment shall be made upon an actuarially sound basis and that as to all matters, other than those changed by such agreement, the provisions of the state-wide city employees retirement system law shall apply: PROVIDED FURTHER, That unless such an agreement is entered into by mutual consent of such city and the board, all of the provisions of the state-wide city employees retirement system law shall be applicable.

[1953 c 228 § 9.]

RCW 41.44.300 System abolished--Date--Transfer of assets, liabilities and responsibilities.

Notwithstanding any provisions of chapter 41.44 RCW to the contrary, the state-wide employees' retirement system shall no longer exist after January 1, 1972, at which time all assets, liabilities, and responsibilities of the state-wide city employees' retirement system shall be transferred to and assumed by the Washington public employees' retirement system as provided for in *RCW 41.40.405 through 41.40.407.

[1971 c 75 § 4.]

Notes:

***Reviser's note:** RCW 41.40.405 through 41.40.407 were decodified pursuant to 1991 c 35 § 4.

Chapter 41.45 RCW
ACTUARIAL FUNDING OF STATE RETIREMENT SYSTEMS

Sections

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41.45.030	State actuary to submit information on the experience and financial condition of each retirement system--Adoption of long-term economic assumptions.
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41.45.053	Contribution rates--Collected through June 30, 2003.
41.45.060	Basic state and employer contribution rates set by council (<i>as amended by 2001 c 329</i>).
41.45.060	Basic state and employer contribution rates adopted by council (<i>as amended by 2001 2nd sp.s. c 11</i>).
41.45.061	Teachers' retirement system plan 2, school employees' retirement system plan 2--Contribution rates.
41.45.063	Contribution rate.
41.45.067	Failure of state or employer to make required contribution--Resulting increase in contribution rate borne in full by state or employer--Members' contribution deducted each payroll period.
41.45.070	Supplemental rate.
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41.45.090	Collection of actuarial data.
41.45.100	Pension funding council--Created.
41.45.110	Pension funding council--Audits required.
41.45.120	Pension funding work group.
41.45.130	Public employees' retirement system plan 2 assets divided--Assets transferred to school employees' retirement system.
41.45.900	Severability--1989 c 273.
41.45.902	Severability--2001 2nd sp.s. c 11.

RCW 41.45.010 Intent--Findings--Goals. (Effective until March 1, 2002.)

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and fire fighters' retirement systems, chapters 41.26 and *41.26A RCW; the school employees' retirement system, chapter 41.35 RCW; and the Washington state patrol retirement system, chapter 43.43 RCW.

The legislature finds that the funding status of the state retirement systems has improved dramatically since 1989. Because of the big reduction in unfunded pension liabilities, it is now prudent to adjust the long-term economic assumptions that are used in the actuarial studies conducted by the state actuary. The legislature finds that it is reasonable to increase the salary

growth assumption in light of Initiative Measure No. 732, to increase the investment return assumption in light of the asset allocation policies and historical returns of the state investment board, and to reestablish June 30, 2024, as the target date to achieve full funding of all liabilities in the public employees' retirement system plan 1 and the teachers' retirement system plan 1.

The funding process established by this chapter is intended to achieve the following goals:

- (1) To continue to fully fund the public employees' retirement system plan 2, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, and the law enforcement officers' and fire fighters' retirement system plan 2 as provided by law;
- (2) To fully amortize the total costs of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 not later than June 30, 2024;
- (3) To ensure the actuarial funding of the ~~restated~~ law enforcement officers' and fire fighters' retirement system defined benefit plan, and provide for additional state funding if unfunded liabilities accrue in the future;
- (4) To establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets; and
- (5) To fund, to the extent feasible, benefit increases for plan 1 members and all benefits for plan 2 and 3 members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

[2001 2nd sp.s. c 11 § 1; 1998 c 341 § 401; 1995 c 239 § 305; 1989 c 273 § 1.]

NOTES:

Reviser's note: *(1) As of July 15, 2001, a bill creating chapter 41.26A RCW was not enacted.

**~~(2) As of July 15, 2001, a bill creating the restated law enforcement officers' and fire fighters' retirement system defined benefit plan was not enacted.~~

Expiration date--2001 2nd sp.s. c 11 §§ 1 and 7: "Sections 1, 7, and *18 of this act expire March 1, 2002." [2001 2nd sp.s. c 11 § 20.]

***Reviser's note:** Section 18 of this act was vetoed.

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.030.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.45.010 Intent--Findings--Goals. (Effective March 1, 2002.)

It is the intent of the legislature to provide a dependable and systematic process for funding the benefits provided to members and retirees of the public employees' retirement system, chapter 41.40 RCW; the teachers' retirement system, chapter 41.32 RCW; the law enforcement officers' and fire fighters' retirement systems, chapters 41.26 and *41.26A RCW; the school employees' retirement system, chapter 41.35 RCW; and the Washington state patrol retirement system, chapter 43.43 RCW.

The legislature finds that the funding status of the state retirement systems has improved dramatically since 1989. Because of the big reduction in unfunded pension liabilities, it is now

prudent to adjust the long-term economic assumptions that are used in the actuarial studies conducted by the state actuary. The legislature finds that it is reasonable to increase the salary growth assumption in light of Initiative Measure No. 732, to increase the investment return assumption in light of the asset allocation policies and historical returns of the state investment board, and to reestablish June 30, 2024, as the target date to achieve full funding of all liabilities in the public employees' retirement system plan 1 and the teachers' retirement system plan 1.

The funding process established by this chapter is intended to achieve the following goals:

(1) To continue to fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, and the law enforcement officers' and fire fighters' retirement system plan 2 as provided by law;

(2) To fully amortize the total costs of the public employees' retirement system plan 1 and the teachers' retirement system plan 1, not later than June 30, 2024;

(3) To ensure the actuarial funding of the ****restated law enforcement officers' and fire fighters' retirement system defined benefit plan**, and provide for additional state funding if unfunded liabilities accrue in the future;

(4) To establish predictable long-term employer contribution rates which will remain a relatively constant proportion of the future state budgets; and

(5) To fund, to the extent feasible, benefit increases for plan 1 members and all benefits for plan 2 and 3 members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service.

[2001 2nd sp.s. c 11 § 2; 2000 c 247 § 501; 1998 c 341 § 401; 1995 c 239 § 305; 1989 c 273 § 1.]

NOTES:

Reviser's note: *(1) As of July 15, 2001, a bill creating chapter 41.26A RCW was not enacted.

******(2) As of July 15, 2001, a bill creating the restated law enforcement officers' and fire fighters' retirement system defined benefit plan was not enacted.

Effective date--2001 2nd sp.s. c 11: "Sections 2, 3, 4, 8, 13, 14, and 16 of this act take effect March 1, 2002." [2001 2nd sp.s. c 11 § 21.]

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.45.020 Definitions. (Effective until March 1, 2002.)

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the pension funding council created in RCW 41.45.100.

(2) "Department" means the department of retirement systems.

(3) "Law enforcement officers' and fire fighters' retirement system plan 1" and "law enforcement officers' and fire fighters' retirement system plan 2" mean the benefits and funding provisions under chapter 41.26 RCW.

(4) "Public employees' retirement system plan 1" and "public employees' retirement system plan 2" mean the benefits and funding provisions under chapter 41.40 RCW.

(5) "Teachers' retirement system plan 1," "teachers' retirement system plan 2," and "teachers' retirement system plan 3" mean the benefits and funding provisions under chapter 41.32 RCW.

(6) "School employees' retirement system plan 2" and "school employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.35 RCW.

(7) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

(8) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

(9) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

(10) "State retirement systems" means the retirement systems listed in RCW 41.50.030.

(11) "Work group" means the pension funding work group created in RCW 41.45.120.

(12) "Classified employee" means a member of the Washington school employees' retirement system plan 2 or plan 3 as defined in RCW 41.35.010.

(13) "Teacher" means a member of the teachers' retirement system as defined in RCW 41.32.010(15).

[1998 c 341 § 402; 1998 c 283 § 1; 1995 c 239 § 306; 1989 c 273 § 2.]

NOTES:

Reviser's note: This section was amended by 1998 c 283 § 1 and by 1998 c 341 § 402, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.45.020 Definitions. (Effective March 1, 2002.)

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the pension funding council created in RCW 41.45.100.

(2) "Department" means the department of retirement systems.

(3) "Law enforcement officers' and fire fighters' retirement system plan 2" means the benefits and funding provisions under chapter 41.26 RCW.

(4) "**Restated law enforcement officers' and fire fighters' retirement system defined benefit plan" means the benefits and funding provisions under **chapter 41.26A RCW.

(5) "Public employees' retirement system plan 1," "public employees' retirement system plan 2," and "public employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.40 RCW.

(6) "Teachers' retirement system plan 1," "teachers' retirement system plan 2," and "teachers' retirement system plan 3" mean the benefits and funding provisions under chapter 41.32 RCW.

(7) "School employees' retirement system plan 2" and "school employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.35 RCW.

(8) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

(9) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

(10) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

(11) "State retirement systems" means the retirement systems listed in RCW 41.50.030.

(12) "Classified employee" means a member of the Washington school employees' retirement system plan 2 or plan 3 as defined in RCW 41.35.010.

(13) "Teacher" means a member of the teachers' retirement system as defined in RCW 41.32.010(15).

[2001 2nd sp.s. c 11 § 4; 2001 2nd sp.s. c 11 § 3; 2000 c 247 § 502; 1998 c 341 § 402; 1998 c 283 § 1; 1995 c 239 § 306; 1989 c 273 § 2.]

NOTES:

Reviser's note: *(1) As of July 15, 2001, a bill creating the restated law enforcement officers' and fire fighters' retirement system defined benefit plan was not enacted.

** (2) As of July 15, 2001, a bill creating chapter 41.26A RCW was not enacted.

(3) This section was amended by 2001 2nd sp.s. c 11 § 3 and by 2001 2nd sp.s. c 11 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.010.

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.45.030 State actuary to submit information on the experience and financial condition of each retirement system--Adoption of long-term economic assumptions.

(1) Beginning April 1, 2004, and every four years thereafter, the state actuary shall submit to the council information regarding the experience and financial condition of each state retirement system. The council shall review this and such other information as it may require.

(2) By May 31, 2004, and every four years thereafter, the council, by affirmative vote of four councilmembers, may adopt changes to the long-term economic assumptions established in RCW 41.45.035. Any changes adopted by the council shall be subject to revision by the legislature.

The council shall consult with the economic and revenue forecast supervisor and the

executive director of the state investment board, and shall consider long-term historical averages, in reviewing possible changes to the economic assumptions.

(3) The assumptions and the asset value smoothing technique established in RCW 41.45.035, as modified in the future by the council or legislature, shall be used by the state actuary in conducting all actuarial studies of the state retirement systems, including actuarial fiscal notes under RCW 44.44.040. The assumptions shall also be used for the administration of benefits under the retirement plans listed in RCW 41.45.020, pursuant to timelines and conditions established by department rules.

[2001 2nd sp.s. c 11 § 5; 1995 c 233 § 1; 1993 c 519 § 17; 1989 c 273 § 3.]

NOTES:

Effective date--2001 2nd sp.s. c 11: "Except under section 21 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 2nd sp.s. c 11 § 22.]

Effective date--1995 c 233: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 5, 1995]." [1995 c 233 § 4.]

Part headings not law--Effective date--1993 c 519: See notes following RCW 28A.400.212.

RCW 41.45.035 Long-term economic assumptions--Asset value smoothing technique.

(1) Beginning July 1, 2001, the following long-term economic assumptions shall be used by the state actuary for the purposes of RCW 41.45.030:

- (a) The growth in inflation assumption shall be 3.5 percent;
- (b) The growth in salaries assumption, exclusive of merit or longevity increases, shall be 4.5 percent;
- (c) The investment rate of return assumption shall be 8 percent; and
- (d) The growth in system membership assumption shall be 1.25 percent for the public employees' retirement system, the school employees' retirement system, and the law enforcement officers' and fire fighters' retirement system. The assumption shall be .90 percent for the teachers' retirement system.

(2) Beginning with actuarial studies done after July 1, 2001, changes to plan asset values that vary from the long-term investment rate of return assumption shall be recognized over a four-year period. Beginning April 1, 2004, the council, by affirmative vote of four councilmembers, may adopt changes to this asset value smoothing technique. Any changes adopted by the council shall be subject to revision by the legislature.

[2001 2nd sp.s. c 11 § 6.]

NOTES:

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.030.

RCW 41.45.050 Contributions to be based on rates established in this chapter--Allocation formula for contributions. (Effective until March 1, 2002.)

(1) Employers of members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, and the Washington state patrol

retirement system shall make contributions to those systems based on the rates established in RCW 41.45.060, 41.45.053, and 41.45.070.

(2) The state shall make contributions to the law enforcement officers' and fire fighters' retirement system plan 2 based on the rates established in RCW 41.45.060, 41.45.053, and 41.45.070. The state treasurer shall transfer the required contributions each month on the basis of salary data provided by the department.

(3) The state shall ensure the systematic actuarial funding of the *restated law enforcement officers' and fire fighters' retirement system defined benefit plan in the manner provided by **chapter 41.26A RCW.

(4) The department shall bill employers, and the state shall make contributions to the law enforcement officers' and fire fighters' retirement system plan 2, using the combined rates established in RCW 41.45.060, 41.45.053, and 41.45.070 regardless of the level of appropriation provided in the biennial budget. Any member of an affected retirement system may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

(5) The contributions received for the public employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and public employees' retirement system plan 2 fund as follows: The contributions necessary to fully fund the public employees' retirement system plan 2 employer contribution required by RCW 41.40.650 shall first be deposited in the public employees' retirement system plan 2 fund. All remaining public employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(6) The contributions received for the teachers' retirement system shall be allocated between the plan 1 fund and the combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining teachers' retirement system employer contributions shall be deposited in the plan 1 fund.

(7) The contributions received for the school employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the school employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining school employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(8) The contributions received for the law enforcement officers' and fire fighters' retirement system plan 2 shall be deposited in the law enforcement officers' and fire fighters' retirement system plan 2 fund.

[2001 2nd sp.s. c 11 § 7; 1998 c 341 § 403; 1995 c 239 § 308; 1989 c 273 § 5.]

NOTES:

Reviser's note: *(1) As of July 15, 2001, a bill creating the restated law enforcement officers' and fire fighters' retirement system defined benefit plan was not enacted.

** (2) As of July 15, 2001, a bill creating chapter 41.26A RCW was not enacted.

Expiration date--2001 2nd sp.s. c 11 §§ 1 and 7: See note following RCW 41.45.010.

Effective date--2001 2nd sp. s. c 11: See note following RCW 41.45.030.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.45.050 Contributions to be based on rates established in this chapter--Allocation formula for contributions. (Effective March 1, 2002.)

(1) Employers of members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, and the Washington state patrol retirement system shall make contributions to those systems based on the rates established in RCW 41.45.060, 41.45.053, and 41.45.070.

(2) The state shall make contributions to the law enforcement officers' and fire fighters' retirement system plan 2 based on the rates established in RCW 41.45.060, 41.45.053, and 41.45.070. The state treasurer shall transfer the required contributions each month on the basis of salary data provided by the department.

(3) The state shall ensure the systematic actuarial funding of the *restated law enforcement officers' and fire fighters' retirement system defined benefit plan in the manner provided by **chapter 41.26A RCW.

(4) The department shall bill employers, and the state shall make contributions to the law enforcement officers' and fire fighters' retirement system plan 2, using the combined rates established in RCW 41.45.060, 41.45.053, and 41.45.070 regardless of the level of appropriation provided in the biennial budget. Any member of an affected retirement system may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed in this section.

(5) The contributions received for the public employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the public employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the public employees' retirement system combined plan 2 and plan 3 employer contribution shall first be deposited in the public employees' retirement system combined plan 2 and plan 3 fund. All remaining public employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(6) The contributions received for the teachers' retirement system shall be allocated between the plan 1 fund and the combined plan 2 and plan 3 fund as follows: The contributions necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining teachers' retirement system employer contributions shall be deposited in the plan 1 fund.

(7) The contributions received for the school employees' retirement system shall be allocated between the public employees' retirement system plan 1 fund and the school employees' retirement system combined plan 2 and plan 3 fund as follows: The contributions

necessary to fully fund the combined plan 2 and plan 3 employer contribution shall first be deposited in the combined plan 2 and plan 3 fund. All remaining school employees' retirement system employer contributions shall be deposited in the public employees' retirement system plan 1 fund.

(8) The contributions received for the law enforcement officers' and fire fighters' retirement system plan 2 shall be deposited in the law enforcement officers' and fire fighters' retirement system plan 2 fund.

[2001 2nd sp.s. c 11 § 8; 2000 c 247 § 503; 1998 c 341 § 403; 1995 c 239 § 308; 1989 c 273 § 5.]

NOTES:

Reviser's note: *(1) As of July 15, 2001, a bill creating the restated law enforcement officers' and fire fighters' retirement system defined benefit plan was not enacted.

***(2) As of July 15, 2001, a bill creating chapter 41.26A RCW was not enacted.

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.010.

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.45.053 Contribution rates--Collected through June 30, 2003.

(1) The basic employer and state contribution rates, and plan 2 member contribution rates, are changed to reflect the 1999 combined actuarial valuation studies conducted by the office of the state actuary, adjusted solely for the changes in the long-term economic assumptions contained in RCW 41.45.035, and for the reestablishment of the June 30, 2024, target date for funding all plan 1 liabilities.

Beginning July 1, 2001, the following employer contribution rates shall be charged:

(a) 1.54 percent for the public employees' retirement system; and

(b) 2.70 percent for the law enforcement officers' and fire fighters' retirement system plan

2.

(2) Beginning July 1, 2001, the basic state contribution rate for the law enforcement officers' and fire fighters' retirement system plan 2 shall be 1.80 percent.

(3) Beginning September 1, 2001, the following employer contribution rates shall be charged:

(a) 1.54 percent for the school employees' retirement system; and

(b) 2.75 percent for the teachers' retirement system.

(4) Beginning July 1, 2001, the following member contribution rates shall be charged:

(a) 0.88 percent for the public employees' retirement system plan 2; and

(b) 4.50 percent for the law enforcement officers' and fire fighters' retirement system plan

2.

(5) Beginning September 1, 2001, the following member contribution rates shall be charged:

(a) 0.88 percent for the school employees' retirement system plan 2; and

- (b) 1.23 percent for the teachers' retirement system plan 2.
- (6) The contribution rates in this section shall be collected through June 30, 2003.

[2001 2nd sp.s. c 11 § 9.]

NOTES:

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.030.

RCW 41.45.060 Basic state and employer contribution rates set by council (*as amended by 2001 c 329*).

(1) The state actuary shall provide actuarial valuation results based on the assumptions adopted under RCW 41.45.030.

(2) Not later than September 30, 1998, and every two years thereafter, consistent with the assumptions adopted under RCW 41.45.030, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system to be used in the ensuing biennial period; and

(c) A basic employer contribution rate for the school employees' retirement system for funding the public employees' retirement system plan 1.

For the 1999-2001 fiscal biennium, the rates adopted by the council shall be effective for the period designated in section 902, chapter 1, Laws of 2000 2nd sp. sess. and *RCW 41.45.0602.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1 (~~(, and the unfunded liability of the Washington state patrol retirement system)~~) not later than June 30, 2024, except as provided in subsection (5) of this section;

(b) To also continue to fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, and the law enforcement officers' and fire fighters' retirement system plan 2 in accordance with RCW 41.45.061, 41.45.067, and this section; and

(c) For the law enforcement officers' and fire fighters' system plan 2 the rate charged to employers, except as provided in RCW 41.26.450, shall be thirty percent of the cost of the retirement system and the rate charged to the state shall be twenty percent of the cost of the retirement system.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 employer contribution rate and a Washington state patrol retirement system contribution rate.

(5) An amount equal to the amount of extraordinary investment gains as defined in RCW 41.31.020 shall be used to shorten the amortization period for the public employees' retirement system plan 1 and the teachers' retirement system plan 1.

(6) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted.

(7) The director of the department of retirement systems shall collect those rates adopted by the council.

[2001 c 329 § 10; 2000 2nd sp.s. c 1 § 905; 2000 c 247 § 504. Prior: 1998 c 341 § 404; 1998 c 340 § 11; 1998 c 283 § 6; 1995 c 239 § 309; 1993 c 519 § 19; 1992 c 239 § 2; 1990 c 18 § 1; 1989 c 273 § 6.]

NOTES:

Reviser's note: *(1) RCW 41.45.0602 was decodified pursuant to 2001 2nd sp.s. c 11 § 11.

(2) This section was enacted by 2000 c 247 § 504, effective March 1, 2002; and subsequently amended by 2000 2nd sp.s. c 1 § 905, effective May 2, 2000.

Effective date--2001 c 329: See note following RCW 43.43.120.

RCW 41.45.060 Basic state and employer contribution rates adopted by council (as amended by 2001 2nd sp.s. c 11).

(1) The state actuary shall provide actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted by the council under RCW 41.45.030 or 41.45.035.

(2) Not later than September 30, (~~(1998)~~) 2002, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system plan 2;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system (~~(to be used in the ensuing biennial period)~~); and

(c) A basic employer contribution rate for the school employees' retirement system for funding both that system and the public employees' retirement system plan 1.

~~((For the 1999 2001 fiscal biennium, the rates adopted by the council shall be effective for the period designated in section 902, chapter 1, Laws of 2000 2nd sp. sess. and RCW 41.45.0602.))~~ The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, (~~(the law enforcement officers' and fire fighters' retirement system plan 1,)~~) and the unfunded liability of the Washington state patrol retirement system not later than June 30, 2024(~~(, except as provided in subsection (5) of this section)~~);

(b) To also continue to fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the school employees' retirement system plans 2 and 3, and the law enforcement officers' and fire fighters' retirement system plan 2 in accordance

with RCW 41.45.061, 41.45.067, and this section; and

(c) For the law enforcement officers' and fire fighters' system plan 2 the rate charged to employers, except as provided in RCW 41.26.450, shall be thirty percent of the cost of the retirement system and the rate charged to the state shall be twenty percent of the cost of the retirement system.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 employer contribution rate.

~~(5) ((An amount equal to the amount of extraordinary investment gains as defined in RCW 41.31.020 shall be used to shorten the amortization period for the public employees' retirement system plan 1 and the teachers' retirement system plan 1.~~

~~(6))~~ (6) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

~~((7))~~ (6) The director of the department of retirement systems shall collect the rates established in RCW 41.45.053 through June 30, 2003. Thereafter, the director shall collect those rates adopted by the council. The rates established in RCW 41.45.053, or by the council, shall be subject to revision by the council.

[2001 2nd sp.s. c 11 § 10. Prior: 2000 2nd sp.s. c 1 § 905; 2000 c 247 § 504; prior: 1998 c 341 § 404; 1998 c 340 § 11; 1998 c 283 § 6; 1995 c 239 § 309; 1993 c 519 § 19; 1992 c 239 § 2; 1990 c 18 § 1; 1989 c 273 § 6.]

NOTES:

Reviser's note: (1) This section was enacted by 2000 c 247 § 504, effective March 1, 2002; and subsequently amended by 2000 2nd sp.s. c 1 § 905, effective May 2, 2000.

(2) RCW 41.45.060 was amended twice during the 2001 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.030.

Severability--Effective date--2000 2nd sp.s. c 1: See notes following RCW 41.05.143.

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See note following RCW 41.34.060.

Effective date--1998 c 340: See note following RCW 41.31.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Part headings not law--Effective date--1993 c 519: See notes following RCW 28A.400.212.

Effective date--1992 c 239: "This act shall take effect September 1, 1992." [1992 c 239 § 6.]

Effective date--1990 c 18: "This act shall take effect September 1, 1991." [1990 c 18 § 3.]

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.45.061 Teachers' retirement system plan 2, school employees' retirement system plan 2--Contribution rates. (Effective until March 1, 2002.)

(1) The required contribution rate for members of the plan 2 teachers' retirement system shall be fixed at the rates in effect on July 1, 1996, subject to the following:

(a) Beginning September 1, 1997, except as provided in (b) of this subsection, the

employee contribution rate shall not exceed the employer plan 2 and 3 rates adopted under RCW 41.45.060, 41.45.053, and 41.45.070 for the teachers' retirement system;

(b) In addition, the employee contribution rate for plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after July 1, 1996;

(c) In addition, the employee contribution rate for plan 2 shall not be increased as a result of any distributions pursuant to section 309, chapter 341, Laws of 1998 and RCW 41.31A.020.

(2) The required contribution rate for members of the school employees' retirement system plan 2 shall equal the school employees' retirement system employer plan 2 and 3 contribution rate adopted under RCW 41.45.060, 41.45.053, and 41.45.070, except as provided in subsection (3) of this section.

(3) The employee contribution rate for plan 2 shall not be increased as a result of any distributions pursuant to RCW 41.31A.020 and 41.31A.030.

(4) The required plan 2 and 3 contribution rates for employers shall be adopted in the manner described in RCW 41.45.060, 41.45.053, and 41.45.070.

[2001 2nd sp.s. c 11 § 12; 2000 c 230 § 2; 1998 c 341 § 405; 1997 c 10 § 2; 1995 c 239 § 311.]

NOTES:

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.030.

Effective date--2000 c 230: See note following RCW 41.35.630.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.45.061 **Required contribution rates for plan 2 members. (*Effective March 1, 2002.*)**

(1) The required contribution rate for members of the plan 2 teachers' retirement system shall be fixed at the rates in effect on July 1, 1996, subject to the following:

(a) Beginning September 1, 1997, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan 2 and 3 rates adopted under RCW 41.45.060, 41.45.053, and 41.45.070 for the teachers' retirement system;

(b) In addition, the employee contribution rate for plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after July 1, 1996;

(c) In addition, the employee contribution rate for plan 2 shall not be increased as a result of any distributions pursuant to section 309, chapter 341, Laws of 1998 and RCW 41.31A.020.

(2) The required contribution rate for members of the school employees' retirement system plan 2 shall equal the school employees' retirement system employer plan 2 and 3 contribution rate adopted under RCW 41.45.060, 41.45.053, and 41.45.070, except as provided in subsection (3) of this section.

(3) The member contribution rate for the school employees' retirement system plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit

increase passed after September 1, 2000.

(4) The required contribution rate for members of the public employees' retirement system plan 2 shall be set at the same rate as the employer combined plan 2 and plan 3 rate.

(5) The required contribution rate for members of the law enforcement officers' and fire fighters' retirement system plan 2 shall be set at fifty percent of the cost of the retirement system.

(6) The employee contribution rates for plan 2 under subsections (3) and (4) of this section shall not include any increase as a result of any distributions pursuant to RCW 41.31A.020 and 41.31A.030.

(7) The required plan 2 and 3 contribution rates for employers shall be adopted in the manner described in RCW 41.45.060, 41.45.053, and 41.45.070.

[2001 2nd sp.s. c 11 § 13; 2001 2nd sp.s. c 11 § 12; 2001 c 180 § 1. Prior: 2000 c 247 § 506; 2000 c 230 § 2; 1998 c 341 § 405; 1997 c 10 § 2; 1995 c 239 § 311.]

NOTES:

Reviser's note: This section was amended by 2001 c 180 § 1, 2001 2nd sp.s. c 11 § 12, and by 2001 2nd sp.s. c 11 § 13, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.030.

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.010.

Effective date--2001 c 180 §§ 1 and 2: "Sections 1 and 2 of this act take effect March 1, 2002." [2001 c 180 § 6.]

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--2000 c 230: See note following RCW 41.35.630.

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

RCW 41.45.0631 Contribution rate.

Beginning July 1, 2001, the required contribution rate for members of the Washington state patrol retirement system shall be two percent or equal to the employer rate adopted under RCW 41.45.060 and 41.45.070 for the Washington state patrol retirement system, whichever is greater.

[2001 c 329 § 11.]

NOTES:

Effective date--2001 c 329: See note following RCW 43.43.120.

RCW 41.45.067 Failure of state or employer to make required contribution--Resulting increase in contribution rate borne in full by state or employer--Members' contribution deducted each payroll period. (Effective March 1, 2002.)

(1) Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section shall be borne in full by the state or by that employer not making the contribution.

(2) The director shall notify all employers of any pending adjustment in the required

contribution rate and such pending adjustment in the required contribution rate and any increase shall be announced at least thirty days prior to the effective date of the change.

(3) Members' contributions required by RCW 41.45.060 and 41.45.061 shall be deducted from the members' compensation each payroll period. The members' contribution and the employers' contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

(4) The state's contribution required for the law enforcement officers' and fire fighters' retirement system plan 2 shall be transferred to the appropriate fund from the total contributions transferred by the state treasurer under RCW 41.45.050.

[2001 2nd sp.s. c 11 § 14; 2000 c 247 § 507.]

NOTES:

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.010.

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

RCW 41.45.070 Supplemental rate. (*Effective until March 1, 2002.*)

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or 41.45.053, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsection (6) and (7) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic state contribution rate established in RCW 41.45.060 or 41.45.053 for the law enforcement officers' and fire fighters' retirement system plan 2, the department shall also establish a supplemental rate to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system plan 2. Except as provided in subsection (6) of this section, this supplemental rate shall be calculated by the state actuary and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan 2, the teachers' retirement system plan 2 and plan 3, the school employees' retirement system plan 2 and plan 3, or the law enforcement officers' and fire fighters' retirement system plan 2, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated

under RCW 41.40.650 or 41.26.450, respectively.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 340, Laws of 1998.

(7) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.31A RCW; section 309, chapter 341, Laws of 1998; or section 701, chapter 341, Laws of 1998.

[2001 2nd sp.s. c 11 § 15. Prior: 1998 c 341 § 406; 1998 c 340 § 10; 1995 c 239 § 310; 1990 c 18 § 2; 1989 1st ex.s. c 1 § 1; 1989 c 273 § 7.]

NOTES:

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.030.

Effective date--1998 c 341: See RCW 41.35.901.

Effective date--1998 c 340: See note following RCW 41.31.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Effective date--1990 c 18: See note following RCW 41.45.060.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.45.070 Supplemental rate. (Effective March 1, 2002.)

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or 41.45.053, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsections (6) and (7) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic state contribution rate established in RCW 41.45.060 or 41.45.053 for the law enforcement officers' and fire fighters' retirement system plan 2, the department shall also establish a supplemental rate to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system plan 2. Except as provided in subsection (6) of this section, this supplemental rate shall be calculated by the state actuary and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan 2 and plan 3, the teachers' retirement system plan 2 and plan 3, the school employees' retirement system plan 2 and plan 3, or the law enforcement officers' and fire fighters' retirement system plan 2, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

(6) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 340, Laws of 1998.

(7) A supplemental rate shall not be charged to pay for the cost of additional benefits granted to members pursuant to chapter 41.31A RCW; section 309, chapter 341, Laws of 1998; or section 701, chapter 341, Laws of 1998.

[2001 2nd sp.s. c 11 § 16; 2001 2nd sp.s. c 11 § 15; 2000 c 247 § 505; 1998 c 340 § 10; 1995 c 239 § 310; 1990 c 18 § 2; 1989 1st ex.s. c 1 § 1; 1989 c 273 § 7.]

NOTES:

Reviser's note: This section was amended by 2001 2nd sp.s. c 11 § 15 and by 2001 2nd sp.s. c 11 § 16, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.010.

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.030.

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Effective date--1998 c 340: See note following RCW 41.31.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Effective date--1990 c 18: See note following RCW 41.45.060.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.45.080 Additional contributions may be required.

In addition to the basic and supplemental employer contributions required by RCW 41.45.060, 41.45.053, and 41.45.070, the department may also require additional employer

contributions as provided by law.

[2001 2nd sp.s. c 11 § 17; 1989 c 273 § 8.]

NOTES:

Effective date--2001 2nd sp.s. c 11: See note following RCW 41.45.030.

RCW 41.45.090 Collection of actuarial data.

The department shall collect and keep in convenient form such data as shall be necessary for an actuarial valuation of the assets and liabilities of the state retirement systems, and for making an actuarial investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of those systems. The department and state actuary shall enter into a memorandum of understanding regarding the specific data the department will collect, when it will be collected, and how it will be maintained. The department shall notify the state actuary of any changes it makes, or intends to make, in the collection and maintenance of such data.

At least once in each six-year period, the state actuary shall conduct an actuarial experience study of the mortality, service, compensation and other experience of the members and beneficiaries of each state retirement system, and into the financial condition of each system. The results of each investigation shall be filed with the department, the office of financial management, the budget writing committees of the Washington house of representatives and senate, and the pension funding council. Upon the basis of such actuarial investigation the department shall adopt such tables, schedules, factors, and regulations as are deemed necessary in the light of the findings of the actuary for the proper operation of the state retirement systems.

[1998 c 283 § 7; 1989 c 273 § 9.]

RCW 41.45.100 Pension funding council--Created.

- (1) The pension funding council is hereby created. The council consists of the:
 - (a) Director of the department of retirement systems;
 - (b) Director of the office of financial management;
 - (c) Chair and ranking minority member of the house of representatives appropriations committee; and
 - (d) Chair and ranking minority member of the senate ways and means committee.

The council may select officers as the members deem necessary.

- (2) The pension funding council shall adopt changes to economic assumptions and contribution rates by an affirmative vote of at least four members.

[1998 c 283 § 2.]

RCW 41.45.110 Pension funding council--Audits required.

The pension funding council shall solicit and administer a biennial actuarial audit of the actuarial valuations used for rate-setting purposes. This audit will be conducted concurrent with

the actuarial valuation performed by the state actuary. At least once in each six-year period, the pension funding council shall solicit and administer an actuarial audit of the results of the experience study required in RCW 41.45.090.

[1998 c 283 § 3.]

RCW 41.45.120 Pension funding work group.

(1) A pension funding work group is hereby created. The work group shall consist of one staff member selected by the executive head or chairperson of each of the following agencies or committees:

- (a) Department of retirement systems;
- (b) Office of financial management;
- (c) State investment board;
- (d) Ways and means committee of the senate;
- (e) Appropriations committee of the house of representatives; and
- (f) Economic and revenue forecast council.

(2) The state actuary shall make available to the work group information related to economic assumptions and contribution rates.

(3) The pension funding work group shall provide support to the pension funding council. Meetings of the pension funding work group may be called by any member of the group for the purpose of assisting the pension funding council, reviewing actuarial valuations of the state retirement systems, reviewing economic assumptions, or for any other purpose which may assist the pension funding council.

(4) Recommendations from both affected employee and employer groups will be actively sought during the work group process. The work group shall conduct an open public meeting on these recommendations.

[1998 c 283 § 4.]

RCW 41.45.130 Public employees' retirement system plan 2 assets divided--Assets transferred to school employees' retirement system.

Upon the advice of the state actuary, the state treasurer shall divide the assets in the public employees' retirement system plan 2 as of September 1, 2000, in such a manner that sufficient assets remain in plan 2 to maintain the employee contribution rate calculated in the latest actuarial valuation of the public employees' retirement system plan 2. The state actuary shall take into account changes in assets that occur between the latest actuarial valuation and the date of transfer. The balance of the assets shall be transferred to the Washington school employees' retirement system plan 2 and 3.

[1998 c 341 § 407.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

RCW 41.45.900 Severability--1989 c 273.

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

[1989 c 273 § 32.]

RCW 41.45.902 Severability--2001 2nd sp.s. c 11.

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

[2001 2nd sp.s. c 11 § 19.]

**Chapter 41.47 RCW
ACCEPTANCE OF OLD AGE AND SURVIVORS' INSURANCE--1941 ACT**

Sections

41.47.010	Benefits of federal act accepted.
41.47.020	Wage deductions.
41.47.030	Operation of statute limited.
41.47.040	Severability as to coverage.
41.47.050	Contingent effective date.

Notes:

Designation of agency to carry out federal social security disability program: RCW 43.17.120, 43.17.130.

RCW 41.47.010 Benefits of federal act accepted.

The state of Washington in behalf of all its eligible officials and employees and the eligible officials and employees of all its counties, cities and towns, and of any and all other of its municipal corporations and political subdivisions which levy taxes and employ and pay salaries and wages to officials and employees including public utility districts, hereby accepts the benefits of the old age and survivors' insurance benefit provisions of the federal social security act, whenever the provisions of such act are extended to embrace such officials and employees.

[1941 c 205 § 1; Rem. Supp. 1941 § 9998-57. Formerly RCW 74.40.010.]

RCW 41.47.020 Wage deductions.

Any and all officials and boards having charge of the preparation of payrolls and payment of salaries and wages to such eligible officials and employees are hereby authorized and

directed to make payroll and salary and wage deductions and to handle and dispose of the same as required by such federal act; and any official or board being authorized to disburse funds respectively for the office, department or division of the state, county, city or town, or other municipal corporation or political subdivision in which any such eligible official or employee is employed is authorized to pay and disburse out of any funds available for the operation and maintenance of such office, department or division such sums and dispose of and handle the same in such manner as is required and necessary to make payments and benefits of said federal act available to such eligible officials and employees.

[1941 c 205 § 2; Rem. Supp. 1941 § 9998-58. Formerly RCW 74.40.020.]

RCW 41.47.030 Operation of statute limited.

Nothing contained in this chapter shall deprive any person of benefits under any existing pension system, nor repeal, amend, modify or supersede any law, charter amendment or ordinance establishing or pertaining to an existing pension system.

[1941 c 205 § 3; Rem. Supp. 1941 § 9998-59. Formerly RCW 74.40.030.]

RCW 41.47.040 Severability as to coverage.

If it is found by any judicial authority of competent jurisdiction that the provisions of this chapter may not become applicable to any group of officials or employees for any reason, such inapplicability shall not prevent the same from becoming applicable as herein provided to the other officials and employees embraced herein.

[1941 c 205 § 4; Rem. Supp. 1941 § 9998-60. Formerly RCW 74.40.040.]

RCW 41.47.050 Contingent effective date.

This chapter shall take effect at the time and in the manner provided by the state Constitution unless at that time the federal social security act has not been amended to cover officials and employees of the state, county, city and other municipal corporations and political subdivisions, in which event it shall take effect and become operative on the first day of the second month following the month when such federal act shall become applicable to such state officials and employees.

[1941 c 205 § 5; Rem. Supp. 1941 § 9998-61. Formerly RCW 74.40.050.]

**Chapter 41.48 RCW
FEDERAL SOCIAL SECURITY FOR PUBLIC EMPLOYEES**

Sections

41.48.010 Purpose--Construction.
41.48.020 Definitions.

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- 41.48.030 Agreement with secretary of health, education, and welfare.
- 41.48.040 Employees' contributions.
- 41.48.050 Extension of social security benefits to employees of political subdivisions--Termination, procedure.
- 41.48.060 OASI contribution account.
- 41.48.065 OASI revolving fund.
- 41.48.070 Employees may elect.
- 41.48.080 Administration costs--Allocation.
- 41.48.090 Rules and regulations.
- 41.48.100 Governor may delegate authority.
- 41.48.110 Legislative declaration--Payments to state employees on account of sickness.
- 41.48.120 Sick leave account created--Payments to state employees on account of sickness--Exclusion from wages.
- 41.48.130 Sick leave payments--Accounting plan and payroll procedures.
- 41.48.140 Establishment of sick leave rules by personnel authorities.
- 41.48.150 Definition--"Employee."
- 41.48.160 Political subdivisions--Sick leave payments--Adoption of accounting plan and payroll procedures.
- 41.48.170 Sick leave payments--Transfers of moneys to sick leave account.
- 41.48.180 Sick leave payments--Inclusion in reports to retirement system--Compensation for unused sick leave.

Notes:

Acceptance of old age and survivors' insurance: Chapter 41.47 RCW.

Application forms--Licenses--Mention of race or religion prohibited: RCW 43.01.100, 43.01.110.

Hours and wages of department of social and health services personnel: RCW 72.01.042, 72.01.043.

Plan for OASI coverage of members of

state employees' retirement system: Chapter 41.41 RCW.

teachers' retirement system: Chapter 41.33 RCW.

Trusts for employee benefits: Chapter 49.64 RCW.

RCW 41.48.010 Purpose--Construction.

In order to extend to employees of the state and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old age and survivors insurance system embodied in the social security act, it is hereby declared to be the policy of the legislature, subject to the limitations of this chapter, that such steps be taken as to provide such protection to employees of the state and its political subdivisions on as broad a basis as is permitted under the social security act. Persons now members of or protected by any state or local pension or retirement plan or system may be covered under the federal social security act only as provided by the federal social security act amendments of 1954. (Public Law No. 761.) It is hereby declared to be the policy of the legislature in enacting the succeeding sections of this title that the protection afforded the employees in positions covered by a retirement system on the date an agreement under this title is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as the result of making the agreements so applicable whether the agreement provides for supplementation, integration or coordination.

[1955 ex.s. c 4 § 1; 1951 c 184 § 1.]

RCW 41.48.020 Definitions.

For the purposes of this chapter:

(1) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the federal insurance contributions act, would not constitute "wages" within the meaning of that act;

(2) "Employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except (a) service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the social security act; or (b) service which under the social security act may not be included in an agreement between the state and the secretary of health, education, and welfare entered into under this chapter;

(3) "Employee" includes all officers and employees of the state or its political subdivisions except officials compensated on a fee basis;

(4) "Secretary of health, education, and welfare" includes any individual to whom the secretary of health, education, and welfare has delegated any of his functions under the social security act with respect to coverage under such act of employees of states and their political subdivisions, and with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom such administrator has delegated any such function;

(5) "Political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions. Such term also includes a proprietary enterprise acquired, purchased or originated by the state or any of its political subdivisions subsequent to December, 1950. Such a subdivision may elect to accept federal OASI coverage under this chapter.

(6) "Federal insurance contributions act" means subchapter A of chapter 9 of the federal internal revenue code of 1939 and subchapters A and B of chapter 21 of the federal internal revenue code of 1954, as such codes have been and may from time to time be amended; and the term "employee tax" means the tax imposed by section 1400 of such code of 1939 and section 3101 of such code of 1954.

[1955 ex.s. c 4 § 2; 1953 c 62 § 1; 1951 c 184 § 2.]

RCW 41.48.030 Agreement with secretary of health, education, and welfare.

(1) The governor is hereby authorized to enter on behalf of the state into an agreement with the secretary of health, education, and welfare consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision not members of an

existing retirement system, or to members of a retirement system established by the state or by a political subdivision thereof or by an institution of higher learning with respect to services specified in such agreement which constitute "employment" as defined in RCW 41.48.020. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the governor and secretary of health, education, and welfare shall agree upon, but, except as may be otherwise required by or under the social security act as to the services to be covered, such agreement shall provide in effect that--

(a) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of title II of the social security act;

(b) The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the social security act, contributions with respect to wages (as defined in RCW 41.48.020), equal to the sum of the taxes which would be imposed by the federal insurance contributions act if the services covered by the agreement constituted employment within the meaning of that act;

(c) Such agreement shall be effective with respect to services in employment covered by the agreement or modification thereof performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year immediately preceding the calendar year in which such agreement or modification of the agreement is accepted by the secretary of health, education and welfare.

(d) All services which constitute employment as defined in RCW 41.48.020 and are performed in the employ of the state by employees of the state, shall be covered by the agreement;

(e) All services which (i) constitute employment as defined in RCW 41.48.020, (ii) are performed in the employ of a political subdivision of the state, and (iii) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the governor under RCW 41.48.050, shall be covered by the agreement; and

(f) As modified, the agreement shall include all services described in either paragraph (d) or paragraph (e) of this subsection and performed by individuals to whom section 218(c)(3)(C) of the social security act is applicable, and shall provide that the service of any such individual shall continue to be covered by the agreement in case he thereafter becomes eligible to be a member of a retirement system; and

(g) As modified, the agreement shall include all services described in either paragraph (d) or paragraph (e) of this subsection and performed by individuals in positions covered by a retirement system with respect to which the governor has issued a certificate to the secretary of health, education, and welfare pursuant to subsection (5) of this section.

(h) Law enforcement officers and firemen of each political subdivision of this state who are covered by the Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act (chapter 209, Laws of 1969 ex. sess.) as now in existence or hereafter amended shall constitute a separate "coverage group" for purposes of the agreement entered into under this section and for purposes of section 218 of the social security act. To the extent that the

agreement between this state and the federal secretary of health, education, and welfare in existence on the date of adoption of this subsection is inconsistent with this subsection, the governor shall seek to modify the inconsistency.

(2) Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (a) to enter into an agreement with the secretary of health, education, and welfare whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality, (b) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under RCW 41.48.040(1) if they were covered by an agreement made pursuant to subsection (1) of this section, and (c) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (1) and other provisions of this chapter.

(3) The governor is empowered to authorize a referendum, and to designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the social security act, and subsection (4) of this section on the question of whether service in all positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. If a retirement system covers positions of employees of the state of Washington, of the institutions of higher learning, and positions of employees of one or more of the political subdivisions of the state, then for the purpose of the referendum as provided herein, there may be deemed to be a separate retirement system with respect to employees of the state, or any one or more of the political subdivisions, or institutions of higher learning and the governor shall authorize a referendum upon request of the subdivisions' or institutions' of higher learning governing body: PROVIDED HOWEVER, That if a referendum of state employees generally fails to produce a favorable majority vote then the governor may authorize a referendum covering positions of employees in any state department who are compensated in whole or in part from grants made to this state under title III of the federal social security act: PROVIDED, That any city or town affiliated with the state-wide city employees retirement system organized under chapter 41.44 RCW may at its option agree to a plan submitted by the board of trustees of said state-wide city employees retirement system for inclusion under an agreement under this chapter if the referendum to be held as provided herein indicates a favorable result: PROVIDED FURTHER, That the teachers' retirement system be considered one system for the purpose of the referendum except as applied to the several *colleges of education. The notice of referendum required by section 218(d)(3)(C) of the social security act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

(4) The governor, before authorizing a referendum, shall require the following conditions to be met:

(a) The referendum shall be by secret written ballot on the question of whether service in positions covered by such retirement system shall be excluded from or included under the agreement between the governor and the secretary of health, education, and welfare provided for in RCW 41.48.030(1);

(b) An opportunity to vote in such referendum shall be given and shall be limited to eligible employees;

(c) Not less than ninety days' notice of such referendum shall be given to all such employees;

(d) Such referendum shall be conducted under the supervision (of the governor or) of an agency or individual designated by the governor;

(e) The proposal for coverage shall be approved only if a majority of the eligible employees vote in favor of including services in such positions under the agreement;

(f) The state legislature, in the case of a referendum affecting the rights and liabilities of state employees covered under the state employees' retirement system and employees under the teachers' retirement system, and in all other cases the local legislative authority or governing body, shall have specifically approved the proposed plan and approved any necessary structural adjustment to the existing system to conform with the proposed plan.

(5) Upon receiving satisfactory evidence that with respect to any such referendum the conditions specified in subsection (4) of this section and section 218(d)(3) of the social security act have been met, the governor shall so certify to the secretary of health, education, and welfare.

(6) If the legislative body of any political subdivision of this state certifies to the governor that a referendum has been held under the terms of RCW 41.48.050(1)(i) and gives notice to the governor of termination of social security for any coverage group of the political subdivision, the governor shall give two years advance notice in writing to the federal department of health, education, and welfare of such termination of the agreement entered into under this section with respect to said coverage group.

[1971 ex.s. c 257 § 19; 1967 c 5 § 1; 1957 c 170 § 1; 1955 ex.s. c 4 § 3; 1951 c 184 § 3.]

Notes:

***Reviser's note:** The "colleges of education" were redesignated state colleges by 1961 c 62 § 1, formerly RCW 28.81.005, decodified in the 1969 education code. See also RCW 28B.10.016.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

RCW 41.48.040 Employees' contributions.

(1) Every employee of the state whose services are covered by an agreement entered into under RCW 41.48.030 shall be required to pay for the period of such coverage, into the *contribution fund established by RCW 41.48.060, contributions, with respect to wages (as defined in RCW 41.48.020), equal to the amount of employee tax which would be imposed by the federal insurance contributions act if such services constituted employment within the meaning of that act. Such liability shall arise in consideration of the employees' retention in the service of the state, or his entry upon such service, after the enactment of this chapter.

(2) The contribution imposed by this section shall be collected by deducting the amount

of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.

(3) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

[1955 ex.s. c 4 § 4; 1951 c 184 § 4.]

Notes:

***Reviser's note:** The "OASI contribution fund" was redesignated the "OASI contribution account" by 1991 sp.s. c 13 § 112.

RCW 41.48.050 Extension of social security benefits to employees of political subdivisions--Termination, procedure.

(1) Each political subdivision of the state is hereby authorized to submit for approval by the governor a plan for extending the benefits of title II of the social security act, in conformity with the applicable provisions of such act, to those employees of such political subdivisions who are not covered by an existing pension or retirement system. Each pension or retirement system established by the state or a political subdivision thereof is hereby authorized to submit for approval by the governor a plan for extending the benefits of title II of the social security act, in conformity with applicable provisions of such act, to members of such pension or retirement system. Each such plan and any amendment thereof shall be approved by the governor if he finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the governor, except that no such plan shall be approved unless--

(a) It is in conformity with the requirements of the social security act and with the agreement entered into under RCW 41.48.030;

(b) It provides that all services which constitute employment as defined in RCW 41.48.020 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan;

(c) It specifies the source or sources from which the funds necessary to make the payments required by paragraph (a) of subsection (3) and by subsection (4) of this section are expected to be derived and contains reasonable assurance that such sources will be adequate for such purposes;

(d) It provides that in the plan of coverage for members of the state teachers' retirement system or for state employee members of the state employees' retirement system, there shall be no additional cost to or involvement of the state until such plan has received prior approval by the legislature;

(e) It provides for such methods of administration of the plan by the political subdivision as are found by the governor to be necessary for the proper and efficient administration of the plan;

(f) It provides that the political subdivision will make such reports, in such form and containing such information, as the governor may from time to time require and comply with

such provisions as the governor or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports; and

(g) It authorizes the governor to terminate the plan in its entirety, in his discretion, if he finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the governor and may be consistent with the provisions of the social security act.

(h) It provides that law enforcement officers and fire fighters of each political subdivision of this state who are covered by the Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act (chapter 209, Laws of 1969 ex. sess.) as now in existence or hereafter amended shall constitute a separate "coverage group" for purposes of the plan or agreement entered into under this section and for purposes of section 216 of the social security act. To the extent that the plan or agreement entered into between the state and any political subdivision of this state is inconsistent with this subsection, the governor shall seek to modify the inconsistency.

(i) It provides that the plan or agreement may be terminated by any political subdivision as to any such coverage group upon giving at least two years advance notice in writing to the governor, effective at the end of the calendar quarter specified in the notice. It shall specify that before notice of such termination is given, a referendum shall be held among the members of the coverage group under the following conditions:

(i) The referendum shall be conducted under the supervision of the legislative body of the political subdivision.

(ii) Not less than sixty days' notice of such referendum shall be given to members of the coverage group.

(iii) An opportunity to vote by secret ballot in such referendum shall be given and shall be limited to all members of the coverage group.

(iv) The proposal for termination shall be approved only if a majority of the coverage group vote in favor of termination.

(v) If a majority of the coverage group vote in favor of termination, the legislative body of the political subdivision shall certify the results of the referendum to the governor and give notice of termination of such coverage group.

(2) The governor shall not finally refuse to approve a plan submitted by a political subdivision under subsection (1), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

(3)(a) Each political subdivision as to which a plan has been approved under this section shall pay into the *contribution fund, with respect to wages (as defined in RCW 41.48.020), at such time or times as the governor may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the governor under RCW 41.48.030.

(b) Each political subdivision required to make payments under paragraph (a) of this subsection is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of this chapter, to impose upon each of its employees, as to services

which are covered by an approved plan, a contribution with respect to his wages (as defined in RCW 41.48.020), not exceeding the amount of employee tax which is imposed by the federal insurance contributions act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the *OASI contribution fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph (a) of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

(4) Delinquent reports and payments due under paragraph (f) of subsection (1) and paragraph (a) of subsection (3) of this section will be subject to an added interest charge of six percent per year or, if higher, the rate chargeable to the state by the secretary by virtue of federal law, if the late report or payment contributes to any federal penalty for late filing of reports or for late deposit of contributions. Delinquent contributions, interest and penalties may be recovered by civil action or may, at the request of the governor, be deducted from any other moneys payable to the political subdivision by any department or agency of the state.

[1981 c 119 § 1; 1971 ex.s. c 257 § 20; 1955 ex.s. c 4 § 5; 1951 c 184 § 5.]

Notes:

***Reviser's note:** The "OASI contribution fund" was redesignated the "OASI contribution account" by 1991 sp.s. c 13 § 112.

Purpose--Severability--1971 ex.s. c 257: See notes following RCW 41.26.030.

Law enforcement officers' and fire fighters' retirement system: Chapter 41.26 RCW.

Public employees' retirement system: Chapter 41.40 RCW.

Teachers' retirement system: Chapter 41.32 RCW.

RCW 41.48.060 OASI contribution account.

(1) There is hereby established a special account in the state treasury to be known as the OASI contribution account. Such account shall consist of and there shall be deposited in such account: (a) All contributions and penalties collected under RCW 41.48.040 and 41.48.050; (b) all moneys appropriated thereto under this chapter; (c) any property or securities belonging to the account; and (d) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the account and all other moneys received for the account from any other source. All moneys in the account shall be mingled and undivided. Subject to the provisions of this chapter, the governor is vested with full power, authority and jurisdiction over the account, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this chapter.

(2) The OASI contribution account shall be established and held separate and apart from any other funds of the state and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such account shall be made for, and solely for (a) payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under RCW 41.48.030; (b) payment of refunds provided for in RCW 41.48.040(3); and (c) refunds of overpayments, not otherwise adjustable, made by a political subdivision or

instrumentality.

(3) From the OASI contribution account the custodian of the fund [account] shall pay to the secretary of the treasury such amounts and at such time or times as may be directed by the governor in accordance with any agreement entered into under RCW 41.48.030 and the social security act.

(4) The treasurer of the state shall be ex officio treasurer and custodian of the OASI contribution account and shall administer such account in accordance with the provisions of this chapter and the directions of the governor and shall pay all warrants drawn upon it in accordance with the provisions of this section and with the regulations as the governor may prescribe pursuant thereto.

[1991 sp.s. c 13 § 112; 1973 c 126 § 14; 1967 c 213 § 1; 1951 c 184 § 6.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 41.48.065 OASI revolving fund.

There is hereby established a separate fund in the custody of the state treasurer to be known as the OASI revolving fund. The fund shall consist of all moneys designated for deposit in the fund. The OASI revolving fund shall be used exclusively for the purpose of this section. Withdrawals from the fund shall be made for the payment of amounts the state may be obligated to pay or forfeit by reason of any failure of any public agency to pay assessments on contributions or interest assessments required under the federal-state agreement under this chapter or federal regulations.

The treasurer of the state shall be ex officio treasurer and custodian of the fund and shall administer the fund in accordance with this chapter and the directions of the governor and shall pay all amounts drawn upon it in accordance with this section and with the regulations the governor may prescribe under this section.

[1991 sp.s. c 13 § 111; 1983 1st ex.s. c 6 § 1.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Establishment of fund--1983 1st ex.s. c 6: "For the purpose of establishing the OASI revolving fund, the state treasurer shall transfer from the interest earnings accrued in the OASI contribution fund the sum of twenty thousand dollars to the OASI revolving fund." [1983 1st ex.s. c 6 § 2.]

RCW 41.48.070 Employees may elect.

The governing body of any political subdivision having any coverage group, as the term is defined in title II of the social security act, not covered by a state or municipal retirement system may submit for an advisory vote to the members of such coverage group the question of whether they prefer coverage by federal old-age and survivors insurance or coverage by a state or municipal retirement system.

[1951 c 184 § 7.]

RCW 41.48.080 Administration costs--Allocation.

All costs allocable to the administration of this chapter shall be charged to and paid to the general fund by the participating divisions and instrumentalities of the state pro rata according to their respective contributions.

[1951 c 184 § 9.]

RCW 41.48.090 Rules and regulations.

The governor shall make and publish such rules and regulations, not inconsistent with the provisions of this chapter, as he finds necessary or appropriate to the efficient administration of the functions with which he is charged under this chapter.

[1951 c 184 § 10.]

RCW 41.48.100 Governor may delegate authority.

Any authority conferred upon the governor by this chapter may be exercised by an official or state agency designated by him.

[1951 c 184 § 11.]

RCW 41.48.110 Legislative declaration--Payments to state employees on account of sickness.

It is the policy of the state of Washington to pay its employees on account of sickness or accident disability in accordance with applicable leave regulations and in such a manner so such payments are excluded from federal old age and survivors' insurance contribution requirements.

[1979 ex.s. c 247 § 3.]

RCW 41.48.120 Sick leave account created--Payments to state employees on account of sickness--Exclusion from wages.

There is created in the general fund a separate account to be known as the sick leave account, to be used for payments made after January 1, 1980, to state employees made on account of sickness, for the purpose of excluding such payments from the meaning of "wages" under federal old age and survivors' insurance. The legislature shall appropriate amounts necessary for the account.

[1979 c 152 § 1.]

Notes:

Severability--1979 c 152: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 152 § 8.]

RCW 41.48.130 Sick leave payments--Accounting plan and payroll procedures.

The director of the office of financial management shall, by January 1, 1980, develop an accounting plan and payroll procedures sufficient to meet the requirements of federal statutes and regulations for the purpose of implementing RCW 41.48.120.

[1979 c 152 § 2.]

Notes:

Severability--1979 c 152: See note following RCW 41.48.120.

RCW 41.48.140 Establishment of sick leave rules by personnel authorities.

Nothing in RCW 41.48.120 or 41.48.130 shall affect the power of the Washington personnel resources board or any other state personnel authority to establish sick leave rules except as may be required under RCW 41.48.120 or 41.48.130: PROVIDED, That each personnel board and personnel authority shall establish the maximum number of working days an employee under its jurisdiction may be absent on account of sickness or accident disability without a medical certificate.

"Personnel authority" as used in this section, means a state agency, board, committee, or similar body having general authority to establish personnel rules.

[1993 c 281 § 39; 1979 c 152 § 3.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Severability--1979 c 152: See note following RCW 41.48.120.

RCW 41.48.150 Definition--"Employee."

"Employee," as used in RCW 41.48.120 and 41.48.140, includes all officers and employees of the state, except officials and employees compensated on a fee basis, for whom contributions are made to federal old age and survivors' insurance.

[1979 c 152 § 4.]

Notes:

Severability--1979 c 152: See note following RCW 41.48.120.

RCW 41.48.160 Political subdivisions--Sick leave payments--Adoption of accounting plan and payroll procedures.

A political subdivision of the state may, pursuant to ordinance or resolution, adopt an accounting plan and payroll procedures sufficient to meet the requirements of federal statutes and regulations and the department of health, education, and welfare for the purpose of excluding payments made on account of sickness, from the meaning of "wages" under federal

old age and survivors' insurance.

[1979 c 152 § 5.]

Notes:

Severability--1979 c 152: See note following RCW 41.48.120.

RCW 41.48.170 Sick leave payments--Transfers of moneys to sick leave account.

The office of financial management shall direct the state treasurer to, and the state treasurer shall, periodically transfer to the sick leave account in the general fund moneys sufficient to reimburse the sick leave account for payments on account of sickness. State agencies shall place in allotment reserve status and cause to be lapsed at the end of the biennium an amount equal to the sick leave pay and the employer's share of all federal old age and survivor's insurance payments rendered unnecessary by reason of RCW 41.48.120. When directing state agencies to place funds in reserve status, the office of financial management shall promulgate allotment instructions which conserve, to the fullest extent possible, state general fund appropriations.

[1979 ex.s. c 247 § 2.]

RCW 41.48.180 Sick leave payments--Inclusion in reports to retirement system--Compensation for unused sick leave.

Payments to employees pursuant to RCW 41.48.120 or 41.48.160 shall be included in compensation reported to the appropriate retirement system. Any compensation for unused sick leave shall not be considered payment on account of sickness and shall not be paid from the sick leave account.

[1979 c 152 § 6.]

Notes:

Severability--1979 c 152: See note following RCW 41.48.120.

**Chapter 41.50 RCW
DEPARTMENT OF RETIREMENT SYSTEMS**

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- 41.50.804 Existing collective bargaining agreements not affected.
- 41.50.900 Severability--1975-'76 2nd ex.s. c 105.
- 41.50.901 Effective date--1987 c 326.

NOTES:

Director of retirement systems may obtain physician's certificate relating to disabled person's ability to drive a motor vehicle: RCW 46.20.041.

Investment activities of state investment board, reports sent to: RCW 43.33A.150.

Investment board, director of retirement systems member of: RCW 43.33A.020.

Judicial retirement--Investment for supplemental retirement: RCW 2.14.080.

Judicial retirement board, director of retirement systems to exercise powers, duties, and functions of: RCW 2.10.052.

Office of state actuary: Chapter 44.44 RCW.

State patrol retirement board, director of retirement systems to exercise powers, duties, and functions of: RCW 43.43.142.

RCW 41.50.005 Policy and intent.

The legislature sets forth as retirement policy and intent:

- (1) The retirement systems of the state shall provide similar benefits wherever possible.
- (2) Persons hired into eligible positions shall accrue service credit for all service rendered.
- (3) The calculation of benefits shall be done in such a manner as to prevent the arithmetic lowering of benefits.
- (4) Liberalization of the granting of service credit shall not jeopardize part-time employment of retirees in ineligible positions.

[1991 c 343 § 2.]

Notes:

Findings--1991 c 343: "The legislature finds:

(1) There is a dichotomy in the provision of service credit within the major two retirement systems of the state. Within plan 1 of the public employees' retirement system, credit is given in whole months upon completing seventy hours per month. Within plan 1 of the teachers' retirement system, full annual service credit is given for full-time employment of four-fifths or more of a school year and partial annual service credit is given for employment of less than four-fifths of a school year but more than twenty days in a school year. Plan 2 of both the public employees' and teachers' retirement systems' full monthly service credit is based on completing ninety hours in each month.

(2) There is an expressed interest by public employers in encouraging job-sharing or tandem positions wherein two persons perform one job. This is seen as opening up job opportunities for those persons who have family responsibilities prohibiting full-time employment." [1991 c 343 § 1.]

Effective dates--1991 c 343: "(1) Sections 3 through 11 and 14 through 18 of this act shall take effect September 1, 1991.

(2) The remainder of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 343 § 19.]

RCW 41.50.010 Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

- (1) "Actuarial value" means the present value of a change in actuarial liability;
- (2) "Department" means the department of retirement systems; and
- (3) "Director" means the director of the department of retirement systems.

[1994 c 197 § 30; 1975-'76 2nd ex.s. c 105 § 3.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

RCW 41.50.020 Department of retirement systems--Created--Director.

There is created a department of state government to be known as the department of retirement systems. The executive and administrative head of the department shall be the director, who shall be appointed by the governor with the consent of the senate. The director shall serve at the pleasure of the governor and may be removed upon written notification by the governor to the respective retirement boards.

The director shall have complete charge of and supervisory powers over the department and shall be paid a salary fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he shall present to that body the name of the person appointed to the position of director.

[1975-'76 2nd ex.s. c 105 § 4.]

RCW 41.50.030 Transfer of powers, duties, and functions of certain systems, administrators, and committees to department of retirement systems.

(1) As soon as possible but not more than one hundred and eighty days after March 19, 1976, there is transferred to the department of retirement systems, except as otherwise provided in this chapter, all powers, duties, and functions of:

- (a) The Washington public employees' retirement system;
- (b) The Washington state teachers' retirement system;
- (c) The Washington law enforcement officers' and fire fighters' retirement system;
- (d) The Washington state patrol retirement system;
- (e) The Washington judicial retirement system; and
- (f) The state treasurer with respect to the administration of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

(2) On July 1, 1996, there is transferred to the department all powers, duties, and functions of the deferred compensation committee.

(3) The department shall administer chapter 41.34 RCW.

(4) The department shall administer the Washington school employees' retirement system created under chapter 41.35 RCW.

[1998 c 341 § 501; 1995 c 239 § 316; 1975-'76 2nd ex.s. c 105 § 5.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.040 Manner of selection and terms of transferred board members not

affected.

This chapter shall not affect the manner for selecting members of the boards affected by RCW 41.50.030, nor shall it affect the terms of any members serving on such boards.

[1975-'76 2nd ex.s. c 105 § 6.]

RCW 41.50.050 Powers, duties, and functions of director.

The director shall:

- (1) Have the authority to organize the department into not more than four divisions, each headed by an assistant director;
- (2) Have free access to all files and records of various funds assigned to the department and inspect and audit the files and records as deemed necessary;
- (3) Employ personnel to carry out the general administration of the department;
- (4) Submit an annual written report of the activities of the department to the governor and the chairs of the appropriate legislative committees with one copy to the staff of each of the committees, including recommendations for statutory changes the director believes to be desirable;
- (5) Adopt such rules and regulations as are necessary to carry out the powers, duties, and functions of the department pursuant to the provisions of chapter 34.05 RCW.

[1995 c 239 § 317; 1993 c 61 § 1; 1987 c 505 § 24; 1981 c 3 § 33; 1977 ex.s. c 251 § 1; 1975-'76 2nd ex.s. c 105 § 7.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.055 Director of retirement systems to administer Washington law enforcement officers' and fire fighters' retirement system--Duties.

The administration of the Washington law enforcement officers' and fire fighters' retirement system is hereby vested in the director of retirement systems, and the director shall:

- (1) Keep in convenient form such data as shall be deemed necessary for actuarial evaluation purposes;
- (2) As of March 1, 1970, and at least every two years thereafter, through the state actuary, make an actuarial valuation as to the mortality and service experience of the beneficiaries under this chapter and the various accounts created for the purpose of showing the financial status of the retirement fund;
- (3) Adopt for the Washington law enforcement officers' and fire fighters' retirement system the mortality tables and such other tables as shall be deemed necessary;
- (4) Keep a record of all its proceedings, which shall be open to inspection by the public;

(5) From time to time adopt such rules and regulations not inconsistent with chapter 41.26 RCW, for the administration of the provisions of this chapter, for the administration of the fund created by this chapter and the several accounts thereof, and for the transaction of the business of the system;

(6) Prepare and publish annually a financial statement showing the condition of the Washington law enforcement officers' and fire fighters' fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the Washington law enforcement officers' and fire fighters' retirement system, and furnish a copy thereof to each employer, and to such members as may request copies thereof;

(7) Perform such other functions as are required for the execution of the provisions of chapter 41.26 RCW;

(8) Fix the amount of interest to be credited at a rate which shall be based upon the net annual earnings of the Washington law enforcement officers' and fire fighters' fund for the preceding twelve-month period and from time to time make any necessary changes in such rate;

(9) Pay from the department of retirement systems expense fund the expenses incurred in administration of the Washington law enforcement officers' and fire fighters' retirement system from those funds appropriated for that purpose;

(10) Perform any other duties prescribed elsewhere in chapter 41.26 RCW;

(11) Issue decisions relating to appeals initiated pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended and shall be authorized to order increased benefits pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended.

[1991 c 35 § 16; 1982 c 163 § 6; 1981 c 3 § 27; 1975-'76 2nd ex.s. c 44 § 3; 1971 ex.s. c 216 § 1; 1969 ex.s. c 209 § 6. Formerly RCW 41.26.060.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

Intent of amendment--1981 c 3: See note following RCW 2.10.080.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

Severability--1971 ex.s. c 216: "If any provision of this act, or its application to any person or circumstance is held invalid the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 216 § 4.]

RCW 41.50.060 Delegation of powers, duties, and functions--Director's responsibilities.

The director may delegate the performance of such powers, duties, and functions, other than those relating to rule making, to employees of the department, but the director shall remain and be responsible for the official acts of the employees of the department.

The director shall be responsible for the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the judicial retirement system, the law enforcement officers' and fire fighters' retirement system, and the Washington

state patrol retirement system. The director shall also be responsible for the deferred compensation program.

[1998 c 341 § 502; 1995 c 239 § 318; 1975-'76 2nd ex.s. c 105 § 8.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.065 Accumulated service credit--Annual notification to members.

(1) The department shall annually notify each member of each retirement system listed in RCW 41.50.030 of his or her:

- (a) Service credit accumulated in the preceding calendar year; and
- (b) Total service credit accumulated.

(2) The department shall begin notifying members under this section according to the following schedule:

(a) All members of the teachers' retirement system shall begin receiving annual notification of accumulated service credit and service credit earned within the preceding school year or one school year, as appropriate, no later than January 1, 1991;

(b) All members, other than members of the teachers' retirement system, shall begin receiving annual notification of service credit accumulated within the preceding calendar year or school year, as appropriate, no later than June 30, 1992;

(c) All members within five years of being eligible for service retirement shall begin receiving annual notification of total service credit accumulated no later than October 1, 1993;

(d) Members, other than members of the teachers' retirement system, who are not within five years of being eligible for service retirement shall begin receiving annual notification of total service credit accumulated according to the following schedule:

(i) For members of the law enforcement officers' and fire fighters' retirement system, Washington state patrol retirement system, judicial retirement system, and judges' retirement system, no later than August 30, 1993;

(ii) For employees of the state of Washington who are members of the public employees' retirement system, no later than August 30, 1994;

(iii) For employees of political subdivisions of the state of Washington, no later than January 31, 1995;

(iv) For employees of institutions of higher education as defined in RCW 28B.10.016, no later than June 30, 1995; and

(v) For school district employees who are members of the public employees' retirement system, no later than April 30, 1996.

(3) The department shall adopt rules implementing this section.

[1991 c 282 § 1; 1990 c 8 § 2.]

Notes:

Findings--1990 c 8: "The legislature recognizes that:

(1) It is important that members of the retirement system are informed about the amount of service credit they have earned. Untimely and inaccurate reporting by employers hampers the department's ability to inform members of the service credit they have earned;

(2) Requiring a transfer of funds from the retirement accounts of members of the public employees' retirement system and the law enforcement officers' and fire fighters' retirement system to the expense funds of those systems does not represent added revenue to the systems but is instead a transfer from the trust fund to the expense fund that causes administrative costs and results in a loss to the system or to the member; and

(3) A standardized time period for school administrator contracts and a prohibition against retroactive revision of those contracts is needed to prevent potential abuses of the average final compensation calculation process." [1990 c 8 § 1.]

RCW 41.50.067 Adopted employer rates--Notification to employers.

The director shall inform all employers in writing as to the employer rates adopted by the economic and revenue forecast council upon the notification of the council as prescribed in RCW 41.45.060.

[1993 c 519 § 21.]

Notes:

Part headings not law--Effective date--1993 c 519: See notes following RCW 28A.400.212.

RCW 41.50.070 Personnel.

In addition to the exemptions set forth in RCW 41.06.070, the assistant directors, not to exceed two, and an internal auditor shall also be exempt from the application of the state civil service law, chapter 41.06 RCW.

The officers and exempt personnel appointed by the director pursuant to this section shall be paid salaries fixed by the governor in accordance with the procedure established by law for fixing salaries for officers exempt from the operation of the state civil service law.

All employees classified under chapter 41.06 RCW and engaged in duties pertaining to the functions transferred by this chapter shall be assigned to the department to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state merit system.

[1975-'76 2nd ex.s. c 105 § 9.]

RCW 41.50.075 Funds established. (Effective until March 1, 2002.)

(1) Two funds are hereby created and established in the state treasury to be known as the Washington law enforcement officers' and fire fighters' system plan 1 retirement fund, and the Washington law enforcement officers' and fire fighters' system plan 2 retirement fund which shall consist of all moneys paid into them in accordance with the provisions of this chapter and

chapter 41.26 RCW, whether such moneys take the form of cash, securities, or other assets. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan 1, and the plan 2 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan 2.

(2) All of the assets of the Washington state teachers' retirement system shall be credited according to the purposes for which they are held, to two funds to be maintained in the state treasury, namely, the teachers' retirement system plan 1 fund and the teachers' retirement system combined plan 2 and 3 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 1, and the combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 2 and 3.

(3) There is hereby established in the state treasury two separate funds, namely the public employees' retirement system plan 1 fund and the public employees' retirement system plan 2 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan 1, and the plan 2 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan 2.

(4) There is hereby established in the state treasury the school employees' retirement system combined plan 2 and 3 fund. The combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the school employees' retirement system plan 2 and plan 3.

[1998 c 341 § 503; 1996 c 39 § 16; 1995 c 239 § 312; 1991 c 35 § 108.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.075 Funds established. (Effective March 1, 2002.)

(1) Two funds are hereby created and established in the state treasury to be known as the Washington law enforcement officers' and fire fighters' system plan 1 retirement fund, and the Washington law enforcement officers' and fire fighters' system plan 2 retirement fund which shall consist of all moneys paid into them in accordance with the provisions of this chapter and chapter 41.26 RCW, whether such moneys take the form of cash, securities, or other assets. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement officers' and fire fighters' retirement system plan 1, and the plan 2 fund shall consist of all moneys paid to finance the benefits provided to members of the law enforcement

officers' and fire fighters' retirement system plan 2.

(2) All of the assets of the Washington state teachers' retirement system shall be credited according to the purposes for which they are held, to two funds to be maintained in the state treasury, namely, the teachers' retirement system plan 1 fund and the teachers' retirement system combined plan 2 and 3 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 1, and the combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the Washington state teachers' retirement system plan 2 and 3.

(3) There is hereby established in the state treasury two separate funds, namely the public employees' retirement system plan 1 fund and the public employees' retirement system combined plan 2 and plan 3 fund. The plan 1 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plan 1, and the combined plan 2 and plan 3 fund shall consist of all moneys paid to finance the benefits provided to members of the public employees' retirement system plans 2 and 3.

(4) There is hereby established in the state treasury the school employees' retirement system combined plan 2 and 3 fund. The combined plan 2 and 3 fund shall consist of all moneys paid to finance the benefits provided to members of the school employees' retirement system plan 2 and plan 3.

[2000 c 247 § 601; 1998 c 341 § 503; 1996 c 39 § 16; 1995 c 239 § 312; 1991 c 35 § 108.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Intent--1991 c 35: See note following RCW 41.26.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.077 State treasurer is custodian of funds.

The state treasurer is the custodian of, and accountant for, all funds and holdings of the retirement systems listed in RCW 41.50.030.

[1991 c 35 § 109.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.50.080 Investment of funds of various systems.

The state investment board shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the Washington law enforcement officers' and fire fighters'

retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, and the judges' retirement fund, pursuant to RCW 43.84.150, and may sell or exchange investments acquired in the exercise of that authority.

[1998 c 341 § 504; 1981 c 3 § 34; 1977 ex.s. c 251 § 2; 1975-'76 2nd ex.s. c 105 § 10.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 41.50.085 Investments in accordance with established standards.

Any investments under RCW 43.84.150 by the state investment board shall be made in accordance with the standards established in RCW 43.33A.140.

[1998 c 14 § 2; 1977 ex.s. c 251 § 7.]

RCW 41.50.086 Employee retirement benefits board--Created--Membership.

(1) The employee retirement benefits board is created within the department of retirement systems.

(2) The board shall be composed of twelve members appointed by the governor and one ex officio member as follows:

(a) Three members representing the public employees' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be two years for the retired member, one year for one active member, and three years for the remaining active member.

(b) Three members representing the teachers' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be one year for the retired member, two years for one active member, and three years for the remaining active member.

(c) Three members representing the school employees' retirement system: One retired, two active. The members shall be appointed from a list of nominations submitted by organizations representing each category. The initial term of appointment shall be one year for the retired member, two years for one active member, and three years for the remaining active member.

(d) Two members with experience in defined contribution plan administration. The initial term for these members shall be two years for one member and three years for the remaining member.

(e) One member representing the deferred compensation program. The member shall be a deferred compensation program participant chosen from a list of nominations submitted by organizations representing employees eligible to participate in the deferred compensation program. The initial term of appointment for this member shall be three years.

(f) The director of the department shall serve ex officio and shall be the chair of the

board.

(3) After the initial appointments, members shall be appointed to three-year terms.

(4) The board shall meet at least quarterly during the calendar year, at the call of the chair.

(5) Members of the board shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060. Such travel expenses shall be reimbursed by the department from the retirement system expense fund.

(6) The board shall adopt rules governing its procedures and conduct of business.

(7) The actuary shall perform all actuarial services for the board and provide advice and support.

[2001 c 181 § 1; 1998 c 341 § 506; (1998 c 341 § 505 expired pursuant to 1998 c 341 § 715); 1995 c 239 § 301.]

NOTES:

Effective date--1998 c 341: See RCW 41.35.901.

Expiration date--1998 c 341 § 505: "Section 505 of this act expires September 1, 2000." [1998 c 341 § 715.]

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.088 Employee retirement benefits board--Duties. (Effective until March 1, 2002.)

(1) The board shall adopt rules as necessary and exercise all the powers and perform all duties prescribed by law with respect to:

(a) The board shall recommend to the state investment board types of options for member self-directed investment in the teachers' retirement system plan 3 and the school employees' retirement system plan 3, as deemed by the board to be reflective of the members' preferences;

(b) The selection of optional benefit payment schedules available to members and survivors of members upon the death, disability, retirement, or termination of the member. The optional benefit payments may include but not be limited to: Fixed and participating annuities, joint and survivor annuities, and payments that bridge to social security or defined benefit plan payments;

(c) Approval of actuarially equivalent annuities that may be purchased from the combined plan 2 and plan 3 funds under RCW 41.50.075 (2) or (3); and

(d) Determination of the basis for administrative charges to the self-directed investment fund to offset self-directed account expenses;

(2) The board shall recommend to the state investment board types of options for participant self-directed investment in the state deferred compensation plan, as deemed by the board to be reflective of the participants' preferences.

[1998 c 341 § 507; 1998 c 116 § 10; 1995 c 239 § 302.]

Notes:

Reviser's note: This section was amended by 1998 c 116 § 10 and by 1998 c 341 § 507, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1998 c 341: See note following RCW 41.34.060.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.088 Employee retirement benefits board--Duties. (Effective March 1, 2002.)

(1) The board shall adopt rules as necessary and exercise the following powers and duties:

(a) The board shall recommend to the state investment board types of options for member self-directed investment in the teachers' retirement system plan 3, the school employees' retirement system plan 3, and the public employees' retirement system plan 3 as deemed by the board to be reflective of the members' preferences;

(b) By July 1, 2005, the board shall make optional actuarially equivalent life annuity benefit payment schedules available to members and survivors that may be purchased from the combined plan 2 and plan 3 funds under RCW 41.50.075; and

(c) Determination of the basis for administrative charges to the self-directed investment fund to offset self-directed account expenses;

(2) The board shall recommend to the state investment board types of options for participant self-directed investment in the state deferred compensation plan, as deemed by the board to be reflective of the participants' preferences.

[2000 c 247 § 602. Prior: 1998 c 341 § 507; 1998 c 116 § 10; 1995 c 239 § 302.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See note following RCW 41.34.060.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.090 Department succeeds to and vested with transferred powers, duties, and functions--Boards to be kept informed--Approval of rules--Disability benefit applications.

(1) Except as otherwise provided in this section, on the effective date of transfer as provided in RCW 41.50.030, the department shall succeed to and is vested with all powers, duties, and functions now or by any concurrent act of this 1976 legislature vested in the individual retirement boards set forth in RCW 41.50.030 relating to the administration of their various retirement systems, including but not limited to the power to appoint a staff and define

the duties thereof: PROVIDED, That actuarial services required by the department shall be performed by the state actuary as provided in RCW 44.44.040.

(2) The department shall keep each retirement board fully informed on the administration of the corresponding retirement system, and shall furnish any information requested by a retirement board.

(3) Rules proposed by the director under RCW 2.10.070, 41.50.055, 41.32.025, or 41.40.020 shall be submitted to the appropriate retirement boards for review prior to adoption. After receiving approval of the members of the appropriate board, such rules shall become effective as provided by the administrative procedure act, chapter 34.05 RCW.

(4) Each retirement board shall continue to perform all functions as are vested in it by law with respect to applications for benefits paid upon either temporary or permanent disability, with such staff assistance from the department as may be required. The director shall perform those functions with respect to disability benefits as are vested in him or her by RCW 41.26.120, 41.26.125, and 41.26.200.

[1985 c 102 § 6; 1983 c 3 § 97; 1981 c 294 § 8; 1975-'76 2nd ex.s. c 105 § 11.]

Notes:

Purpose--Retrospective application--1985 c 102: See notes following RCW 41.26.120.

Severability--1981 c 294: See note following RCW 41.26.115.

RCW 41.50.110 Expenses of administration paid from department of retirement systems expense fund--Administrative expense fee.

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department and the expenses of administration of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, and 43.43 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of

each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

(6) Expenses other than those under *RCW 41.34.060(2) shall be paid pursuant to subsection (1) of this section.

[1998 c 341 § 508; 1996 c 39 § 17; 1995 c 239 § 313; 1990 c 8 § 3; 1979 ex.s. c 249 § 8.]

Notes:

***Reviser's note:** RCW 41.34.060 was amended by 1999 c 265 § 1, changing subsection (2) to subsection (3).

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Findings--1990 c 8: See note following RCW 41.50.065.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.112 Report of member data--Department-designed format. (Effective March 1, 2002.)

Employers, as defined in RCW 41.26.030, 41.32.010, 41.34.020, 41.35.010, and 41.40.010, must report all member data to the department in a format designed and communicated by the department. Employers failing to comply with this reporting requirement shall be assessed an additional fee as defined under RCW 41.50.110(5).

[2000 c 247 § 1107.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

RCW 41.50.120 Payment of moneys due department by employers--Interest.

Notwithstanding any provision of law to the contrary, all employers of members of

retirement systems administered by the department shall transmit by a warrant or check to the department within fifteen days following the end of each calendar month the moneys due the department as determined by the statutes governing each system together with such reports as the department may require. The director may collect interest on any employer's overdue payments at the rate of one percent per month on the outstanding balance where necessary to secure adherence to timeliness requirements.

[1979 ex.s. c 249 § 9.]

RCW 41.50.125 Interest on contributions--Department may charge.

The department may charge interest, as determined by the director, on member or employer contributions owing to any of the retirement systems listed in RCW 41.50.030. The department's authority to charge interest shall extend to all optional and mandatory billings for contributions where member or employer contributions are paid other than immediately after service is rendered. Except as explicitly limited by statute, the director may delay the imposition of interest charges on late contributions under this section if the delay is necessary to implement required changes in the department's accounting and information systems.

[1994 c 177 § 2.]

Notes:

Findings--1994 c 177: "The legislature finds that:

(1) Whenever employer or member contributions are not made at the time service is rendered, the state retirement system trust funds lose investment income which is a major source of pension funding. The department of retirement systems has broad authority to charge interest to compensate for the loss to the trust funds, subject only to explicit statutory provisions to the contrary.

(2) The inherent authority of the department to recover all overpayments and unauthorized payments from the retirement trust funds, for the benefit of members and taxpayers, should be established clearly in statute." [1994 c 177 § 1.]

RCW 41.50.130 Correction of retirement systems' records--Adjustment in payment of benefits--Limitations.

(1) The director may at any time correct errors appearing in the records of the retirement systems listed in RCW 41.50.030. Should any error in such records result in any member, beneficiary, or other person or entity receiving more or less than he or she would have been entitled to had the records been correct, the director, subject to the conditions set forth in this section, shall adjust the payment in such a manner that the benefit to which such member, beneficiary, or other person or entity was correctly entitled shall be paid in accordance with the following:

(a) In the case of underpayments to a member or beneficiary, the retirement system shall correct all future payments from the point of error detection, and shall compute the additional payment due for the allowable prior period which shall be paid in a lump sum by the appropriate retirement system.

(b) In the case of overpayments to a retiree or other beneficiary, the retirement system

shall adjust the payment so that the retiree or beneficiary receives the benefit to which he or she is correctly entitled. The retiree or beneficiary shall either repay the overpayment in a lump sum within ninety days of notification or, if he or she is entitled to a continuing benefit, elect to have that benefit actuarially reduced by an amount equal to the overpayment. The retiree or beneficiary is not responsible for repaying the overpayment if the employer is liable under RCW 41.50.139.

(c) In the case of overpayments to a person or entity other than a member or beneficiary, the overpayment shall constitute a debt from the person or entity to the department, recovery of which shall not be barred by laches or statute of limitations.

(2) Except in the case of actual fraud, in the case of overpayments to a member or beneficiary, the benefits shall be adjusted to reflect only the amount of overpayments made within three years of discovery of the error, notwithstanding any provision to the contrary in chapter 4.16 RCW.

(3) Except in the case of actual fraud, no monthly benefit shall be reduced by more than fifty percent of the member's or beneficiary's corrected benefit. Any overpayment not recovered due to the inability to actuarially reduce a member's benefit due to: (a) The provisions of this subsection; or (b) the fact that the retiree's monthly retirement allowance is less than the monthly payment required to effectuate an actuarial reduction, shall constitute a claim against the estate of a member, beneficiary, or other person or entity in receipt of an overpayment.

(4) Except as provided in subsection (2) of this section, obligations of employers or members until paid to the department shall constitute a debt from the employer or member to the department, recovery of which shall not be barred by laches or statutes of limitation.

[1997 c 254 § 15; 1994 c 177 § 3; 1987 c 490 § 1; 1982 c 13 § 1.]

Notes:

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

Findings--1994 c 177: See note following RCW 41.50.125.

RCW 41.50.131 Correction of errors in reporting compensation earnable.

(1) Notwithstanding RCW 41.50.130, the department is not required to correct, nor to cause any employer to correct the reporting error described in subsection (2) of this section.

(2) Standby pay and other similar forms of compensation that are not pay for time worked were not salary or wages for personal services within the meaning of RCW 41.40.010(8). Contrary to RCW 41.40.010(8), some employers have been reporting standby pay to the department as compensation earnable. To avoid unduly impacting the retirement allowances of persons who have retired on or before June 9, 1994, the department is not required to correct, nor cause to be corrected, any misreporting of amounts identified as standby pay through June 9, 1994. Any erroneous reporting of amounts identified as standby pay to the department on or after June 9, 1994, shall be corrected as an error under RCW 41.50.130.

(3) The forgiveness of past misreporting under subsection (2) of this section constitutes a benefit enhancement for those individuals for whom amounts received as standby pay were misreported to the department. Prior to June 9, 1994, no retirement system member had any

right, contractual or otherwise, to have amounts identified as standby pay included as compensation earnable.

[1994 c 177 § 9.]

Notes:

Findings--1994 c 177: See note following RCW 41.50.125.

RCW 41.50.132 Correction of erroneous deduction or pick-up of contributions.

(1) By December 31, 1992, the department of retirement systems shall implement and complete the following process for those members of the law enforcement officers' and fire fighters' retirement system plan 2, public employees' retirement system plans 1 and 2, and teachers' retirement system plan 2 who erroneously had contributions either deducted or picked-up from their earnings on and after January 1, 1987:

(a) Create a list of transactions by employer for those members whose employer either deducted or picked-up employee contributions during a month where an employee did not work sufficient hours to earn service credit;

(b) Provide the affected employers with direction and guidance for the review of the transmitted lists from this subsection and the employers' preparation of any necessary correcting transactions to the department's records;

(c) Receive all correcting transactions submitted by the employer.

(2) All debits and credits to all member accounts affected by this remedial process shall be reconciled by the department.

(3) All moneys payable to an affected member, or any moneys to be further deducted or picked-up from such member's earnings, shall be determined and accomplished solely by the employer.

(4) After December 31, 1992, no credit of employer contributions shall be made.

(5) Return of contributions to an employee by the department is limited solely to when such member retires or otherwise terminates his or her membership and chooses to withdraw them with any accumulated interest.

(6) Employer contributions forfeited under this section shall be transferred to the department of retirement systems expense account.

[1991 c 343 § 13.]

Notes:

Findings--Effective dates--1991 c 343: See notes following RCW 41.50.005.

RCW 41.50.133 Recovery of certain overpayments to surviving beneficiaries under the teachers' retirement system.

(1) The director of the department of retirement systems shall not recover from surviving beneficiaries of members who died in service any pension overpayment based on the application of section 2, chapter 96, Laws of 1979 ex. sess., nor shall such benefits be reduced.

(2) The director of the department of retirement systems shall not recover from retirees any pension overpayments made between July 1, 1990, and February 1, 1992, based upon the

application of *RCW 41.40.198, 41.40.1981, 41.40.325, 41.32.485, 41.32.487, or 41.32.575 due to the incorrect calculation of the "age sixty-five allowance" as this term is defined in *RCW 41.32.575(1)(a) and 41.40.325(1)(a).

[1992 c 212 § 21; 1987 c 490 § 2.]

Notes:

***Reviser's note:** RCW 41.40.198, 41.40.1981, 41.40.325, 41.32.487, and 41.32.575 were repealed by 1995 c 345 § 11.

RCW 41.50.135 Collection of overpayments--Determination of liability--Administrative process created.

(1) If the department finds that any member, beneficiary, or other person or entity has been paid an amount of retirement benefits to which that person or entity is not entitled, and the person is not entitled to a continuing benefit from any of the retirement systems listed in RCW 41.50.030, the department may issue an order and notice of assessment specifying the amount due, including interest, to be remitted to the department. The order and notice of assessment shall be served upon any person or entity who may have received benefits to which the person or entity is not entitled. The order and notice of assessment shall be served by the department in the manner prescribed for the service of a summons in a civil action, or by certified mail to the last known address of the obligor as shown by the records of the department.

(2) Any notice of assessment under subsection (1) of this section shall constitute a determination of liability from which the member, beneficiary, or other person or entity served may appeal by filing a petition for adjudicative proceedings with the director personally or by mail within sixty days from the date the assessment was served. If a petition for adjudicative proceedings is not filed within sixty days of the delivery of the notice of assessment, the determination that was the basis for establishing the overpayment debt and the assessment is conclusive and final.

(3) This section creates an administrative process for the collection of overpayments from persons who are not entitled to a continuing benefit from one of the retirement systems listed in RCW 41.50.030. The collection of overpayments from persons entitled to a continuing benefit from one of the retirement systems listed in RCW 41.50.030 is governed by RCW 41.50.130.

[1996 c 56 § 1.]

RCW 41.50.136 Collection of overpayments--Issuance of warrant--Lien.

Whenever a notice of determination of liability becomes conclusive and final under RCW 41.50.135, the director, upon giving at least twenty days notice by certified mail return receipt requested to the individual's last known address of the intended action, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number

assigned to the warrant, the name of the person mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A copy of the warrant shall be mailed to the person mentioned in the warrant by certified mail to the person's last known address within five days of its filing with the clerk.

[2001 c 146 § 5; 1996 c 56 § 2.]

RCW 41.50.137 Collection of overpayments--Department may issue subpoenas.

The department may issue subpoenas to compel the statement of witnesses and the production of any books, records, or documents necessary or relevant to the department's administration of duties under this chapter. It is unlawful for any person or entity, without just cause, to fail to comply with any subpoena issued under this section.

[1996 c 56 § 3.]

RCW 41.50.138 Collection of overpayments--Waiver of overpayment.

(1) The director may waive repayment of all or part of a retirement allowance overpayment, under RCW 41.50.130 only, if:

(a) The overpayment was not the result of the retiree's or the beneficiary's nondisclosure, fraud, misrepresentation, or other fault; and

(b) The director finds in his or her sole discretion that recovery of the overpayment would be a manifest injustice.

(2) The director may not waive an overpayment if the member, retiree, or beneficiary:

(a) Provided incorrect information to the department or the employer which caused the overpayment;

(b) Failed to provide information to the department or the employer which was necessary to correctly calculate the retirement allowance;

(c) Caused the employer to provide incorrect information or fail to provide necessary information; or

(d) Knew or reasonably should have known that he or she was in receipt of an overpayment.

(3) If the director waives an overpayment and the overpayment occurred because the member's or retiree's employer:

(a) Provided incorrect information to the department which caused the overpayment;

(b) Failed to provide information to the department which was necessary to correctly calculate the retirement allowance;

(c) Caused another party to provide incorrect information or fail to provide necessary information; or

(d) Knew or reasonably should have known that the information provided would cause

the retiree or beneficiary to be overpaid;
then the department shall bill the member's or retiree's employer for the amount of the overpayment that would have been recoverable under RCW 41.50.130 had the overpayment not been waived pursuant to this section.

(4) Nothing in this section authorizes the director to waive the prospective correction of an overstated retirement allowance.

(5) If the director waives an overpayment he or she must state in writing:

(a) The nature of and reason for the overpayment;

(b) The reason for the waiver; and

(c) The amount of the overpayment that is waived.

The department will maintain a file containing documentation of all overpayments waived. The department will provide the file to any person upon request.

(6) This section applies to overpayments identified on or after September 1, 1994.

[1996 c 56 § 4.]

RCW 41.50.139 Retirement status reports--Overpayments--Employer obligations.

(1) Retirement system employers shall elicit on a written form from all new employees as to their having been retired from a retirement system listed in RCW 41.50.030. Employers must report any retirees in their employ to the department. If a retiree works in excess of applicable postretirement employment restrictions and the employer failed to report the employment of the retiree, that employer is liable for the loss to the trust fund.

(2) If an employer erroneously reports to the department that an employee has separated from service such that a person receives a retirement allowance in contravention of the applicable retirement system statutes, the person's retirement status shall remain unaffected and the employer is liable for the resulting overpayments.

(3) Upon receipt of a billing from the department, the employer shall pay into the appropriate retirement system trust fund the amount of the overpayment plus interest as determined by the director. The employer's liability under this section shall not exceed the amount of overpayments plus interest received by the retiree within three years of the date of discovery, except in the case of fraud. In the case of fraud, the employer is liable for the entire overpayment plus interest.

[1997 c 254 § 16.]

Notes:

Intent--Construction--Application--1997 c 254: See notes following RCW 41.26.490.

RCW 41.50.140 Cooperation of employers in administration of systems--Employer contributions for retroactive service credit--Employee contributions paid by employer.

(1) Every employer participating in one or more of the retirement systems listed in RCW 41.50.030 shall fully cooperate in the administration of the systems in which its employees

participate, including the distribution of information to employees, and shall accept and carry out all other duties as required by law, regulation, or administrative instruction.

(2) If an employee is entitled to retroactive service credit which was not previously established through no fault of the employee, or through an employer error which has caused a member's compensation or contributions to be understated or overstated so as to cause a loss to the retirement funds, the director may bill the employer for the loss, to include interest, if applicable. The employer contributions, with interest thereon, will be treated as if in fact the interest was part of the normal employer contribution and no distribution of interest received shall be required.

(3) Employer-paid employee contributions will not be credited to a member's account until the employer notifies the director in writing that the employer has been reimbursed by the employee or beneficiary for the payment. The employer shall have the right to collect from the employee the amount of the employee's obligation. Failure on the part of the employer to collect all or any part of the sums which may be due from the employee or beneficiary shall in no way cause the employer obligation for the total liability to be lessened.

[1982 1st ex.s. c 52 § 33.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 41.50.145 Plan 3--Loss of investment return due to error--Liability.

(1) If the department determines that due to employer error a member of plan 3 has suffered a loss of investment return, the employer shall pay the department for credit to the member's account the amount determined by the department as necessary to correct the error.

(2) If the department determines that due to departmental error a member of plan 3 has suffered a loss of investment return, the department shall credit to the member's account from the appropriate retirement system combined plan 2 and 3 fund the amount determined by the department as necessary to correct the error.

[1999 c 223 § 2; 1998 c 341 § 515.]

Notes:

Effective date--1999 c 223: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 10, 1999]." [1999 c 223 § 4.]

Effective date--1998 c 341: See note following RCW 41.34.060.

RCW 41.50.150 Retirement benefits based on excess compensation--Employer liable for extra retirement costs.

(1) The employer of any employee whose retirement benefits are based in part on excess compensation, as defined in this section, shall, upon receipt of a billing from the department, pay into the appropriate retirement system the present value at the time of the employee's retirement of the total estimated cost of all present and future benefits from the retirement system attributable to the excess compensation. The state actuary shall determine the estimated cost

using the same method and procedure as is used in preparing fiscal note costs for the legislature. However, the director may in the director's discretion decline to bill the employer if the amount due is less than fifty dollars. Accounts unsettled within thirty days of the receipt of the billing shall be assessed an interest penalty of one percent of the amount due for each month or fraction thereof beyond the original thirty-day period.

(2) "Excess compensation," as used in this section, includes the following payments, if used in the calculation of the employee's retirement allowance:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave.

"Cash out" for purposes of this subsection means:

(i) Any payment in lieu of an accrual of annual leave; or

(ii) Any payment added to salary or wages, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance to the extent that payment qualifies as reportable compensation in the member's retirement system;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular daily or hourly rate of pay; and

(e) Any termination or severance payment.

(3) This section applies to the retirement systems listed in RCW 41.50.030 and to retirements occurring on or after March 15, 1984. Nothing in this section is intended to amend or determine the meaning of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.35, or 43.43 RCW or to determine in any manner what payments are includable in the calculation of a retirement allowance under such chapters.

(4) An employer is not relieved of liability under this section because of the death of any person either before or after the billing from the department.

[1998 c 341 § 509; 1997 c 221 § 1; 1995 c 244 § 1; 1984 c 184 § 1.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Intent--Application--1995 c 244 § 1: "The definition of "cash out" added to RCW 41.50.150(2)(a) by this act is a clarification of the legislature's original intent regarding the meaning of the term. The definition of "cash out" applies retroactively to payments made before July 23, 1995." [1995 c 244 § 2.]

Severability--1984 c 184: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 184 § 31.]

RCW 41.50.152 Payment of excess compensation--Public notice requirements.

(1) Except as limited by subsection (3) of this section, the governing body of an employer under chapter 41.32, 41.35, or 41.40 RCW shall comply with the provisions of subsection (2) of this section prior to executing a contract or collective bargaining agreement with members under chapter 41.32, 41.35, or 41.40 RCW which provides for:

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave.

"Cash out" for purposes of this subsection means any payment in lieu of an accrual of annual

leave or any payment added to regular salary, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular rate of pay; or

(e) Any other termination or severance payment.

(2) Any governing body entering into a contract that includes a compensation provision listed in subsection (1) of this section shall do so only after public notice in compliance with the open public meetings act, chapter 42.30 RCW. This notification requirement may be accomplished as part of the approval process for adopting a contract in whole, and does not require separate or additional open public meetings. At the public meeting, full disclosure shall be made of the nature of the proposed compensation provision, and the employer's estimate of the excess compensation billings under RCW 41.50.150 that the employing entity would have to pay as a result of the proposed compensation provision. The employer shall notify the department of its compliance with this section at the time the department bills the employer under RCW 41.50.150 for the pension impact of compensation provisions listed in subsection (1) of this section that are adopted after July 23, 1995.

(3) The requirements of subsection (2) of this section shall not apply to the adoption of a compensation provision listed in subsection (1) of this section if the compensation would not be includable in calculating benefits under chapter 41.32, 41.35, or 41.40 RCW for the employees covered by the compensation provision.

[1998 c 341 § 510; 1995 c 387 § 1.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

RCW 41.50.155 Erroneous withdrawals of contributions--Restoration.

(1) If a person receives a withdrawal of accumulated contributions from any of the retirement systems listed in RCW 41.50.030 in contravention of the restrictions on withdrawal for the particular system, the member shall no longer be entitled to credit for the period of service represented by the withdrawn contributions. The erroneous withdrawal shall be treated as an authorized withdrawal, subject to all conditions imposed by the member's system for restoration of withdrawn contributions. Failure to restore the contributions within the time permitted by the system shall constitute a waiver by the member of any right to receive a retirement allowance based upon the period of service represented by the withdrawn contributions.

(2) All erroneous withdrawals occurring prior to June 9, 1994, shall be subject to the provisions of this section. The deadline for restoring the prior erroneous withdrawals shall be five years from June 9, 1994, for members who are currently active members of a system.

[1994 c 177 § 4.]

Notes:

Findings--1994 c 177: See note following RCW 41.50.125.

RCW 41.50.160 Restoration of withdrawn contributions.

The department of retirement systems shall incorporate the development of individual member accounts receivable into its information systems projects for fiscal years 1993 and 1994, so that by January 1, 1994, members of state retirement systems who are otherwise eligible to restore previously withdrawn contributions have the option to make restoration in a manner determined by the department.

[1994 c 197 § 31; 1992 c 195 § 2.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

RCW 41.50.165 Establishing, restoring service credit--Conditions.

(1) Except for those affected by subsection (4) of this section, a member of a retirement system specified by RCW 41.50.030 or, one previously established by the state but closed to new membership, may, as provided in each retirement system:

(a) Establish allowable membership service not previously credited;

(b) Restore all or a part of that previously credited membership service represented by withdrawn contributions; or

(c) Restore service credit represented by a lump sum payment in lieu of benefits.

(2) Persons who previously have failed to:

(a) Establish service credit for service previously earned; or

(b) Reestablish service credit by the restoration of withdrawn contributions or repayment of a lump sum payment in lieu of a benefit, may now establish or reestablish such service credit by paying the actuarial value of the resulting increase in their benefit in a manner defined by the department.

(3) Any establishment of service credit for service previously rendered, restoration of service credit destroyed, or repayment of a lump sum received in lieu of benefit must be completed prior to retirement.

(4) Service credit is established for or restored to the period in which the service credit is earned.

[1994 c 197 § 2.]

Notes:

Intent--1994 c 197: "(1) This act removes the time limitations within the state's retirement systems for:

(a) The restoration of service credit represented by employee contributions withdrawn by a member of a state's retirement systems; or

(b) The crediting of certain service that, under the provisions of the system, was not creditable at the time it was performed, such as a probationary period or interrupted military service.

(2) This act expands the current procedures for establishing service credit previously earned, restoring withdrawn contributions, or repaying lump sums received in lieu of a benefit. In so doing, it allows the member of one of the state's retirement systems to obtain additional service credit by paying the value of this added benefit that

was previously unavailable." [1994 c 197 § 1.]

Severability--1994 c 197: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 197 § 37.]

Effective date--1994 c 197: "This act shall take effect January 1, 1995." [1994 c 197 § 38.]

RCW 41.50.170 Notification of restoration rights.

Upon termination for reasons other than retirement, the department shall inform a member withdrawing his or her contributions, and the member shall acknowledge in writing, of the right to restore such contributions upon reestablishment of membership in the respective retirement system and the requirements involved in such restoration.

[1994 c 197 § 3.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

RCW 41.50.175 Adoption of rules.

The department shall adopt rules under chapter 34.05 RCW implementing and administering chapter 197, Laws of 1994. These rules are to include, but are not limited to:

- (1) The application and calculation of actuarial value, with the agreement of the state actuary; and
- (2) Establishing the minimum partial payment or the minimum units of restored service, or both.

[1994 c 197 § 4.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

RCW 41.50.200 Subdivision of retirement system funds.

In the records of the teachers' retirement system the teachers' retirement system plan 1 fund shall be subdivided into the member reserve, the pension reserve, and other funds as may from time to time be created by the director for the purpose of the internal accounting record. The director may adopt rules creating or deleting funds as he or she deems necessary.

[1992 c 212 § 2; 1991 c 35 § 32; 1989 c 273 § 16; 1982 1st ex.s. c 52 § 7; 1969 ex.s. c 150 § 1; 1963 ex.s. c 14 § 2; 1955 c 274 § 2; 1947 c 80 § 3; Rem. Supp. 1947 § 4995-28. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1923 c 187 § 5, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.030.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1989 c 273: See RCW 41.45.900.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date--1969 ex.s. c 150: "The provisions of sections 1 through 20 of this 1969 amendatory act shall take effect on July 1, 1969." [1969 ex.s. c 150 § 21.]

RCW 41.50.205 Records--Teachers' retirement system annual report.

The department shall keep a record of all its proceedings, which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Washington state teachers' retirement system for the preceding school year; the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

[1991 c 35 § 33; 1969 ex.s. c 150 § 4; 1947 c 80 § 12; Rem. Supp. 1947 § 4995-31. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.120.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Effective date--1969 ex.s. c 150: See note following RCW 41.50.200.

RCW 41.50.210 Medical director.

The director shall designate a medical director. If required, other physicians may be employed to report on special cases. The medical director shall arrange for and pass upon all medical examinations required under the provisions of chapter 41.32 RCW, investigate all essential statements and certificates by or on behalf of a member in connection with an application for a disability allowance, and report in writing to the board of trustees the conclusions and recommendations upon all matters under referral.

[1992 c 72 § 10; 1991 c 35 § 34; 1947 c 80 § 13; Rem. Supp. 1947 § 4995-32. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part. Formerly RCW 41.32.130.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.50.215 Teachers' retirement system funds--Annual interest to be credited.

From interest and other earnings on the moneys of the Washington state teachers' retirement system, and except as otherwise provided in *RCW 41.32.499, at the close of each fiscal year the department shall make an allowance of regular interest on the balance which was on hand at the beginning of the fiscal year in each of the teachers' retirement system funds as they may deem advisable; however, no interest shall be credited to the expense fund.

[1992 c 212 § 6; 1991 c 35 § 36; 1973 1st ex.s. c 189 § 7; 1955 c 274 § 5; 1947 c 80 § 19; Rem. Supp. 1947 § 4995-38. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part. Formerly RCW 41.32.190.]

Notes:

***Reviser's note:** RCW 41.32.499 was repealed by 1995 c 345 § 11.

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1973 1st ex.s. c 189: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 189 § 12.]

RCW 41.50.220 Trustees, employees not to guarantee loans.

No trustee or employee of the department shall become an endorser or surety or an obligor for moneys loaned by the department.

[1991 c 35 § 37; 1947 c 80 § 23; Rem. Supp. 1947 § 4995-42. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part. Formerly RCW 41.32.230.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.50.230 Employer reports to department.

On or before a date specified by the department in each month every employer shall file a report with the department on a form provided, stating the name of the employer and with respect to each employee who is a member or who is required to become a member of the Washington state teachers' retirement system: (1) The full name, (2) the earnable compensation paid, (3) the employee's contribution to the retirement system, and (4) other information as the department shall require.

[1991 c 35 § 51; 1983 c 56 § 14; 1975-'76 2nd ex.s. c 16 § 1. Prior: 1975 1st ex.s. c 275 § 150; 1975 c 43 § 32; 1969 ex.s. c 176 § 96; 1967 c 50 § 4; 1963 ex.s. c 14 § 13; 1947 c 80 § 42; Rem. Supp. 1947 § 4995-61. Formerly RCW 41.32.420.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1983 c 56: See note following RCW 28A.195.010.

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

Effective date--1969 ex.s. c 176: See note following RCW 41.32.010.

Effective date--Severability--1967 c 50: See notes following RCW 41.32.010.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.50.235 Teachers' retirement system salary deductions.

Every officer authorized to issue salary warrants to teachers shall deduct from the salary payments to any member of the Washington state teachers' retirement system plan 1 regularly employed an amount which will result in total deductions of six percent of the amount of earnable compensation paid in any fiscal year. These deductions shall be transmitted and reported to the retirement system as directed by the department.

[1991 c 35 § 52; 1967 c 50 § 5; 1963 ex.s. c 14 § 14; 1955 c 274 § 20; 1947 c 80 § 43; Rem. Supp. 1947 § 4995-62. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995-6, part. Formerly RCW 41.32.430.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Effective date--Severability--1967 c 50: See notes following RCW 41.32.010.

Savings--Severability--Effective date--1963 ex.s. c 14: See notes following RCW 41.32.010.

RCW 41.50.240 Duties of payroll officer.

The person responsible for making up the payroll shall transmit promptly to the department at the end of each and every payroll period a copy of the original payroll voucher or such other payroll report as the department may require showing thereon all deductions for contributions for the teachers' retirement system made from the earnable compensation of a member of the teachers' retirement system together with warrants or checks covering the total of such deductions. The department shall place such moneys into the proper funds established in this chapter.

[1977 ex.s. c 293 § 17. Formerly RCW 41.32.830.]

Notes:

Effective date--Severability--Legislative direction and placement--Section headings--1977 ex.s. c 293:
See notes following RCW 41.32.755.

RCW 41.50.255 Payment of legal and medical expenses of retirement systems.

The director is authorized to pay from the interest earnings of the trust funds of the public employees' retirement system, the teachers' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the judges' retirement system, the school district employees' retirement system, or the law enforcement officers' and fire fighters' retirement system lawful obligations of the appropriate system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the appropriate trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings.

The director may also pay from the interest earnings of the trust funds specified in this section costs incurred in investigating fraud and collecting overpayments, including expenses incurred to review and investigate cases of possible fraud against the trust funds and collection agency fees and other costs incurred in recovering overpayments. Recovered funds must be returned to the appropriate trust funds.

[1998 c 341 § 511; 1995 c 281 § 1; 1993 sp.s. c 24 § 916; 1991 c 35 § 73; 1984 c 184 § 7. Formerly RCW 41.40.083.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Effective date--1995 c 281: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 281 § 2.]

Severability--Effective dates--1993 sp.s. c 24: See notes following RCW 28A.165.070.

Intent--1991 c 35: See note following RCW 41.26.005.

Severability--1984 c 184: See note following RCW 41.50.150.

RCW 41.50.260 Public employees' retirement system funds created.

For the purpose of the internal accounting record of the public employees' retirement system and not the segregation of moneys on deposit with the state treasurer there are hereby created the employees' savings fund, the benefit account fund, and such other funds as the director may from time to time create.

(1) The employees' savings fund shall be the fund in which shall be accumulated the contributions from the compensation of public employees' retirement system members. The director shall provide for the maintenance of an individual account for each member of the public employees' retirement system showing the amount of the member's contributions together with interest accumulations thereon. The contributions of a member returned to the former employee upon the individual's withdrawal from service, or paid in event of the employee's or former employee's death, as provided in chapter 41.40 RCW, shall be paid from the employees' savings fund. The accumulated contributions of a member, upon the commencement of the individual's retirement, shall be transferred from the employees' savings fund to the benefit account fund.

(2) The benefit account fund shall be the fund in which shall be accumulated the reserves for the payment of all public employees' retirement system retirement allowances and death benefits, if any, in respect of any beneficiary. The amounts contributed by all public employees' retirement system employers to provide pension benefits shall be credited to the benefit account fund. The benefit account fund shall be the fund from which shall be paid all public employees' retirement system retirement allowances, or benefits in lieu thereof because of which reserves have been transferred from the employees' savings fund to the benefit account fund. At the time a recipient of a retirement allowance again becomes a member of the public employees' retirement system, the department shall transfer from the benefit account fund to the employees' savings fund and credit to the individual account of such a member a sum equal to the excess, if any, of the individual's account at the date of the member's retirement over any service retirement allowance received since that date.

[1992 c 212 § 11; 1991 c 35 § 74; 1982 1st ex.s. c 52 § 18; 1973 1st ex.s. c 190 § 4; 1972 ex.s. c 151 § 2; 1967 c 127 § 2; 1963 c 174 § 7; 1953 c 200 § 4; 1949 c 240 § 6; 1947 c 274 § 11; Rem. Supp. 1949 § 11072-11. Formerly RCW 41.40.100.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Severability--1973 1st ex.s. c 190: See note following RCW 41.40.010.

RCW 41.50.265 Public employees' retirement system funds--Report of the state treasurer--Members may receive reports and statements.

The state treasurer shall furnish annually to the department a statement of the amount of

the funds in the treasurer's custody belonging to the public employees' retirement system. Copies of this annual report shall be available to public employees' retirement system members upon request. The records of the department shall be open to public inspection. Any member of the public employees' retirement system shall be furnished with a statement of the amount to the credit of his or her individual account in the employees' savings fund upon his or her written request, provided that the department shall not be required to answer more than one such request of any member in any one year.

[1991 c 35 § 75; 1947 c 274 § 12; Rem. Supp. 1947 § 11072-12. Formerly RCW 41.40.110.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.50.270 Transmittal of total of public employees' retirement system members' deductions.

The person responsible for making up the payroll shall transmit promptly to the department at the end of each and every payroll period a copy of the original payroll voucher or any other payroll report as the department may require showing thereon all deductions for the public employees' retirement system made from the compensation earnable of each member, together with warrants or checks covering the total of the deductions. The department after making a record of all receipts shall pay them to the state treasurer for use according to the provisions of chapter 41.40 RCW.

[1991 c 35 § 90; 1977 ex.s. c 295 § 19; 1947 c 274 § 36; Rem. Supp. 1947 § 11072-36. Formerly RCW 41.40.350.]

Notes:

Intent--1991 c 35: See note following RCW 41.26.005.

RCW 41.50.500 Mandatory assignment of retirement benefits--Definitions. *(Effective until March 1, 2002.)*

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.50.500 through 41.50.650, 41.50.670 through 41.50.720, and 26.09.138.

(1) "Benefits" means periodic retirement payments or a withdrawal of accumulated contributions.

(2) "Disposable benefits" means that part of the benefits of an individual remaining after the deduction from those benefits of any amount required by law to be withheld. The term "required by law to be withheld" does not include any deduction elective to the member.

(3) "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state.

(4) "Mandatory benefits assignment order" means an order issued to the department of retirement systems pursuant to RCW 41.50.570 to withhold and deliver benefits payable to an obligor under chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.35, or 43.43 RCW.

(5) "Obligee" means an ex spouse or spouse to whom a duty of spousal maintenance or property division obligation is owed.

(6) "Obligor" means the spouse or ex spouse owing a duty of spousal maintenance or a property division obligation.

(7) "Periodic retirement payments" means periodic payments of retirement allowances, including but not limited to service retirement allowances, disability retirement allowances, and survivors' allowances. The term does not include a withdrawal of accumulated contributions.

(8) "Property division obligation" means any outstanding court-ordered property division or court-approved property settlement obligation incident to a decree of divorce, dissolution, or legal separation.

(9) "Standard allowance" means a benefit payment option selected under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a), 41.40.188(1)(a), 41.40.660(1), or 41.35.220 that ceases upon the death of the retiree. Standard allowance also means the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or chapter 2.12 RCW. Standard allowance also means the maximum retirement allowance available under RCW 41.32.530(1) following member withdrawal of accumulated contributions, if any.

(10) "Withdrawal of accumulated contributions" means a lump sum payment to a retirement system member of all or a part of the member's accumulated contributions, including accrued interest, at the request of the member including any lump sum amount paid upon the death of the member.

[1998 c 341 § 512; 1991 c 365 § 1; 1987 c 326 § 1.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Severability--1991 c 365: "If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 365 § 37.]

RCW 41.50.500 Mandatory assignment of retirement benefits--Definitions. (*Effective March 1, 2002.*)

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.50.500 through 41.50.650, 41.50.670 through 41.50.720, and 26.09.138.

(1) "Benefits" means periodic retirement payments or a withdrawal of accumulated contributions.

(2) "Disposable benefits" means that part of the benefits of an individual remaining after the deduction from those benefits of any amount required by law to be withheld. The term "required by law to be withheld" does not include any deduction elective to the member.

(3) "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce,

dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state.

(4) "Mandatory benefits assignment order" means an order issued to the department of retirement systems pursuant to RCW 41.50.570 to withhold and deliver benefits payable to an obligor under chapter 2.10, 2.12, 41.26, 41.32, 41.40, 41.35, or 43.43 RCW.

(5) "Obligee" means an ex spouse or spouse to whom a duty of spousal maintenance or property division obligation is owed.

(6) "Obligor" means the spouse or ex spouse owing a duty of spousal maintenance or a property division obligation.

(7) "Periodic retirement payments" means periodic payments of retirement allowances, including but not limited to service retirement allowances, disability retirement allowances, and survivors' allowances. The term does not include a withdrawal of accumulated contributions.

(8) "Property division obligation" means any outstanding court-ordered property division or court-approved property settlement obligation incident to a decree of divorce, dissolution, or legal separation.

(9) "Standard allowance" means a benefit payment option selected under RCW 2.10.146(1)(a), 41.26.460(1)(a), 41.32.785(1)(a), 41.40.188(1)(a), 41.40.660(1), 41.40.845(1)(a), or 41.35.220 that ceases upon the death of the retiree. Standard allowance also means the benefit allowance provided under RCW 2.10.110, 2.10.130, 43.43.260, 41.26.100, 41.26.130(1)(a), or chapter 2.12 RCW. Standard allowance also means the maximum retirement allowance available under RCW 41.32.530(1) following member withdrawal of accumulated contributions, if any.

(10) "Withdrawal of accumulated contributions" means a lump sum payment to a retirement system member of all or a part of the member's accumulated contributions, including accrued interest, at the request of the member including any lump sum amount paid upon the death of the member.

[2000 c 247 § 603; 1998 c 341 § 512; 1991 c 365 § 1; 1987 c 326 § 1.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See RCW 41.35.901.

Severability--1991 c 365: "If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 365 § 37.]

RCW 41.50.510 Mandatory assignment of retirement benefits--Remedies--Applicability.

(1) The remedies provided in RCW 41.50.530 through 41.50.650 and 26.09.138 are in addition to, and not in substitution for, any other remedies provided by law to enforce a dissolution order against an obligor.

(2) The remedies provided in RCW 41.50.530 through 41.50.630 shall be the exclusive

remedies enforceable against the department of retirement systems or the retirement systems listed in RCW 41.50.030 to recover spousal maintenance pursuant to a dissolution, divorce, or legal separation order.

(3) RCW 41.50.530 through 41.50.650 and 26.09.138 apply to all dissolution orders incident to a decree of divorce, dissolution, or legal separation whether entered before or after July 1, 1987.

[1991 c 365 § 2; 1987 c 326 § 2.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.520 Mandatory assignment of retirement benefits--Other remedies not limited.

Nothing in RCW 41.50.500 through 41.50.650 limits the use of any and all civil and criminal remedies against an obligor to enforce the obligations of a dissolution order.

[1987 c 326 § 3.]

RCW 41.50.530 Mandatory assignment of retirement benefits--Proceeding to enforce spousal maintenance--Venue--Jurisdiction.

(1) A proceeding to enforce a duty of spousal maintenance through a mandatory benefits assignment order may be commenced by an obligee:

- (a) By filing a petition for an original action; or
- (b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county of the state of Washington where the obligee resides or is present, where the obligor resides, or where the prior dissolution order was entered.

(3) The court retains continuing jurisdiction under RCW 41.50.500 through 41.50.650 and 26.09.138 until the obligor has satisfied all duties of spousal maintenance, including arrearages, to the obligee.

[1991 c 365 § 3; 1987 c 326 § 4.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.540 Mandatory assignment of retirement benefits--Notice to obligor.

(1) Every court order or decree establishing a spousal maintenance obligation may state that if any such payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without prior notice to the obligor. Failure to include this

provision does not affect the validity of the dissolution order.

(2) If the dissolution order under which the obligor owes the duty of spousal maintenance is not in compliance with subsection (1) of this section or if the obligee cannot show that the obligor has approved or received a copy of the court order or decree that complies with subsection (1) of this section, then notice shall be provided to the obligor at least fifteen days before the obligee seeks a mandatory benefits assignment order. The notice shall state that, if a spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order without further notice to the obligor. Service of the notice shall be by personal service, or by any form of mail requiring a return receipt. The notice requirement under this subsection is not jurisdictional.

[1991 c 365 § 4; 1987 c 326 § 5.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.550 Mandatory assignment of retirement benefits--Withdrawal of accumulated contributions--Notice to obligee--Payment to obligee.

(1) An obligee who wishes to be notified by the department of retirement systems if the obligor seeks a withdrawal of accumulated contributions shall submit such a request to the department in writing on a form supplied by the department. The request shall be filed by certified or registered mail and shall include the obligee's address and a copy of the dissolution order requiring the spousal maintenance owed.

(2) The department shall thereafter promptly send notice to the obligee at the address provided in subsection (1) of this section when the obligor applies for a withdrawal of accumulated contributions. The department shall not process the obligor's request for a withdrawal of accumulated contributions sooner than seventy-five days after sending the notice to the obligee.

(3) The department shall pay directly to an obligee who has not obtained a mandatory benefits assignment order all or part of the accumulated contributions if the dissolution order filed with the department pursuant to subsection (1) of this section includes a provision that states:

"At such time as (the obligor) requests a withdrawal of accumulated contributions as defined in RCW 41.50.500, the department of retirement systems shall pay to (the obligee) dollars from such accumulated contributions or . . . percentage of such accumulated contributions (whichever is provided by the court)."

[1991 c 365 § 5; 1987 c 326 § 6.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.560 Mandatory assignment of retirement benefits--Petition for order.

(1) A petition or motion seeking a mandatory benefits assignment order in an action under RCW 41.50.530 may be filed by an obligee if the obligor is more than fifteen days past due in spousal maintenance payments and the total of such past due payments is equal to or greater than one hundred dollars or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems. The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the mandatory benefits assignment order, including:

(a) That the obligor, stating his or her name, residence, and social security number, (i) is more than fifteen days past due in spousal maintenance payments and that the total of such past due payments is equal to or greater than one hundred dollars, or (ii) has requested a withdrawal of accumulated contributions from the department of retirement systems;

(b) A description of the terms of the dissolution order requiring payment of spousal maintenance and the amount, if any, past due;

(c) The name of the public retirement system or systems from which the obligor is currently receiving periodic retirement benefits or from which the obligor has requested a withdrawal of accumulated contributions; and

(d) That notice has been provided to the obligor as required by RCW 41.50.540.

(2) If the court in which a mandatory benefits assignment order is sought does not already have a copy of the dissolution order in the court file, then the obligee shall attach a copy of the dissolution order to the petition or motion seeking the mandatory benefits assignment order.

[1991 c 365 § 6; 1987 c 326 § 7.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.570 Mandatory assignment of retirement benefits--Issuance of order.

Upon receipt of a petition or motion seeking a mandatory benefits assignment order that complies with RCW 41.50.560, the court shall issue a mandatory benefits assignment order as provided in RCW 41.50.590, including the information required in RCW 41.50.580 (1)(a) or (2)(a), directed to the department of retirement systems, and commanding the department to answer the order on the forms served with the order that comply with RCW 41.50.610 within twenty days after service of the order upon the department.

[1987 c 326 § 8.]

RCW 41.50.580 Mandatory assignment of retirement benefits--Order--Contents.

(1)(a) The mandatory benefits assignment order issued pursuant to RCW 41.50.570 and directed at periodic retirement benefits shall include:

(i) The maximum amount of current spousal maintenance to be withheld from the obligor's periodic retirement benefits each month;

(ii) The total amount of the arrearage judgments previously entered by the court, if any, together with interest, if any; and

(iii) The maximum amount to be withheld from the obligor's periodic retirement payments each month to satisfy the arrearage judgments specified in (a)(ii) of this subsection.

(b) The total amount to be withheld from the obligor's periodic retirement payments each month pursuant to a mandatory benefits assignment order shall not exceed fifty percent of the disposable benefits of the obligor. If the amounts to be paid toward the arrearage are specified in the assignment order, then the maximum amount to be withheld is the sum of the current maintenance ordered and the amount ordered to be paid toward the arrearage, or fifty percent of the disposable benefits of the obligor, whichever is less.

(c) Fifty percent of the disposable benefits of the obligor are exempt from collection under the assignment order, and may be disbursed by the department to the obligor. The provisions of RCW 6.27.150 do not apply to mandatory benefits assignment orders under this chapter.

(2)(a) A mandatory benefits assignment order issued pursuant to RCW 41.50.570 and directed at a withdrawal of accumulated contributions shall include:

(i) The maximum amount of current spousal maintenance to be withheld from the obligor's accumulated contributions;

(ii) The total amount of the arrearage judgments for spousal maintenance payments entered by the court, if any, together with interest, if any; and

(iii) The amount to be withheld from the obligor's withdrawal of accumulated contributions to satisfy the current maintenance obligation and the arrearage judgments specified in (a)(i) and (ii) of this subsection;

(b) The total amount to be withheld from the obligor's withdrawal of accumulated contributions may be up to one hundred percent of the disposable benefits of the obligor.

(3) If an obligor is subject to two or more mandatory benefits assignment orders on account of different obligees and if the nonexempt portion of the obligor's benefits is not sufficient to respond fully to all the mandatory benefits assignment orders, the department shall apportion the obligor's nonexempt disposable benefits among the various obligees in proportionate shares to the extent permitted by federal law. Any obligee may seek a court order directing the department to reapportion the obligor's nonexempt disposable earnings upon notice to all interested obligees. The order must specifically supersede the terms of previous mandatory benefits assignment orders the terms of which it alters. Notice shall be by personal service, or in a manner provided by the civil rules of superior court or applicable statute.

[1991 c 365 § 7; 1987 c 326 § 9.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.590 Mandatory assignment of retirement benefits--Order--Form.

The mandatory benefits assignment order shall be in the following form:

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON IN AND FOR THE COUNTY OF

.....

.....,

Obligee No.

vs.

.....,

Obligor MANDATORY
BENEFITS ASSIGNMENT
ORDER

.....,

The Department of Retirement Systems
of the State of Washington

THE STATE OF WASHINGTON TO: The Department of
Retirement Systems

AND TO:

Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in spousal maintenance payments and that the total amount of such past due payments is equal to or greater than one hundred dollars or that the obligor has requested a withdrawal of accumulated contributions from the department of retirement systems. The amount of the accrued past due spousal maintenance debt as of this date is dollars. If the obligor is receiving periodic retirement payments from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance is dollars per month and the amount to be withheld from the obligor's benefits to satisfy current and continuing spousal maintenance is per month. Upon satisfaction of the accrued past due spousal maintenance debt, the department shall withhold only dollars, the amount necessary to satisfy current and continuing spousal maintenance from the obligor's benefits. If the obligor has requested a withdrawal of accumulated contributions from the department, the amount to be withheld from the obligor's benefits to satisfy such accrued spousal maintenance is dollars.

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service

of this benefits assignment order upon you.

(1) If you are currently paying periodic retirement payments to the obligor, then you shall do as follows:

(a) Withhold from the obligor's retirement payments each month the lesser of:

(i) The sum of the specified arrearage payment amount plus the specified current spousal maintenance amount; or

(ii) Fifty percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt benefits of the obligor until notified by a court order that the mandatory benefits assignment order has been modified or terminated. You shall promptly notify the court if and when the obligor is no longer receiving periodic retirement payments from the department of retirement systems.

You shall deliver the withheld benefits to the clerk of the court that issued this mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after your receipt of this mandatory benefits assignment order.

(2) If you are not currently paying periodic retirement payments to the obligor but the obligor has requested a withdrawal of accumulated contributions, then you shall do as follows:

(a) Withhold from the obligor's benefits the sum of the specified arrearage payment amount plus the specified interest amount, up to one hundred percent of the disposable benefits of the obligor.

(b) The total amount withheld above is subject to the mandatory benefits assignment order, and all other sums may be disbursed to the obligor.

You shall mail a copy of this order and a copy of your answer to the obligor at the mailing address in the department's files as soon as is reasonably possible. This mandatory benefits assignment order has priority over any assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized by Washington law, except for a wage assignment order for child support under chapter 26.18 RCW or order to withhold or deliver under chapter 74.20A RCW.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS MANDATORY BENEFITS ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE MANDATORY BENEFITS ASSIGNMENT ORDER.

DATED THIS day of, 19. . .

.....
Obligee, Judge/Court Commissioner
or obligee's attorney

[1991 c 365 § 8; 1987 c 326 § 10.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.600 Mandatory assignment of retirement benefits--Duties of department.

(1) The director or the director's designee shall answer an order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor receives periodic payments from the department of retirement systems, whether the obligor has requested a withdrawal of accumulated contributions from the department, whether the department will honor the mandatory benefits assignment order and if not, the reasons why, and whether there are other current court or administrative orders on file with the department directing the department to withhold all or a portion of the obligor's benefits.

(2)(a) If any periodic retirement payments are currently payable to the obligor, the funds subject to the mandatory benefits assignment order shall be withheld from the next periodic retirement payment due twenty days or more after receipt of the mandatory benefits assignment order. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order each month, but the first delivery shall occur no sooner than twenty days after receipt of the mandatory benefits assignment order.

(b) The department shall continue to withhold the ordered amount from nonexempt benefits of the obligor until notified by the court that the mandatory benefits assignment order has been modified or terminated. If the department is initially unable to comply, or able to comply only partially, with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible at the earliest possible date. The department shall notify the court of changes in withholding amounts and the reason for the change. When the obligor is no longer eligible to receive funds from one or more public retirement systems the department shall promptly notify the court.

(3)(a) If no periodic retirement payments are currently payable to the obligor but the obligor has requested a withdrawal of accumulated contributions, the funds subject to the mandatory benefits assignment order shall be withheld from the withdrawal payment. The withheld amount shall be delivered to the clerk of the court that issued the mandatory benefits assignment order.

(b) If the department is unable to comply fully with the withholding obligation, the court's order shall be interpreted to require the department to comply to the greatest extent possible.

(4) The department may deduct a processing fee from the remainder of the obligor's funds after withholding under the mandatory benefits assignment order, unless the remainder is exempt under RCW 41.50.580. The processing fee may not exceed (a) twenty-five dollars for the first disbursement made by the department to the superior court clerk; and (b) six dollars for each subsequent disbursement to the clerk. Funds collected pursuant to this subsection shall be deposited in the department of retirement systems expense fund.

(5) A court order for spousal maintenance governed by RCW 41.50.500 through 41.50.650 or 26.09.138 shall have priority over any other assignment or order of execution, garnishment, attachment, levy, or similar legal process authorized under Washington law, except for a mandatory wage assignment for child support under chapter 26.18 RCW, or an order to withhold and deliver under chapter 74.20A RCW.

(6) If the department, without good cause, fails to withhold funds as required by a mandatory benefits assignment order issued under RCW 41.50.570, the department may be held liable to the obligee for any amounts wrongfully disbursed to the obligor in violation of the mandatory benefits assignment order. However, the department shall under no circumstances be held liable for failing to withhold funds from a withdrawal of accumulated contributions unless the mandatory benefits assignment order was properly served on the department at least thirty days before the department made the withdrawal payment to the obligor. If the department is held liable to an obligee for failing to withhold funds as required by a mandatory benefits assignment order, the department may recover such amounts paid to an obligee by thereafter either withholding such amounts from the available nonexempt benefits of the obligor or filing a legal action against the obligor.

(7) If the department complies with a court order pursuant to RCW 41.50.500 through 41.50.650, neither the department, its officers, its employees, nor any of the retirement systems listed in RCW 41.50.030 may be liable to the obligor or an obligee for wrongful withholding.

(8) The department may combine amounts withheld from various obligors into a single payment to the superior court clerk, if the payment includes a listing of the amounts attributable to each obligor and other information as required by the clerk.

(9) The department shall mail to the obligor at the obligor's last known mailing address appearing in the department's files copies of the mandatory benefits assignment order and the department's answer within twenty days after receiving the mandatory benefits assignment order.

(10) The department shall not consider any withholding allowance that is elective to the employee to be a mandatory deduction for purposes of calculating the member's disposable benefits subject to a mandatory benefits assignment order. The department shall withhold elective withholdings as elected by the employee after deducting from the benefit the amount owing to an obligee pursuant to a mandatory benefits assignment order.

[1991 c 365 § 9; 1987 c 326 § 11.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.610 Mandatory assignment of retirement benefits--Order--Answer--Form.

The answer of the department shall be made on forms, served on the director with the mandatory benefits assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON IN AND FOR THE

[1987 c 326 § 12.]

RCW 41.50.620 Mandatory assignment of retirement benefits--Order--Service.

(1) Service of the mandatory benefits assignment order on the department is invalid unless it is served with four answer forms in conformance with RCW 41.50.610, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the obligee's attorney or the obligee, and the obligor at the last mailing address known to the obligee. The obligee shall also include an extra copy of the mandatory benefits assignment order for the department to mail to the obligor. Service on the department shall be in person or by any form of mail requiring a return receipt.

(2) On or before the date of service of the mandatory benefits assignment order on the department, the obligee shall mail or cause to be mailed by certified or registered mail a copy of the mandatory benefits assignment order to the obligor at the obligor's last mailing address known to the obligee; or, in the alternative, a copy of the mandatory benefits assignment order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the department. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection requires, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the mandatory benefits assignment order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has been prejudiced due to the failure to mail or serve the copy.

[1991 c 365 § 10; 1987 c 326 § 13.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.630 Mandatory assignment of retirement benefits--Hearing to quash, modify, or terminate order.

In a hearing to quash, modify, or terminate the mandatory benefits assignment order, the court may grant relief only upon a showing that the mandatory benefits assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the mandatory benefits assignment order is not grounds to quash, modify, or terminate the mandatory benefits assignment order. If a mandatory benefits assignment order has been in operation for twelve consecutive months and the obligor's spousal maintenance is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the mandatory benefits assignment order should remain in effect.

[1991 c 365 § 11; 1987 c 326 § 14.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.640 Mandatory assignment of retirement benefits--Award of costs to prevailing party.

In any action to enforce a dissolution order by means of a mandatory benefits assignment order pursuant to RCW 41.50.530 through 41.50.630 and 26.09.138, the court may award costs to the prevailing party, including an award for reasonable attorneys' fees consistent with RCW 26.09.140. An obligor shall not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question. This section does not authorize an award of attorneys' fees against the department of retirement systems or any of the retirement systems listed in RCW 41.50.030.

[1987 c 326 § 15.]

RCW 41.50.650 Payments pursuant to court orders entered under prior law.

(1) Notwithstanding RCW 2.10.180(1), 2.12.090(1), *41.26.180(1), 41.32.052(1), 41.40.052(1), and 43.43.310(1) as those sections existed between July 1, 1987, and July 28, 1991, the department of retirement systems shall make direct payments of benefits to a spouse or ex spouse pursuant to court orders or decrees entered before July 1, 1987, that complied with all the requirements in RCW 2.10.180(1), 2.12.090(2), *41.26.180(3), 41.32.052(3), 41.40.052(3), 43.43.310(2), and 41.04.310 through 41.04.330, as such requirements existed before July 1, 1987. The department shall be responsible for making direct payments only if the decree or court order expressly orders the department to make direct payments to the spouse or ex spouse and specifies a sum certain or percentage amount of the benefit payments to be made to the spouse or ex spouse.

(2) The department of retirement systems shall notify a spouse or ex spouse who, pursuant to a mandatory benefits assignment order entered between July 1, 1987, and July 28, 1991, is receiving benefits in satisfaction of a court-ordered property division, that he or she is entitled to receive direct payments of a court-ordered property division pursuant to RCW 41.50.670 if the dissolution order fully complies or is modified to fully comply with the requirements of RCW 41.50.670 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, *41.26.180, 41.32.052, 41.40.052, 43.43.310, and 26.09.138. The department shall send notice in writing as soon as reasonably feasible but no later than ninety days after July 28, 1991. The department shall also send notice to the obligor member spouse.

[1991 c 365 § 12; 1987 c 326 § 16.]

Notes:

***Reviser's note:** RCW 41.26.180 was recodified as RCW 41.26.053 pursuant to 1994 c 298 § 5.

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.660 Mandatory assignment of retirement benefits--Rules.

The director shall adopt such rules under RCW 41.50.050 as the director may find necessary to carry out the purposes of RCW 41.50.500 through 41.50.650 and to avoid conflicts with any applicable federal or state laws.

[1987 c 326 § 27.]

RCW 41.50.670 Property division obligations--Direct payments pursuant to court order.

(1) Nothing in this chapter regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an obligee to direct payments of retirement benefits to satisfy a property division obligation ordered pursuant to a court decree of dissolution or legal separation or any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation as provided in RCW 2.10.180, 2.12.090, *41.04.310, 41.04.320, 41.04.330, 41.26.053, 41.32.052, 41.35.100, **41.34.070(3), 41.40.052, 43.43.310, or 26.09.138, as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991. The department shall pay benefits under this chapter in a lump sum or as a portion of periodic retirement payments as expressly provided by the dissolution order. A dissolution order may not order the department to pay a periodic retirement payment or lump sum unless that payment is specifically authorized under the provisions of chapter 2.10, 2.12, 41.26, 41.32, 41.35, 41.34, 41.40, or 43.43 RCW, as applicable.

(2) The department shall pay directly to an obligee the amount of periodic retirement payments or lump sum payment, as appropriate, specified in the dissolution order if the dissolution order filed with the department pursuant to subsection (1) of this section includes a provision that states in the following form:

If (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to (the obligee) dollars from such payments or . . . percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to (the obligee) dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

(3) This section does not require a member to select a standard allowance upon retirement nor does it require the department to recalculate the amount of a retiree's periodic retirement payment based on a change in survivor option.

(4) A court order under this section may not order the department to pay more than seventy-five percent of an obligor's periodic retirement payment to an obligee.

(5) Persons whose court decrees were entered between July 1, 1987, and July 28, 1991, shall also be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders comply or are modified to comply with this section and RCW 41.50.680 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, 41.26.053, 41.32.052, 41.35.100, 41.34.070, 41.40.052, 43.43.310, and 26.09.138.

(6) The obligee must file a copy of the dissolution order with the department within ninety days of that order's entry with the court of record.

(7) A division of benefits pursuant to a dissolution order under this section shall be based upon the obligor's gross benefit prior to any deductions. If the department is required to withhold a portion of the member's benefit pursuant to 26 U.S.C. Sec. 3402 and the sum of that amount plus the amount owed to the obligee exceeds the total benefit, the department shall satisfy the withholding requirements under 26 U.S.C. Sec. 3402 and then pay the remainder to the obligee. The provisions of this subsection do not apply to amounts withheld pursuant to 26 U.S.C. Sec. 3402(i).

[1998 c 341 § 513; 1996 c 39 § 18; 1991 c 365 § 13.]

Notes:

Reviser's note: *(1) RCW 41.04.310, 41.04.320, and 41.04.330 were repealed by 1987 c 326 § 21, effective July 1, 1987.

** (2) RCW 41.34.070 was amended by 1998 c 117 § 1, changing subsection (3) to subsection (4).

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.680 Property division obligations--Processing fee.

The department may deduct a processing fee for administering direct payments under RCW 41.50.670 according to the dissolution order. The fee may not exceed (1) seventy-five dollars or the actual average administrative costs, whichever is less, for the first disbursement made by the department; and (2) six dollars or the actual average administrative costs, whichever is less for subsequent disbursements. The department shall deduct the fee in equal dollar amounts from the obligee's and obligor's payments. The funds collected pursuant to this section shall be deposited in the department of retirement systems expense account.

[1991 c 365 § 14.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.690 Property division obligations--Obligee entitled to statement of obligor's retirement benefits--When.

Unless otherwise prohibited by federal law, following both the initial and final postretirement audit of an obligor's retirement benefit, the department shall provide an obligee entitled to direct payment of retirement benefits pursuant to a dissolution order under RCW

41.50.670 with a statement of monthly retirement benefit allowance to be paid to the obligor, and other retirement benefit information available to the obligor including the average final compensation, total years of service, retirement date, the amount of the employee contributions made prior to implementation of employer pickup under RCW 41.04.445 and 41.04.450, and savings and interest.

[1991 c 365 § 15.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.700 Property division obligations--Cessation upon death of obligee or obligor--Payment treated as deduction from member's periodic retirement payment.

(1) The department's obligation to provide direct payment of a property division obligation to an obligee under RCW 41.50.670 shall cease upon the death of the obligee or upon the death of the obligor, whichever comes first. However, if an obligor dies and is eligible for a lump sum death benefit, the department shall be obligated to provide direct payment to the obligee of all or a portion of the withdrawal of accumulated contributions pursuant to a court order that complies with RCW 41.50.670.

(2) The direct payment of a property division obligation to an obligee under RCW 41.50.670 shall be paid as a deduction from the member's periodic retirement payment. An obligee may not direct the department to withhold any funds from such payment.

[1991 c 365 § 16.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.710 Property division obligations--Remedies exclusive--Payment pursuant to court order defense against claims.

(1) The remedies provided in RCW 41.50.670 through 41.50.720 are the exclusive remedies enforceable against the department or the retirement systems listed in RCW 41.50.030 for the direct payment of retirement benefits to satisfy a property division obligation pursuant to a dissolution order. The department shall not be required to make payments to an obligee of benefits accruing prior to (a) thirty calendar days following service of the dissolution order on the department; or (b) benefit payments restrained under RCW 41.50.720.

(2) Whenever the department of retirement systems makes direct payments of property division to a spouse or ex spouse under RCW 41.50.670 to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation, it shall be a sufficient answer to any claim of a beneficiary against the department for the department to show that the payments were made pursuant to court decree.

[1991 c 365 § 17.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.720 Payment of benefits--Restraining orders.

A party to a dissolution proceeding may file a motion with the court requesting the court to enter an order restraining the department from paying any benefits to a member until further order of the court. The department shall not initiate payment of benefits to a member from the time a restraining order is served on the department until the court enters a further order disposing of the benefits.

[1991 c 365 § 25.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 41.50.730 Retirement or termination agreement payments--Effect on pension benefits calculation.

Any payment made by an employer to a member of any retirement system enumerated in RCW 41.50.030 based on either an agreement of the employee to terminate or retire; or notification to the employer of intent to retire; shall affect retirement as follows:

(1) If the agreement does not require the employee to perform additional service, the payment shall not be used in any way to calculate the pension benefit.

(2) If the agreement requires additional service and results in payment at the same or a lower rate than that paid for the same or similar service by other employees it may be included in the pension benefit calculation but shall be deemed excess compensation and is billable to the employer as provided in RCW 41.50.150.

(3) If the agreement requires additional service and results in payment at a rate higher than that paid for the same or similar service by other employees, that portion of the payment which equals the payment for the same or similar service shall be treated as described in subsection (2) of this section, and the balance of the payment shall be treated as described in subsection (1) of this section.

[1993 c 270 § 1.]

RCW 41.50.740 Retirement or termination agreement payments--Opportunity to change payment options.

Members of the teachers' retirement system who retired prior to January 1, 1993, from service with a community college district whose reported earnable compensation included payments made pursuant to an agreement to terminate or retire, or to provide notice of intent to retire, and whose retirement allowance has been reduced under RCW 41.50.150 or is reduced

after July 25, 1993, under RCW 41.50.730, shall have an opportunity to change the retirement allowance payment option selected by the member under RCW 41.32.530. Any request for a change shall be made in writing to the department no later than October 31, 1993, and shall apply prospectively only.

[1993 c 270 § 2.]

RCW 41.50.750 Retirement or termination agreement payments--Overpayments not required to be repaid.

(1) Retirees whose reported earnable compensation included payments made pursuant to an agreement to terminate or retire, or to provide notice of intent to retire, shall not be required to repay to the trust funds any overpayments resulting from the employer misreporting, subject to the conditions provided in subsection (2) of this section. The retirees' allowances shall be prospectively adjusted to reflect the benefits to which the retirees are correctly entitled.

(2) Subsection (1) of this section shall apply only to members of the teachers' retirement system who retired prior to January 1, 1993, from service with a community college district.

(3) Any retirees under subsection (2) of this section who, since January 1, 1990, have had their retirement allowances reduced under RCW 41.50.130(1)(b) because of the inclusion of retirement agreement payments in calculating their allowances, shall have their allowances adjusted to reflect the benefits to which the retirees are correctly entitled, but without a reduction to recoup prior overpayments. The retirees shall be reimbursed by the retirement system for the cumulative amount of the reduction in the retirement allowance that has occurred since January 1, 1990, to recoup prior overpayments.

(4) Any retirees covered by subsection (2) of this section who, after January 1, 1990, repaid a previous overpayment in a lump sum under RCW 41.50.130(1)(b) because of the inclusion of retirement agreement payments in calculating their allowances, shall be reimbursed by the retirement system for the amount of the lump sum repayment.

[1993 c 270 § 3.]

RCW 41.50.760 Cost-of-living adjustments--Alternative calculation--Election.

The department of retirement systems may continue to pay cost-of-living adjustments consistent with the provisions of the statutes repealed by section 11, chapter 345, Laws of 1995, in lieu of the benefits provided by RCW 41.32.489, 41.32.4872, 41.40.197, and 41.40.1986, if the department determines that: (1) A member earned service credit under chapter 41.40 or 41.32 RCW on or after May 8, 1989; and (2) a retiree would receive greater increases in the next ten years under the statutes repealed by section 11, chapter 345, Laws of 1995 than under the provisions of RCW 41.32.489, 41.32.4872, 41.40.197, and 41.40.1986; and (3) the retiree does not elect the benefits provided by chapter 345, Laws of 1995 over the benefits provided under the statutes repealed by section 11, chapter 345, Laws of 1995. The election must be made in a manner prescribed by the department.

[1995 c 345 § 13.]

Notes:

Intent--Effective date--1995 c 345: See notes following RCW 41.32.489.

RCW 41.50.770 Deferred compensation plans.

(1) "Employee" as used in this section and RCW 41.50.780 includes all full-time, part-time, and career seasonal employees of the state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of the government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and of the superior and district courts; and members of the state legislature or of the legislative authority of any county, city, or town.

(2) The state, through the department, and any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body is authorized to contract with an employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the amount allowable under 26 U.S.C. Sec. 457, and deposit or invest such deferred portion in a credit union, savings and loan association, bank, or mutual savings bank or purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts from any insurance company or any investment company licensed to contract business in this state.

(3) Employees participating in the state deferred compensation plan administered by the department shall self-direct the investment of the deferred portion of their income through the selection of investment options as set forth in subsection (4) of this section.

(4) The department can provide such plans as it deems are in the interests of state employees. In addition to the types of investments described in this section, the state investment board, with respect to the state deferred compensation plan, shall invest the deferred portion of an employee's income, without limitation as to amount, in accordance with RCW 43.84.150, 43.33A.140, and 41.50.780, and pursuant to investment policy established by the state investment board for the state deferred compensation plans. The state investment board, after consultation with the employee retirement benefits board regarding any recommendations made pursuant to RCW 41.50.088(2), shall provide a set of options for participants to choose from for investment of the deferred portion of their income. Any income deferred under such a plan shall continue to be included as regular compensation, for the purpose of computing the state or local retirement and pension benefits earned by any employee.

(5) Coverage of an employee under a deferred compensation plan under this section shall not render such employee ineligible for simultaneous membership and participation in any pension system for public employees.

[1998 c 116 § 11; 1995 c 239 § 314.]

Notes:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.780 Deferred compensation principal and administrative accounts created--Participation in deferred compensation plans--Department's duties.

(1) The deferred compensation principal account is hereby created in the state treasury.

(2) The amount of compensation deferred by employees under agreements entered into under the authority contained in RCW 41.50.770 shall be paid into the deferred compensation principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the department. The deferred compensation principal account shall be used to carry out the purposes of RCW 41.50.770. All eligible state employees shall be given the opportunity to participate in agreements entered into by the department under RCW 41.50.770. State agencies shall cooperate with the department in providing employees with the opportunity to participate.

(3) Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the department under RCW 41.50.770, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or other qualifying service. Accordingly, the deferred compensation principal account shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein.

(4) All moneys in the state deferred compensation principal account and the state deferred compensation administrative account, all property and rights purchased therewith, and all income attributable thereto, shall be held in trust by the state investment board, as set forth under RCW 43.33A.030, for the exclusive benefit of the state deferred compensation plan's participants and their beneficiaries. Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments under the plan. These payments and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law.

(5) The state investment board has the full power to invest moneys in the state deferred compensation principal account and the state deferred compensation administrative account in accordance with RCW 43.84.150, 43.33A.140, and 41.50.770, and cumulative investment directions received pursuant to RCW 41.50.770. All investment and operating costs of the state investment board associated with the investment of the deferred compensation plan assets shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation principal account.

(6)(a) No state board or commission, agency, or any officer, employee, or member

thereof is liable for any loss or deficiency resulting from participant investments selected pursuant to RCW 41.50.770(3).

(b) Neither the employee retirement benefits board nor the state investment board, nor any officer, employee, or member thereof is liable for any loss or deficiency resulting from reasonable efforts to implement investment directions pursuant to RCW 41.50.770(3).

(7) The deferred compensation administrative account is hereby created in the state treasury. All expenses of the department pertaining to the deferred compensation plan including staffing and administrative expenses shall be paid out of the deferred compensation administrative account. Any excess balances credited to this account over administrative expenses disbursed from this account shall be transferred to the deferred compensation principal account at such time and in such amounts as may be determined by the department with the approval of the office of financial management. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from this account shall be transferred to this account from the deferred compensation principal account.

(8) In addition to the duties specified in this section and RCW 41.50.770, the department shall administer the salary reduction plan established in RCW 41.04.600 through 41.04.645.

(9)(a)(i) The department shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.50.770 and this section. The department shall account for and report on the investment of state deferred compensation plan assets or may enter into an agreement with the state investment board for such accounting and reporting.

(ii) The department's duties related to individual participant accounts include conducting the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iii) The department has sole responsibility for contracting with any recordkeepers for individual participant accounts and shall manage the performance of recordkeepers under those contracts.

(b)(i) The department's duties under (a)(ii) of this subsection do not limit the authority of the state investment board to conduct its responsibilities for asset management and balancing of the deferred compensation funds.

(ii) The state investment board has sole responsibility for contracting with outside investment firms to provide investment management for the deferred compensation funds and shall manage the performance of investment managers under those contracts.

(c) The state treasurer shall designate and define the terms of engagement for the custodial banks.

(10) The department may adopt rules necessary to carry out its responsibilities under RCW 41.50.770 and this section.

[2001 c 181 § 2. Prior: 1998 c 245 § 42; 1998 c 116 § 12; 1995 c 239 § 315.]

NOTES:

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW

41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.50.790 Survivor benefits--Dissolution orders.

(1) The department shall designate an obligee as a survivor beneficiary of a member under RCW 2.10.146, 41.26.460, 41.32.530, 41.32.785, 41.35.220, 41.40.188, or 41.40.660 if the department has been served by registered or certified mail with a dissolution order as defined in RCW 41.50.500 at least thirty days prior to the member's retirement. The department's duty to comply with the dissolution order arises only if the order contains a provision that states in substantially the following form:

When (the obligor) applies for retirement the department shall designate (the obligee) as survivor beneficiary with a survivor benefit.

The survivor benefit designated in the dissolution order must be consistent with the survivor benefit options authorized by statute or administrative rule.

(2) The obligee's entitlement to a survivor benefit pursuant to a dissolution order filed with the department in compliance with subsection (1) of this section shall cease upon the death of the obligee.

(3)(a) A subsequent dissolution order may order the department to divide a survivor benefit between a survivor beneficiary and an alternate payee. In order to divide a survivor benefit between more than one payee, the dissolution order must:

(i) Be ordered by a court of competent jurisdiction following notice to the survivor beneficiary;

(ii) Contain a provision that complies with subsection (1) of this section designating the survivor beneficiary;

(iii) Contain a provision clearly identifying the alternate payee or payees; and

(iv) Specify the proportional division of the benefit between the survivor beneficiary and the alternate payee or payees.

(b) The department will calculate actuarial adjustment for the court-ordered survivor benefit based upon the life of the survivor beneficiary.

(c) If the survivor beneficiary dies, the department shall terminate the benefit. If the alternate payee predeceases the survivor beneficiary, all entitlement of the alternate payee to a benefit ceases and the entire benefit will revert to the survivor beneficiary.

(d) For purposes of this section, "survivor beneficiary" means:

(i) The obligee designated in the provision of dissolution filed in compliance with subsection (1) of this section; or

(ii) In the event of more than one dissolution order, the obligee named in the first decree of dissolution received by the department.

(e) For purposes of this section, "alternate payee" means a person, other than the survivor beneficiary, who is granted a percentage of a survivor benefit pursuant to a dissolution order.

(4) The department shall under no circumstances be held liable for not designating an

obligee as a survivor beneficiary under subsection (1) of this section if the dissolution order or amendment thereto is not served on the department by registered or certified mail at least thirty days prior to the member's retirement.

(5) If a dissolution order directing designation of a survivor beneficiary has been previously filed with the department in compliance with this section, no additional obligation shall arise on the part of the department upon filing of a subsequent dissolution order unless the subsequent dissolution order:

(a) Specifically amends or supersedes the dissolution order already on file with the department; and

(b) Is filed with the department by registered or certified mail at least thirty days prior to the member's retirement.

(6) The department shall designate a court-ordered survivor beneficiary pursuant to a dissolution order filed with the department before June 6, 1996, only if the order:

(a) Specifically directs the member or department to make such selection;

(b) Specifies the survivor option to be selected; and

(c) The member retires after June 6, 1996.

[1998 c 341 § 514; 1996 c 175 § 1.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

RCW 41.50.800 Apportionment of budgeted funds of affected agencies.

If apportionments of budgeted funds are required because of the transfers herein authorized, the director of financial management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustment in funds and appropriation accounts and equipment records in accordance with such certification.

[1979 c 151 § 64; 1975-'76 2nd ex.s. c 105 § 13.]

RCW 41.50.801 Continuation of rules, pending business, contracts, investments, etc.

On the effective date of transfer as provided in RCW 41.50.030, all rules and regulations, and all pending business before any of the retirement boards whose powers, duties, and functions are transferred to the department by this chapter shall be continued and acted upon by the department.

All existing contracts and obligations pertaining to the functions herein transferred shall remain in full force and effect, and shall be performed by the department. None of the transfers directed by this chapter shall affect the validity of any act performed by a retirement board or by any official or employee thereof prior to the effective date of transfer as provided in RCW 41.50.030.

None of the transfers involving investment of funds by any of the retirement boards shall affect the validity of any act performed by such boards or by any official or employee thereof

prior to the effective date of transfer as provided in RCW 41.50.030.

[1975-'76 2nd ex.s. c 105 § 14.]

RCW 41.50.802 Transfer of reports, documents, etc., property, funds, assets, appropriations, etc.

All reports, documents, surveys, books, records, files, papers, or other writings relating to the administration of the powers, duties, and functions transferred by this chapter shall be made available to the department and to the state actuary.

All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers, duties, and functions transferred by this chapter shall be made available to the department.

All funds, credits, or other assets held in connection with powers, duties, and functions transferred by this chapter shall be assigned to the department.

Any appropriations made to any committee, division, board, or any other state agency for the purpose of carrying out the powers, duties, and functions transferred by this chapter shall, in the manner prescribed by the director of financial management, be transferred and credited to the department for the purpose of carrying out such transferred powers, duties, and functions.

[1979 c 151 § 65; 1975-'76 2nd ex.s. c 105 § 15.]

RCW 41.50.803 Savings.

Nothing in this chapter nor in the amendment of RCW 43.17.010, 43.17.020, or *43.33.070 shall be construed to affect any existing rights acquired under RCW 43.17.010, 43.17.020, or *43.33.070 except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activities, or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the abolition of any agency or division thereof nor any transfer of powers, duties, and functions as provided in this chapter shall affect the validity of any act performed by such agency or division thereof or any officer thereof prior to the effective date of transfer as provided in RCW 41.50.030.

[1975-'76 2nd ex.s. c 105 § 16.]

NOTES:

***Reviser's note:** RCW 43.33.070 was repealed by 1981 c 3 § 48, effective July 1, 1981.

RCW 41.50.804 Existing collective bargaining agreements not affected.

Nothing contained in this chapter shall be construed to alter any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the Washington personnel resources board as provided by law.

[1993 c 281 § 40; 1975-'76 2nd ex.s. c 105 § 17.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.50.900 Severability--1975-'76 2nd ex.s. c 105.

See note following RCW 41.04.270.

RCW 41.50.901 Effective date--1987 c 326.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987.

[1987 c 326 § 29.]

**Chapter 41.54 RCW
PORTABILITY OF PUBLIC RETIREMENT BENEFITS**

Sections

41.54.010	Definitions.
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41.54.034	Calculation of surviving spouse's death benefit.
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41.54.090	Benefits under chapter--Lump sum payment.
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41.54.900	Effective dates--1987 c 192.
41.54.901	Effective date--1988 c 195.

RCW 41.54.010 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes wages and salaries deferred under provisions of the United States internal revenue code, but shall exclude overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

(2) "Department" means the department of retirement systems.

(3) "Director" means the director of the department of retirement systems.

(4) "Dual member" means a person who (a) is or becomes a member of a system on or

after July 1, 1988, (b) has been a member of one or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or subsection (6) of this section.

(5) "Service" means the same as it may be defined in each respective system. For the purposes of RCW 41.54.030, military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

(6) "System" means the retirement systems established under chapters 41.32, 41.40, 41.44, 41.35, and 43.43 RCW; plan 2 of the system established under chapter 41.26 RCW; and the city employee retirement systems for Seattle, Tacoma, and Spokane. The inclusion of an individual first class city system is subject to the procedure set forth in RCW 41.54.061.

[1998 c 341 § 702; 1993 c 517 § 8; 1990 c 192 § 1; 1988 c 195 § 1; 1987 c 192 § 1.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Purpose--1993 c 517: See note following RCW 41.26.420.

RCW 41.54.020 Benefits under prior retirement systems--Restoration of contributions.

(1) Those persons who are dual members on or after July 1, 1988, shall not receive a retirement benefit from any prior system while dual members without the loss of all benefits under this chapter. Retroactive retirement in any prior system will cancel membership in any subsequent systems except as allowed under RCW 41.04.270 and will result in the refund of all employee and employer contributions made to such systems.

(2) If a member has withdrawn contributions from a prior system, the member may restore the contributions, together with interest since the date of withdrawal as determined by the system, and recover the service represented by the contributions. Such restoration must be completed within two years of establishing dual membership or prior to retirement, whichever occurs first.

(3) If a member does not meet the time limitation under subsection (2) of this section, the member, prior to retirement, may restore the service credit destroyed by the withdrawn contributions by paying the amount required under RCW 41.50.165(2).

(4) Any service accrued in one system by the member shall not accrue in any other system.

[1994 c 197 § 32; 1987 c 384 § 2; 1987 c 192 § 2.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Effective dates--1987 c 384: See note following RCW 41.40.150.

RCW 41.54.030 Calculation of service retirement allowance.

(1) A dual member may combine service in all systems for the purpose of:

- (a) Determining the member's eligibility to receive a service retirement allowance; and
- (b) Qualifying for a benefit under RCW 41.32.840(2) or 41.35.620.

(2) A dual member who is eligible to retire under any system may elect to retire from all the member's systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age may be received immediately or deferred to a later date. The allowances shall be actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system.

(4) The service retirement eligibility requirements of RCW 41.40.180 shall apply to any dual member whose prior system is plan 1 of the public employees' retirement system established under chapter 41.40 RCW.

[1998 c 341 § 703. Prior: 1996 c 55 § 4; 1996 c 55 § 3; 1996 c 39 § 19; 1995 c 239 § 319; 1990 c 192 § 2; 1988 c 195 § 2; 1987 c 192 § 3.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Effective dates--1996 c 39: See note following RCW 41.32.010.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 41.54.032 Calculation of disability retirement allowance.

(1) If a dual member becomes disabled, the member's service in all systems may be combined for the sole purpose of determining the member's eligibility to receive a disability retirement allowance from the member's current system.

(2) The member's current system shall use its own criteria to:

(a) Determine the member's eligibility for a disability retirement allowance; and

(b) Calculate the disability retirement allowance based on service actually established in the current system. The member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) Subsections (1) and (2) of this section shall not apply to the member's prior system.

(4) A dual member who is eligible to receive a disability retirement under the current system may elect to receive a service retirement from all prior systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the service retirement allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the service retirement allowance.

(5) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age, may be received immediately or deferred to a later date. The allowances shall be actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system.

(6) This section shall not apply to any disability benefit under:

(a) RCW 41.40.220; or

(b) The Washington state patrol retirement system established under chapter 43.43 RCW.

[1996 c 55 § 1.]

RCW 41.54.034 Calculation of surviving spouse's death benefit.

(1) If a dual member dies in service in any system, the member's service in all systems may be combined for the sole purpose of determining the surviving spouse's eligibility to receive a death benefit from each of the member's current and prior systems.

(2) Each system shall use its own criteria to:

(a) Determine the surviving spouse's eligibility for a death benefit; and

(b) Calculate the death benefit based on service actually established in that system.

(3) The surviving spouse shall receive the same benefit from each system that would have been received if the member were active in the system at the time of death. The spouse shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(4) This section shall not apply to the Washington state patrol retirement system established under chapter 43.43 RCW.

[1996 c 55 § 2.]

RCW 41.54.040 Payment of retirement allowance and postretirement adjustments--Death benefit.

(1) The allowances calculated under RCW 41.54.030, 41.54.032, and 41.54.034 shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) The department shall adopt rules under chapter 34.05 RCW to ensure that where a dual member has service in a system established under chapter 41.32, 41.40, 41.44, 41.35, or 43.43 RCW; service in plan 2 of the system established under chapter 41.26 RCW; and service under the city employee retirement system for Seattle, Tacoma, or Spokane, the additional cost incurred as a result of the dual member receiving a benefit under this chapter shall be borne by the retirement system incurring the additional cost.

[1998 c 341 § 704; 1996 c 55 § 5. Prior: 1993 c 519 § 16; 1993 c 517 § 9; 1990 c 192 § 5; 1988 c 195 § 3; 1987 c

192 § 4.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

Part headings not law--Effective date--1993 c 519: See notes following RCW 28A.400.212.

Purpose--1993 c 517: See note following RCW 41.26.420.

RCW 41.54.061 Seattle, Spokane, Tacoma--Irrevocable election for coverage under chapter--Effective date.

(1) The cities of Seattle, Spokane, and Tacoma shall each have the option of making an irrevocable election to have its employee retirement system included in the coverage of this chapter by adopting a resolution transmitting it to the director and the joint committee on pension policy prior to December 31, 1993.

The resolution shall indicate the city's desire to be covered by this chapter and its willingness to pay for the additional cost it may incur as a result of the benefits provided by this chapter.

(2) This chapter shall become effective on January 1, 1994, for each city which adopts a resolution pursuant to subsection (1) of this section.

[1993 c 519 § 15; 1990 c 192 § 3.]

Notes:

Part headings not law--Effective date--1993 c 519: See notes following RCW 28A.400.212.

RCW 41.54.070 Benefits under chapter--Minimum and maximum.

The benefit granted by this chapter shall not result in a total benefit less than would have been received absent such benefit. The total sum of the retirement allowances received under this chapter shall not exceed the largest amount the dual member would receive if all the service had been rendered in any one system. When calculating the maximum benefit a dual member would receive: (1) Military service granted under RCW 41.40.170(3) or 43.43.260 shall be based only on service accrued under chapter 41.40 or 43.43 RCW, respectively; and (2) the calculation shall be made assuming that the dual member did not defer any allowances pursuant to RCW 41.54.030(3). When a dual member's combined retirement allowances would exceed the limitation imposed by this section, the allowances shall be reduced by the systems on a proportional basis, according to service.

[1996 c 55 § 6; 1988 c 195 § 4; 1987 c 192 § 7.]

RCW 41.54.080 Benefits under chapter--Contractual rights not established.

The benefits provided under RCW 41.54.010 through 41.54.070 are not provided to employees as a matter of contractual right and the legislature retains the right to alter or abolish these benefits at any time prior to a member's retirement.

[1987 c 192 § 8.]

RCW 41.54.090 Benefits under chapter--Lump sum payment.

(1) The systems may pay a dual member a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.54.030 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from the system making the lump sum payment.

[1988 c 195 § 6.]

RCW 41.54.100 Transfer of membership under chapter 341, Laws of 1998--Benefits not diminished.

Persons who were members of the public employees' retirement system plan 2 prior to September 1, 2000, and were transferred or mandated into membership pursuant to chapter 341, Laws of 1998 shall suffer no diminution of benefits guaranteed to public employees' retirement system plan 2 members as of the date of their change in membership.

[1998 c 341 § 705.]

Notes:

Effective date--1998 c 341: See RCW 41.35.901.

RCW 41.54.900 Effective dates--1987 c 192.

(1) Section 5 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1987.

(2) The remainder of this act shall take effect on July 1, 1988.

[1987 c 192 § 11.]

RCW 41.54.901 Effective date--1988 c 195.

This act shall take effect July 1, 1988.

[1988 c 195 § 7.]

**Chapter 41.56 RCW
PUBLIC EMPLOYEES' COLLECTIVE BARGAINING**

Sections

41.56.010	Declaration of purpose.
41.56.020	Application of chapter.
41.56.022	Application of chapter to University of Washington printing craft employees.

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- 41.56.023 Application of chapter to employees of institutions of higher education.
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Notes:

Reviser's note: Throughout chapter 41.56 RCW, the phrase "this act" has been changed to "this chapter." "This act" [1967 ex.s. c 108] is codified as this chapter and RCW 41.06.150.

RCW 41.56.010 Declaration of purpose.

The intent and purpose of this chapter is to promote the continued improvement of the relationship between public employers and their employees by providing a uniform basis for implementing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in matters concerning their employment relations with public employers.

[1967 ex.s. c 108 § 1.]

RCW 41.56.020 Application of chapter.

This chapter shall apply to any county or municipal corporation, or any political subdivision of the state of Washington, including district courts and superior courts, except as otherwise provided by RCW 54.04.170, 54.04.180, and chapters 41.59, 47.64, and 53.18 RCW.

[1999 c 217 § 1; 1994 c 297 § 1; 1993 c 76 § 2; 1992 c 36 § 1; 1989 c 275 § 1; 1987 c 135 § 1; 1985 c 7 § 107; 1983 c 3 § 98; 1967 ex.s. c 108 § 2.]

Notes:

Severability--1987 c 135: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 135 § 4.]

RCW 41.56.022 Application of chapter to University of Washington printing craft employees.

In addition to the entities listed in RCW 41.56.020, this chapter shall apply to the University of Washington with respect to the printing craft employees in the department of printing at the University of Washington.

[1987 c 484 § 1.]

RCW 41.56.023 Application of chapter to employees of institutions of higher education.

In addition to the entities listed in RCW 41.56.020, this chapter shall apply to institutions of higher education with respect to the employees included in a bargaining unit that has exercised the option specified in RCW 41.56.201.

[1993 c 379 § 301.]

Notes:

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

RCW 41.56.024 Application of chapter to classified employees of technical colleges.

In addition to the entities listed in RCW 41.56.020, this chapter shall apply to classified employees of technical colleges as provided for in RCW 28B.50.874.

[1991 c 238 § 112.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 41.56.025 Application of chapter to education providers under chapter 28A.193 RCW.

This chapter applies to the bargaining unit of classified employees of school districts, educational service districts, or institutions of higher education that are education providers under chapter 28A.193 RCW. Such bargaining units must be limited to the employees working as education providers to juveniles in each adult correctional facility maintained by the department of corrections and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education.

[1998 c 244 § 12.]

Notes:

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

RCW 41.56.030 Definitions.

As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to (i) the executive head or body of the applicable bargaining unit, or (ii) any person elected by popular vote, or (iii) any person appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (d) who is a court commissioner or a court magistrate of superior court, district court, or a department of a district court organized under chapter 3.46 RCW, or (e) who is a personal assistant to a district court judge, superior court judge, or court commissioner, or (f) excluded from a bargaining unit under

RCW 41.56.201(2)(a). For the purpose of (e) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(5), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) fire fighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other fire fighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

(8) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

[2000 c 23 § 1; 2000 c 19 § 1; 1999 c 217 § 2; 1995 c 273 § 1. Prior: 1993 c 398 § 1; 1993 c 397 § 1; 1993 c 379 § 302; 1992 c 36 § 2; 1991 c 363 § 119; 1989 c 275 § 2; 1987 c 135 § 2; 1984 c 150 § 1; 1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

Notes:

Reviser's note: This section was amended by 2000 c 19 § 1 and by 2000 c 23 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1995 c 273: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 273 § 5.]

Effective dates--1993 c 398: "(1) Sections 3 and 5 of this act shall take effect July 1, 1995.

(2) Sections 1, 2, 4, and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 398 § 7.]

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1987 c 135: See note following RCW 41.56.020.

Effective date--1984 c 150: "This act shall take effect on July 1, 1985." [1984 c 150 § 2.]

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

Construction--Severability--1973 c 131: See RCW 41.56.905, 41.56.910.

Public employment relations commission: Chapter 41.58 RCW.

RCW 41.56.040 Right of employees to organize and designate representatives without interference.

No public employer, or other person, shall directly or indirectly, interfere with, restrain, coerce, or discriminate against any public employee or group of public employees in the free exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this chapter.

[1967 ex.s. c 108 § 4.]

RCW 41.56.050 Disagreement in selection of bargaining representative--Intervention by commission.

In the event that a public employer and public employees are in disagreement as to the selection of a bargaining representative the commission shall be invited to intervene as is provided in RCW 41.56.060 through 41.56.090.

[1975 1st ex.s. c 296 § 16; 1967 ex.s. c 108 § 5.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.56.060 Determination of bargaining unit--Bargaining representative.

The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. The commission shall determine the bargaining representative by (1) examination of organization membership rolls, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor.

[1975 1st ex.s. c 296 § 17; 1967 ex.s. c 108 § 6.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.56.070 Election to ascertain bargaining representative.

In the event the commission elects to conduct an election to ascertain the exclusive bargaining representative, and upon the request of a prospective bargaining representative showing written proof of at least thirty percent representation of the public employees within the unit, the commission shall hold an election by secret ballot to determine the issue. The ballot shall contain the name of such bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the public employees within the unit, together with a choice for any public employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority vote of the public employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second-largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. Any agreement which contains a provision for automatic renewal or extension of the agreement shall not be a valid agreement; nor shall any agreement be valid if it provides for a term of existence for more than three years.

[1975 1st ex.s. c 296 § 18; 1967 ex.s. c 108 § 7.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.56.080 Certification of bargaining representative--Scope of representation.

The bargaining representative which has been determined to represent a majority of the employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent, all the public employees within the unit without regard to membership in said bargaining representative: PROVIDED, That any public employee at any time may present his grievance to the public employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, and if the exclusive bargaining representative has been given reasonable opportunity to be present at any initial meeting called for the resolution of such grievance.

[1975 1st ex.s. c 296 § 19; 1967 ex.s. c 108 § 8.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.56.090 Rules and regulations.

The commission shall promulgate, revise or rescind such rules and regulations as it may

deem necessary or appropriate to administer the provisions of this chapter in conformity with the intent and purpose of this chapter and consistent with the best standards of labor-management relations.

[1975 1st ex.s. c 296 § 20; 1967 ex.s. c 108 § 9.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.56.100 Authority and duty of employer to engage in collective bargaining--Limitations--Mediation, grievance procedures upon failure to agree.

A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative: PROVIDED, That nothing contained herein shall require any public employer to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure and authority to the board created by chapter 41.06 RCW. Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. If a public employer implements its last and best offer where there is no contract settlement, allegations that either party is violating the terms of the implemented offer shall be subject to grievance arbitration procedures if and as such procedures are set forth in the implemented offer, or, if not in the implemented offer, if and as such procedures are set forth in the parties' last contract.

[1989 c 45 § 1; 1975 1st ex.s. c 296 § 21; 1967 ex.s. c 108 § 10.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

Arbitration of labor disputes: Chapter 49.08 RCW.

RCW 41.56.110 Dues--Deduction from pay.

Upon the written authorization of any public employee within the bargaining unit and after the certification or recognition of such bargaining representative, the public employer shall deduct from the pay of such public employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

[1973 c 59 § 1; 1967 ex.s. c 108 § 11.]

RCW 41.56.120 Right to strike not granted.

Nothing contained in this chapter shall permit or grant any public employee the right to strike or refuse to perform his official duties.

[1967 ex.s. c 108 § 12.]

RCW 41.56.122 Collective bargaining agreements--Authorized provisions.

A collective bargaining agreement may:

(1) Contain union security provisions: PROVIDED, That nothing in this section shall authorize a closed shop provision: PROVIDED FURTHER, That agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.

(2) Provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement.

[1975 1st ex.s. c 296 § 22; 1973 c 59 § 2.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.56.123 Collective bargaining agreements--Effect of termination--Application of section.

(1) After the termination date of a collective bargaining agreement, all of the terms and conditions specified in the collective bargaining agreement shall remain in effect until the effective date of a subsequent agreement, not to exceed one year from the termination date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(2) This section does not apply to provisions of a collective bargaining agreement which both parties agree to exclude from the provisions of subsection (1) of this section and to provisions within the collective bargaining agreement with separate and specific termination dates.

(3) This section shall not apply to the following:

(a) Bargaining units covered by RCW 41.56.430 et seq. for factfinding and interest arbitration;

(b) Collective bargaining agreements authorized by chapter 53.18 RCW; or

(c) Collective bargaining agreements authorized by chapter 54.04 RCW.

(4) This section shall not apply to collective bargaining agreements in effect or being bargained on July 23, 1989.

[1993 c 398 § 4; 1989 c 46 § 1.]

Notes:

Effective dates--1993 c 398: See note following RCW 41.56.030.

RCW 41.56.125 Arbitrators--Selection--Additional method.

In addition to any other method for selecting arbitrators, the parties may request the public employment relations commission to, and the commission shall, appoint a qualified person who may be an employee of the commission to act as an arbitrator to assist in the resolution of a labor dispute between such public employer and such bargaining representative arising from the application of the matters contained in a collective bargaining agreement. The arbitrator shall conduct such arbitration of such dispute in a manner as provided for in the collective bargaining agreement: PROVIDED, That the commission shall not collect any fees or charges from such public employer or such bargaining representative for services performed by the commission under the provisions of this chapter: PROVIDED FURTHER, That the provisions of chapter 49.08 RCW shall have no application to this chapter.

[1975 1st ex.s. 296 § 23; 1973 c 59 § 3.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.56.130 Rules and regulations of Washington state personnel resources board--Mandatory subjects.

See RCW 41.06.150.

RCW 41.56.140 Unfair labor practices for public employer enumerated.

It shall be an unfair labor practice for a public employer:

- (1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;
- (2) To control, dominate or interfere with a bargaining representative;
- (3) To discriminate against a public employee who has filed an unfair labor practice charge;
- (4) To refuse to engage in collective bargaining.

[1969 ex.s. c 215 § 1.]

RCW 41.56.150 Unfair labor practices for bargaining representative enumerated.

It shall be an unfair labor practice for a bargaining representative:

- (1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;

- (2) To induce the public employer to commit an unfair labor practice;
- (3) To discriminate against a public employee who has filed an unfair labor practice charge;
- (4) To refuse to engage in collective bargaining.

[1969 ex.s. c 215 § 2.]

RCW 41.56.160 Commission to prevent unfair labor practices and issue remedial orders and cease and desist orders.

(1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law.

(2) If the commission determines that any person has engaged in or is engaging in an unfair labor practice, the commission shall issue and cause to be served upon the person an order requiring the person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or in which the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief.

[1994 c 58 § 1; 1983 c 58 § 1; 1975 1st ex.s. c 296 § 24; 1969 ex.s. c 215 § 3.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.56.165 Applicability of administrative procedure act to commission action.

Actions taken by or on behalf of the commission shall be pursuant to chapter 34.05 RCW, or rules adopted in accordance with chapter 34.05 RCW, and the right of judicial review provided by chapter 34.05 RCW shall be applicable to all such actions and rules.

[1994 c 58 § 2.]

RCW 41.56.201 Employees of institutions of higher education--Option to have relationship and obligations governed by chapter.

(1) At any time after July 1, 1993, an institution of higher education and the exclusive bargaining representative of a bargaining unit of employees classified under chapter *28B.16 or 41.06 RCW as appropriate may exercise their option to have their relationship and corresponding obligations governed entirely by the provisions of this chapter by complying with the following:

- (a) The parties will file notice of the parties' intent to be so governed, subject to the

mutual adoption of a collective bargaining agreement permitted by this section recognizing the notice of intent. The parties shall provide the notice to the Washington personnel resources board or its successor and the commission;

(b) During the negotiation of an initial contract between the parties under this chapter, the parties' scope of bargaining shall be governed by this chapter and any disputes arising out of the collective bargaining rights and obligations under this subsection shall be determined by the commission. If the commission finds that the parties are at impasse, the notice filed under (a) of this subsection shall be void and have no effect; and

(c) On the first day of the month following the month during which the institution of higher education and the exclusive bargaining representative provide notice to the Washington personnel resources board or its successor and the commission that they have executed an initial collective bargaining agreement recognizing the notice of intent filed under (a) of this subsection, chapter *28B.16 or 41.06 RCW as appropriate shall cease to apply to all employees in the bargaining unit covered by the agreement.

(2) All collective bargaining rights and obligations concerning relations between an institution of higher education and the exclusive bargaining representative of its employees who have agreed to exercise the option permitted by this section shall be determined under this chapter, subject to the following:

(a) The commission shall recognize, in its current form, the bargaining unit as certified by the Washington personnel resources board or its successor. For purposes of determining bargaining unit status, positions meeting the criteria established under RCW 41.06.070 or its successor shall be excluded from coverage under this chapter. An employer may exclude such positions from a bargaining unit at any time the position meets the criteria established under RCW 41.06.070 or its successor. The limitations on collective bargaining contained in RCW 41.56.100 shall not apply to that bargaining unit.

(b) If, on the date of filing the notice under subsection (1)(a) of this section, there is a union shop authorized for the bargaining unit under rules adopted by the Washington personnel resources board or its successor, the union shop requirement shall continue in effect for the bargaining unit and shall be deemed incorporated into the collective bargaining agreement applicable to the bargaining unit.

(c) Salary increases negotiated for the employees in the bargaining unit shall be subject to the following:

(i) Salary increases shall continue to be appropriated by the legislature. The exclusive bargaining representative shall meet before a legislative session with the governor or governor's designee and the representative of the institution of higher education concerning the total dollar amount for salary increases and health care contributions that will be contained in the appropriations proposed by the governor under RCW 43.88.060;

(ii) The collective bargaining agreements may provide for salary increases from local efficiency savings that are different from or that exceed the amount or percentage for salary increases provided by the legislature in the omnibus appropriations act for the institution of higher education or allocated to the board of trustees by the state board for community and technical colleges, but the base for salary increases provided by the legislature under (c)(i) of

this subsection shall include only those amounts appropriated by the legislature, and the base shall not include any additional salary increases provided under this subsection (2)(c)(ii);

(iii) Any provisions of the collective bargaining agreements pertaining to salary increases provided under (c)(i) of this subsection shall be subject to modification by the legislature. If any provision of a salary increase provided under (c)(i) of this subsection is changed by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the modified provision.

(3) Nothing in this section may be construed to permit an institution of higher education to bargain collectively with an exclusive bargaining representative concerning any matter covered by: (a) Chapter 41.05 RCW, except for the related cost or dollar contributions or additional or supplemental benefits as permitted by chapter 492, Laws of 1993; or (b) chapter 41.32 or 41.40 RCW.

[2000 c 19 § 2; 1993 c 379 § 304.]

Notes:

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382.

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

RCW 41.56.210 Department to prevent unfair labor practices and issue remedial orders--Application to state civil service employees.

See RCW 41.06.340.

RCW 41.56.220 Right of employee representing bargaining unit to be absent from employment during legislative session--Replacement.

Any public employee who represents fifty percent or more of a bargaining unit or who represents on a state-wide basis a group of five or more bargaining units shall have the right to absent himself from his employment without pay and without suffering any discrimination in his future employment and without losing benefits incident to his employment while representing his bargaining unit at the legislature of the state of Washington during any regular or special session thereof: PROVIDED, That such employee is replaced by his bargaining unit with an employee who shall be paid by the employer and who shall be qualified to perform the duties and obligations of the absent member in accordance with the rules of the civil service or other standards established by his employer for such absent employee.

[1980 c 87 § 17; 1969 ex.s. c 174 § 1.]

RCW 41.56.430 Uniformed personnel--Legislative declaration.

The intent and purpose of chapter 131, Laws of 1973 is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of

settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

[1973 c 131 § 1.]

Notes:

Construction--Severability--1973 c 131: See RCW 41.56.905, 41.56.910.

RCW 41.56.440 Uniformed personnel--Negotiations--Declaration of an impasse--Appointment of mediator.

Negotiations between a public employer and the bargaining representative in a unit of uniformed personnel shall be commenced at least five months prior to the submission of the budget to the legislative body of the public employer. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other party. The commission shall appoint a mediator, who shall forthwith meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement: PROVIDED, That a mediator does not have a power of compulsion.

[1979 ex.s. c 184 § 1; 1975-'76 2nd ex.s. c 14 § 1; 1975 1st ex.s. c 296 § 28; 1973 c 131 § 3.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

Construction--Severability--1973 c 131: See RCW 41.56.905, 41.56.910.

RCW 41.56.450 Uniformed personnel--Interest arbitration panel--Powers and duties--Hearings--Findings and determination.

If an agreement has not been reached following a reasonable period of negotiations and mediation, and the executive director, upon the recommendation of the assigned mediator, finds that the parties remain at impasse, then an interest arbitration panel shall be created to resolve the dispute. The issues for determination by the arbitration panel shall be limited to the issues certified by the executive director. Within seven days following the issuance of the determination of the executive director, each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chairman of the arbitration panel. Upon the failure of the arbitrators to select a neutral chairman within seven days, the two appointed members shall use one of the two following options in the appointment of the third member, who shall act as chairman of the panel: (1) By mutual consent, the two appointed members may jointly request the commission,

and the commission shall appoint a third member within two days of such request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (2) either party may apply to the commission, the federal mediation and conciliation service, or the American Arbitration Association to provide a list of five qualified arbitrators from which the neutral chairman shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chairman shall be shared equally between the parties.

The arbitration panel so constituted shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice thereof to the parties to the dispute. A hearing, which shall be informal, shall be held, and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chairman of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held hereunder, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof. The hearing conducted by the arbitration panel shall be concluded within twenty-five days following the selection or designation of the neutral chairman of the arbitration panel, unless the parties agree to a longer period.

The neutral chairman shall consult with the other members of the arbitration panel, and, within thirty days following the conclusion of the hearing, the neutral chairman shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on the commission, on each of the other members of the arbitration panel, and on each of the parties to the dispute. That determination shall be final and binding upon both parties, subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious.

[1983 c 287 § 2; 1979 ex.s. c 184 § 2; 1975-'76 2nd ex.s. c 14 § 2; 1975 1st ex.s. c 296 § 29; 1973 c 131 § 4.]

Notes:

Severability--1983 c 287: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 287 § 6.]

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

Construction--Severability--1973 c 131: See RCW 41.56.905, 41.56.910.

RCW 41.56.452 Interest arbitration panel a state agency.

An interest arbitration panel created pursuant to RCW 41.56.450, in the performance of its duties under chapter 41.56 RCW, exercises a state function and is, for the purposes of this chapter, a state agency. Chapter 34.05 RCW does not apply to proceedings before an interest arbitration panel under this chapter.

[1983 c 287 § 3; 1980 c 87 § 19.]

Notes:

Severability--1983 c 287: See note following RCW 41.56.450.

RCW 41.56.465 Uniformed personnel--Interest arbitration panel--Determinations--Factors to be considered.

(1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

- (a) The constitutional and statutory authority of the employer;
- (b) Stipulations of the parties;

(c)(i) For employees listed in RCW 41.56.030(7)(a) through (d), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(ii) For employees listed in RCW 41.56.030(7)(e) through (h), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and

(f) Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

(2) Subsection (1)(c) of this section may not be construed to authorize the panel to require the employer to pay, directly or indirectly, the increased employee contributions resulting from chapter 502, Laws of 1993 or chapter 517, Laws of 1993 as required under chapter 41.26 RCW.

[1995 c 273 § 2; 1993 c 398 § 3.]

Notes:

Effective date--1995 c 273: See note following RCW 41.56.030.

Effective dates--1993 c 398: See note following RCW 41.56.030.

RCW 41.56.470 Uniformed personnel--Arbitration panel--Rights of parties.

During the pendency of the proceedings before the arbitration panel, existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under chapter 131, Laws of 1973.

[1973 c 131 § 6.]

Notes:

Construction--Severability--1973 c 131: See RCW 41.56.905, 41.56.910.

RCW 41.56.473 Uniformed personnel--Application of chapter to Washington state patrol--Bargaining subjects.

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the Washington state patrol with respect to the officers of the Washington state patrol appointed under RCW 43.43.020. Subjects of bargaining include wage-related matters, except that the Washington state patrol is prohibited from negotiating rates of pay or wage levels and any matters relating to retirement benefits or health care benefits or other employee insurance benefits.

(2) Provisions pertaining to wage-related matters in a collective bargaining agreement between the Washington state patrol and the Washington state patrol officers that are entered into before the legislature approves the funds necessary to implement the provisions must be conditioned upon the legislature's subsequent approval of the funds.

[1999 c 217 § 3.]

RCW 41.56.475 Uniformed personnel--Application of chapter to Washington state patrol--Mediation and arbitration.

In addition to the classes of employees listed in RCW 41.56.030(7), the provisions of RCW 41.56.430 through 41.56.452 and 41.56.470, 41.56.480, and 41.56.490 also apply to Washington state patrol officers appointed under RCW 43.43.020 as provided in this section, subject to the following:

(1) The mediator or arbitration panel may consider only matters that are subject to bargaining under RCW 41.56.473.

(2) In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

- (a) The constitutional and statutory authority of the employer;
- (b) Stipulations of the parties;
- (c) Comparison of the hours and conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;
- (d) Changes in any of the foregoing circumstances during the pendency of the proceedings; and
- (e) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under RCW 41.56.473.

[1999 c 217 § 4; 1993 c 351 § 1; 1988 c 110 § 2; 1987 c 135 § 3.]

Notes:

Severability--1987 c 135: See note following RCW 41.56.020.

RCW 41.56.480 Uniformed personnel--Refusal to submit to procedures--Invoking jurisdiction of superior court--Contempt.

If the representative of either or both the uniformed personnel and the public employer refuse to submit to the procedures set forth in RCW 41.56.440 and 41.56.450, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order. A failure to obey such order may be punished by the court as a contempt thereof. A decision of the arbitration panel shall be final and binding on the parties, and may be enforced at the instance of either party, the arbitration panel or the commission in the superior court for the county where the dispute arose.

[1975 1st ex.s. c 296 § 30; 1973 c 131 § 7.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

Construction--Severability--1973 c 131: See RCW 41.56.905, 41.56.910.

RCW 41.56.490 Uniformed employees--Strikes prohibited--Violations--Contempt of court.

The right of uniformed employees to engage in any strike, work slowdown, or stoppage is not granted. An organization recognized as the bargaining representative of uniformed employees subject to this chapter that willfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.56.480 and 41.56.490, or willfully offers resistance to such order, whether by strike or otherwise, is in contempt of court as provided in chapter 7.21 RCW. An employer that willfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.56.480 or willfully offers resistance to such order is in contempt of court as provided in chapter 7.21 RCW.

[1989 c 373 § 24; 1973 c 131 § 8.]

Notes:

Severability--1989 c 373: See RCW 7.21.900.

Construction--Severability--1973 c 131: See RCW 41.56.905, 41.56.910.

RCW 41.56.492 Application of uniformed personnel collective bargaining provisions to employees of public passenger transportation systems--Conditions.

In addition to the classes of employees listed in RCW 41.56.030(7), the provisions of RCW 41.56.430 through 41.56.452, 41.56.470, 41.56.480, and 41.56.490 shall also be applicable to the employees of a public passenger transportation system of a metropolitan municipal corporation, county transportation authority, public transportation benefit area, or city public passenger transportation system, subject to the following:

(1) Negotiations between the public employer and the bargaining representative may commence at any time agreed to by the parties. If no agreement has been reached ninety days after commencement of negotiations, either party may demand that the issues in disagreement be submitted to a mediator. The services of the mediator shall be provided by the commission without cost to the parties, but nothing in this section or RCW 41.56.440 shall be construed to prohibit the public employer and the bargaining representative from agreeing to substitute at their own expense some other mediator or mediation procedure; and

(2) If an agreement has not been reached following a reasonable period of negotiations and mediation, and the mediator finds that the parties remain at impasse, either party may demand that the issues in disagreement be submitted to an arbitration panel for a binding and final determination. In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards or guidelines to aid it in reaching a decisions [decision], shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;
(b) Stipulations of the parties;
(c) Compensation package comparisons, economic indices, fiscal constraints, and similar factors determined by the arbitration panel to be pertinent to the case; and

(d) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment.

[1993 c 473 § 1.]

RCW 41.56.900 Short title--Effective date--1967 ex.s. c 108.

RCW 41.56.010 through 41.56.900 and 41.06.150 shall be known as the "Public Employees' Collective Bargaining Act" and shall take effect on July 1, 1967.

[1967 ex.s. c 108 § 14.]

RCW 41.56.905 Uniformed personnel--Provisions additional--Liberal construction.

The provisions of this chapter are intended to be additional to other remedies and shall be liberally construed to accomplish their purpose. Except as provided in RCW 53.18.015, if any provision of this chapter conflicts with any other statute, ordinance, rule or regulation of any public employer, the provisions of this chapter shall control.

[1983 c 287 § 5; 1973 c 131 § 10.]

Notes:

Severability--1983 c 287: See note following RCW 41.56.450.

RCW 41.56.910 Severability--1973 c 131.

If any provisions of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1973 c 131 § 11.]

RCW 41.56.950 Retroactive date in collective bargaining agreements allowable, when.

Whenever a collective bargaining agreement between a public employer and a bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the same parties, the effective date of such collective bargaining agreement may be the day after the termination date of the previous collective bargaining agreement and all benefits included in the new collective bargaining agreement including wage increases may accrue beginning with such effective date as established by this section.

[1971 ex.s. c 187 § 1.]

**Chapter 41.58 RCW
PUBLIC EMPLOYMENT LABOR RELATIONS**

Sections

41.58.005	Intent--Construction.
41.58.010	Public employment relations commission--Created--Membership--Terms--Vacancies--Quorum--Report.
41.58.015	Compensation and travel expenses of members--Executive director--Employees.
41.58.020	Powers and duties of commission.
41.58.030	Office.
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41.58.060	State ferry system--Chapter 47.64 RCW to govern.
41.58.800	Transfer of employees to commission.
41.58.801	Transfer of reports, documents, records, property, etc., funds, appropriations, etc.

41.58.802	Procedure for transfer of budgeted fund or equipment.
41.58.803	Continuation and savings.
41.58.900	Effective dates--1975-'76 2nd ex.s. c 5.
41.58.901	Effective date--1975 1st ex.s. c 296 §§ 4, 6, and 8 through 39.

RCW 41.58.005 Intent--Construction.

(1) It is the intent of the legislature by the adoption of chapter 296, Laws of 1975 1st ex. sess. to provide, in the area of public employment, for the more uniform and impartial (a) adjustment and settlement of complaints, grievances, and disputes arising out of employer-employee relations and, (b) selection and certification of bargaining representatives by transferring jurisdiction of such matters to the public employment relations commission from other boards and commissions. It is further the intent of the legislature, by such transfer, to achieve more efficient and expert administration of public labor relations administration and to thereby ensure the public of quality public services.

(2) Nothing contained in chapter 296, Laws of 1975 1st ex. sess. shall be construed to alter any existing collective bargaining unit or the provisions of any existing bargaining agreement.

(3) Nothing contained in chapter 296, Laws of 1975 1st ex. sess. shall be construed to alter any power or authority regarding the scope of collective bargaining in the employment areas affected by chapter 296, Laws of 1975 1st ex. sess., but chapter 296, Laws of 1975 1st ex. sess. shall be construed as transferring existing jurisdiction and authority to the public employment relations commission.

(4) Nothing contained in chapter 296, Laws of 1975 1st ex. sess. shall be construed to prohibit the consideration or adjustment of complaints or grievances by the public employer.

[1975 1st ex.s. c 296 § 1.]

RCW 41.58.010 Public employment relations commission--Created--Membership--Terms--Vacancies--Quorum--Report.

(1) There is hereby created the public employment relations commission (hereafter called the "commission") to administer the provisions of this chapter. The commission shall consist of three members who shall be citizens appointed by the governor by and with the advice and consent of the senate. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Commission members shall be eligible for reappointment. The governor shall designate one member to serve as chairman of the commission. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members shall not be eligible for state retirement under chapter 41.40 RCW by virtue of their

service on the commission.

(2) In making citizen member appointments initially, and subsequently thereafter, the governor shall be cognizant of the desirability of appointing persons knowledgeable in the area of labor relations in the state.

(3) A vacancy in the commission shall not impair the right of the remaining members to exercise all of the powers of the commission, and two members of the commission shall, at all times, constitute a quorum of the commission.

(4) The commission shall at the close of each fiscal year make a report in writing to the legislature and to the governor stating the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the commission, and an account of all moneys it has disbursed.

[1981 c 338 § 21; 1975-'76 2nd ex.s. c 5 § 1.]

RCW 41.58.015 Compensation and travel expenses of members--Executive director--Employees.

(1) Each member of the commission shall be compensated in accordance with RCW 43.03.250. Members of the commission shall also be reimbursed for travel expenses incurred in the discharge of their official duties on the same basis as is provided in RCW 43.03.050 and 43.03.060.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028. The executive director shall perform such duties and have such powers as the commission shall prescribe in order to implement and enforce the provisions of this chapter. In addition to the performance of administrative duties, the commission may delegate to the executive director authority with respect to, but not limited to, representation proceedings, unfair labor practice proceedings, mediation of labor disputes, arbitration of disputes concerning the interpretation or application of a collective bargaining agreement, and, in certain cases, fact-finding or arbitration of disputes concerning the terms of a collective bargaining agreement. Such delegation shall not eliminate a party's right of appeal to the commission. The executive director, with such assistance as may be provided by the attorney general and such additional legal assistance consistent with chapter 43.10 RCW, shall have authority on behalf of the commission, when necessary to carry out or enforce any action or decision of the commission, to petition any court of competent jurisdiction for an order requiring compliance with the action or decision.

(3) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties, consistent with the provisions of this chapter.

(4) The payment of all of the expenses of the commission, including travel expenses incurred by the members or employees of the commission under its orders, shall be subject to the provisions of RCW 43.03.050 and 43.03.060.

[1984 c 287 § 71; 1979 ex.s. c 146 § 2; 1975-'76 2nd ex.s. c 34 § 91; 1975-'76 2nd ex.s. c 5 § 2.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.
Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 41.58.020 Powers and duties of commission.

(1) It shall be the duty of the commission, in order to prevent or minimize interruptions growing out of labor disputes, to assist employers and employees to settle such disputes through mediation and fact-finding.

(2) The commission, through the director, may proffer its services in any labor dispute arising under a collective bargaining statute administered by the commission, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial disruption to the public welfare.

(3) If the director is not able to bring the parties to agreement by mediation within a reasonable time, the director shall seek to induce the parties to voluntarily seek other means of settling the dispute without resort to strike or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the director shall not be deemed a violation of any duty or obligation imposed by this chapter.

(4) Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agreement. The commission is directed to make its mediation and fact-finding services available in the settlement of such grievance disputes only as a last resort.

[1993 c 379 § 303; 1975 1st ex.s. c 296 § 4.]

Notes:

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.
Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.58.030 Office.

The principal office of the commission shall be in the city of Olympia, but it may meet and exercise any or all of its powers at any other place in the state.

[1975 1st ex.s. c 296 § 5.]

RCW 41.58.040 Duties of employers and employees.

In order to prevent or minimize disruptions to the public welfare growing out of labor disputes, employers and employees and their representatives shall:

(1) Exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) Whenever a dispute arises over the terms or application of a collective bargaining agreement and a conference is requested by a party or prospective party thereto, arrange

promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously; and

(3) In case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the commission under this chapter for the purpose of aiding in a settlement of the dispute.

[1975 1st ex.s. c 296 § 6.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

RCW 41.58.050 Rules and regulations.

The board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the administrative procedure act, chapter 34.05 RCW, such rules and regulations as may be necessary to carry out the provisions of this chapter.

[1975 1st ex.s. c 296 § 7.]

RCW 41.58.060 State ferry system--Chapter 47.64 RCW to govern.

For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of chapter 47.64 RCW shall govern.

[1983 c 15 § 22.]

Notes:

Severability--1983 c 15: See RCW 47.64.910.

RCW 41.58.800 Transfer of employees to commission.

All employees of the department of labor and industries classified under the provisions of chapter 41.06 RCW, the state civil service law, whose positions are entirely concerned with functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall be transferred to the jurisdiction of the commission.

[1975-'76 2nd ex.s. c 5 § 3.]

RCW 41.58.801 Transfer of reports, documents, records, property, etc., funds, appropriations, etc.

All reports, documents, surveys, books, records, files, papers, or other writings in the possession of the marine employee commission, the office of the superintendent of public instruction, the *state board for community college education, and the department of labor and industries and pertaining to the functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall by January 1, 1976, be delivered to the custody of the commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the functions transferred by chapter 296, Laws of 1975 1st ex. sess. shall by January

1, 1976, be transferred to the commission.

Any appropriation or portion thereof remaining as of January 1, 1976, and which is made to an agency for the purpose of carrying out functions transferred from such agency pursuant to chapter 296, Laws of 1975 1st ex. sess., shall, by January 1, 1976, be transferred and credited to the commission for the purpose of carrying out such functions. This paragraph shall not affect the transfer of moneys prior to January 1, 1976, pursuant to section 67, chapter 269, Laws of 1975 1st ex. sess.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the performance of the functions transferred under chapter 296, Laws of 1975 1st ex. sess., the director of financial management or his successor shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

[1979 c 151 § 66; 1975-'76 2nd ex.s. c 5 § 4.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

RCW 41.58.802 Procedure for transfer of budgeted fund or equipment.

Where transfers of budgeted funds or equipment are required under *this act, the director of financial management shall certify such transfers to the agencies affected, the state auditor and the state treasurer all of whom shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification.

[1979 c 151 § 67; 1975-'76 2nd ex.s. c 5 § 5.]

Notes:

***Reviser's note:** For codification of "this act" [1975-'76 2nd ex.s. c 5], see Codification Tables, Volume 0.

RCW 41.58.803 Continuation and savings.

On January 1, 1976, all rules and regulations, and all business pending before the agencies or divisions thereof from whom functions are transferred pursuant to chapter 296, Laws of 1975 1st ex. sess. and which pertain to such functions shall be continued and acted upon by the commission. All existing contracts and obligations pertaining to such functions shall remain in full force and effect, but shall be performed by the commission in lieu of the agency from whom the functions are transferred. The transfer of any functions shall not affect the validity of any act performed by such agency or division thereof or any officer or employee thereof prior to the effective date of the transferral of such functions.

Notwithstanding any other provisions of *this act, contracts or agreements are authorized between the commission and other agencies with respect to functions transferred from other agencies pursuant to chapter 296, Laws of 1975 1st ex. sess. Such contract or agreement may provide for an employee or employees of such other agencies or other person or persons to

continue to provide services relating to pending business which is transferred to the commission as of January 1, 1976, until such pending business is completed.

[1975-'76 2nd ex.s. c 5 § 6.]

Notes:

***Reviser's note:** For codification of "this act" [1975-'76 2nd ex.s. c 5], see Codification Tables, Volume 0.

RCW 41.58.900 Effective dates--1975-'76 2nd ex.s. c 5.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on September 8, 1975, except for the provisions of sections 6 and 7 which shall be effective on January 1, 1976.

[1975-'76 2nd ex.s. c 5 § 9.]

RCW 41.58.901 Effective date--1975 1st ex.s. c 296 §§ 4, 6, and 8 through 39.

Sections 4, 6, and 8 through 39 of chapter 296, Laws of 1975 1st ex. sess. shall not be effective until January 1, 1976.

[1975-'76 2nd ex.s. c 5 § 8.]

**Chapter 41.59 RCW
EDUCATIONAL EMPLOYMENT RELATIONS ACT**

Sections

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41.59.935	Construction of chapter--Certain agreements subject to RCW 28A.150.410 and 28A.400.200.
41.59.940	Effective date--1975 1st ex.s. c 288.
41.59.950	Severability--1975 1st ex.s. c 288.

Notes:

Reviser's note: Phrase "the commission" is used throughout chapter 41.59 RCW; 1975 1st ex.s. c 288 § 4, wherein the commission was created, was vetoed by the governor; reference to the proviso in RCW 41.59.020(3) below, together with amendments and repeals in 1975-'76 2nd ex.s. c 5 (codified in chapter 41.58 RCW) suggests commission to be that created in RCW 41.58.010.

RCW 41.59.010 Purpose.

It is the purpose of this chapter to prescribe certain rights and obligations of the educational employees of the school districts of the state of Washington, and to establish procedures governing the relationship between such employees and their employers which are designed to meet the special requirements and needs of public employment in education.

[1975 1st ex.s. c 288 § 2.]

RCW 41.59.020 Definitions.

As used in this chapter:

(1) The term "employee organization" means any organization, union, association, agency, committee, council, or group of any kind in which employees participate, and which exists for the purpose, in whole or in part, of collective bargaining with employers.

(2) The term "collective bargaining" or "bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times in light of the time limitations of the budget-making process, and to bargain in good faith in an effort to reach agreement with respect to the wages, hours, and terms and conditions of employment: PROVIDED, That prior law, practice or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which item(s) are mandatory subjects for bargaining and which item(s) are nonmandatory.

(3) The term "commission" means the public employment relations commission established by RCW 41.58.010.

(4) The terms "employee" and "educational employee" means any certificated employee of a school district, except:

(a) The chief executive officer of the employer.

(b) The chief administrative officers of the employer, which shall mean the

superintendent of the district, deputy superintendents, administrative assistants to the superintendent, assistant superintendents, and business manager. Title variation from all positions enumerated in this subsection (b) may be appealed to the commission for determination of inclusion in, or exclusion from, the term "educational employee".

(c) Confidential employees, which shall mean:

(i) Any person who participates directly on behalf of an employer in the formulation of labor relations policy, the preparation for or conduct of collective bargaining, or the administration of collective bargaining agreements, except that the role of such person is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment; and

(ii) Any person who assists and acts in a confidential capacity to such person.

(d) Unless included within a bargaining unit pursuant to RCW 41.59.080, any supervisor, which means any employee having authority, in the interest of an employer, to hire, assign, promote, transfer, layoff, recall, suspend, discipline, or discharge other employees, or to adjust their grievances, or to recommend effectively such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment, and shall not include any persons solely by reason of their membership on a faculty tenure or other governance committee or body. The term "supervisor" shall include only those employees who perform a preponderance of the above-specified acts of authority.

(e) Unless included within a bargaining unit pursuant to RCW 41.59.080, principals and assistant principals in school districts.

(5) The term "employer" means any school district.

(6) The term "exclusive bargaining representative" means any employee organization which has:

(a) Been selected or designated pursuant to the provisions of this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Prior to January 1, 1976, been recognized under a predecessor statute as the representative of the employees in an appropriate collective bargaining or negotiations unit.

(7) The term "person" means one or more individuals, organizations, unions, associations, partnerships, corporations, boards, committees, commissions, agencies, or other entities, or their representatives.

(8) The term "nonsupervisory employee" means all educational employees other than principals, assistant principals and supervisors.

[1989 c 11 § 11; 1975 1st ex.s. c 288 § 3.]

Notes:

Severability--1989 c 11: See note following RCW 9A.56.220.

RCW 41.59.060 Employee rights enumerated--Fees and dues, deduction from pay.

(1) Employees shall have the right to self-organization, to form, join, or assist employee

organizations, to bargain collectively through representatives of their own choosing, and shall also have the right to refrain from any or all of such activities except to the extent that employees may be required to pay a fee to any employee organization under an agency shop agreement authorized in this chapter.

(2) The exclusive bargaining representative shall have the right to have deducted from the salary of employees, upon receipt of an appropriate authorization form which shall not be irrevocable for a period of more than one year, an amount equal to the fees and dues required for membership. Such fees and dues shall be deducted monthly from the pay of all appropriate employees by the employer and transmitted as provided for by agreement between the employer and the exclusive bargaining representative, unless an automatic payroll deduction service is established pursuant to law, at which time such fees and dues shall be transmitted as therein provided. If an agency shop provision is agreed to and becomes effective pursuant to RCW 41.59.100, except as provided in that section, the agency fee equal to the fees and dues required of membership in the exclusive bargaining representative shall be deducted from the salary of employees in the bargaining unit.

[1975 1st ex.s. c 288 § 7.]

RCW 41.59.070 Election to ascertain exclusive bargaining representative, when--Run-off election--Decertification election.

(1) Any employee organization may file a request with the commission for recognition as the exclusive representative. Such request shall allege that a majority of the employees in an appropriate collective bargaining unit wish to be represented for the purpose of collective bargaining by such organization, shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate, shall be supported by credible evidence demonstrating that at least thirty percent of the employees in the appropriate unit desire the organization requesting recognition as their exclusive representative, and shall indicate the name, address, and telephone number of any other interested employee organization, if known to the requesting organization.

(2) The commission shall determine the exclusive representative by conducting an election by secret ballot, except under the following circumstances:

(a) In instances where a serious unfair labor practice has been committed which interfered with the election process and precluded the holding of a fair election, the commission shall determine the exclusive bargaining representative by an examination of organization membership rolls or a comparison of signatures on organization bargaining authorization cards.

(b) In instances where there is then in effect a lawful written collective bargaining agreement between the employer and another employee organization covering any employees included in the unit described in the request for recognition, the request for recognition shall not be entertained unless it shall be filed within the time limits prescribed in subsection (3) of this section for decertification or a new recognition election.

(c) In instances where within the previous twelve months another employee organization has been lawfully recognized or certified as the exclusive bargaining representative of any

employees included in the unit described in the request for recognition, the request for recognition shall not be entertained.

(d) In instances where the commission has within the previous twelve months conducted a secret ballot election involving any employees included in the unit described in the request for recognition in which a majority of the valid ballots cast chose not to be represented by any employee organization, the request for recognition shall not be entertained.

(3) Whenever the commission conducts an election to ascertain the exclusive bargaining representative, the ballot shall contain the name of the proposed bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the educational employees within the unit, together with a choice for any educational employee to designate that he or she does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority of the valid ballots cast by the educational employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which receive the largest and second largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. In the event that a valid collective bargaining agreement, together with any renewals or extensions thereof, has been or will be in existence for three years, then the question of representation may be raised not more than ninety nor less than sixty days prior to the third anniversary date of the agreement or any renewals or extensions thereof as long as such renewals and extensions do not exceed three years; and if the exclusive bargaining representative is removed as a result of such procedure, the then existing collective bargaining agreement shall be terminable by the new exclusive bargaining representative so selected within sixty days after its certification or terminated on its expiration date, whichever is sooner, or if no exclusive bargaining representative is so selected, then the agreement shall be deemed to be terminated at its expiration date or as of such third anniversary date, whichever is sooner.

(4) Within the time limits prescribed in subsection (3) of this section, a petition may be filed signed by at least thirty percent of the employees of a collective bargaining unit, then represented by an exclusive bargaining representative, alleging that a majority of the employees in that unit do not wish to be represented by an employee organization, requesting that the exclusive bargaining representative be decertified, and indicating the name, address and telephone number of the exclusive bargaining representative and any other interested employee organization, if known. Upon the verification of the signatures on the petition, the commission shall conduct an election by secret ballot as prescribed by subsection (3) of this section.

[1975 1st ex.s. c 288 § 8.]

RCW 41.59.080 Determination of bargaining unit--Standards.

The commission, upon proper application for certification as an exclusive bargaining representative or upon petition for change of unit definition by the employer or any employee

organization within the time limits specified in RCW 41.59.070(3), and after hearing upon reasonable notice, shall determine the unit appropriate for the purpose of collective bargaining. In determining, modifying or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the educational employees; the history of collective bargaining; the extent of organization among the educational employees; and the desire of the educational employees; except that:

(1) A unit including nonsupervisory educational employees shall not be considered appropriate unless it includes all such nonsupervisory educational employees of the employer; and

(2) A unit that includes only supervisors may be considered appropriate if a majority of the employees in such category indicate by vote that they desire to be included in such a unit; and

(3) A unit that includes only principals and assistant principals may be considered appropriate if a majority of such employees indicate by vote that they desire to be included in such a unit; and

(4) A unit that includes both principals and assistant principals and other supervisory employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(5) A unit that includes supervisors and/or principals and assistant principals and nonsupervisory educational employees may be considered appropriate if a majority of the employees in each category indicate by vote that they desire to be included in such a unit; and

(6) A unit that includes only employees in vocational-technical institutes or occupational skill centers may be considered to constitute an appropriate bargaining unit if the history of bargaining in any such school district so justifies; and

(7) Notwithstanding the definition of collective bargaining, a unit that contains only supervisors and/or principals and assistant principals shall be limited in scope of bargaining to compensation, hours of work, and the number of days of work in the annual employment contracts; and

(8) The bargaining unit of certificated employees of school districts, educational service districts, or institutions of higher education that are education providers under chapter 28A.193 RCW must be limited to the employees working as education providers to juveniles in each adult correctional facility maintained by the department of corrections and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education.

[1998 c 244 § 11; 1975 1st ex.s. c 288 § 9.]

Notes:

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

RCW 41.59.090 Certification of exclusive bargaining representative--Scope of representation.

The employee organization which has been determined to represent a majority of the

employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent all the employees within the unit without regard to membership in that bargaining representative: PROVIDED, That any employee at any time may present his grievance to the employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, as long as such representative has been given an opportunity to be present at that adjustment and to make its views known, and as long as the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect.

[1975 1st ex.s. c 288 § 10.]

RCW 41.59.100 Union security provisions--Scope--Agency shop provision, collection of dues or fees.

A collective bargaining agreement may include union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to, the employer shall enforce it by deducting from the salary payments to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. All union security provisions must safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues and fees to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization.

[1975 1st ex.s. c 288 § 11.]

RCW 41.59.110 Commission, rules and regulations of--Federal precedents as standard.

(1) The commission shall promulgate, revise, or rescind, in the manner prescribed by the administrative procedure act, chapter 34.05 RCW, such rules and regulations as it may deem necessary and appropriate to administer the provisions of this chapter, in conformity with the intent and purpose of this chapter, and consistent with the best standards of labor-management relations.

(2) The rules, precedents, and practices of the national labor relations board, provided they are consistent with this chapter, shall be considered by the commission in its interpretation of this chapter, and prior to adoption of any aforesaid commission rules and regulations.

[1975 1st ex.s. c 288 § 12.]

RCW 41.59.120 Resolving impasses in collective bargaining--Mediation--Fact-finding with recommendations--Other.

(1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the commission shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact-finder and obtain a commitment from that person to serve. If they are unable to agree upon a fact-finder or to obtain such a commitment within that time, either party may request the commission to designate a fact-finder. The commission, within five days after receipt of such request, shall designate a fact-finder in accordance with rules and regulations for such designation prescribed by the commission. The fact-finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact-finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact-finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact-finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact-finder, the employer, or the exclusive bargaining representative may make

such findings and recommendations public if the dispute is not settled within five days after their receipt from the fact-finder.

(4) The costs for the services of the fact-finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact-finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state.

[1975 1st ex.s. c 288 § 13.]

RCW 41.59.130 Binding arbitration procedures authorized.

An employer and an exclusive bargaining representative who enter into a collective bargaining agreement may include in such agreement procedures for binding arbitration of such disputes as may arise involving the interpretation or application of such agreement.

[1975 1st ex.s. c 288 § 14.]

RCW 41.59.140 Unfair labor practices for employer, employee organization, enumerated.

(1) It shall be an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in RCW 41.59.060.

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules and regulations made by the commission pursuant to RCW 41.59.110, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment or any term or condition of employment, but nothing contained in this subsection shall prevent an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 41.59.100;

(d) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under *this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It shall be an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed in RCW

41.59.060: PROVIDED, That this paragraph shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (ii) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer, provided it is the representative of its employees subject to RCW 41.59.090.

(3) The expressing of any views, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of *this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

[1975 1st ex.s. c 288 § 15.]

Notes:

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 15] language here reads "this act" or "this 1975 act"; for codification of 1975 1st ex.s. c 288, see Codification Tables, Volume 0.

RCW 41.59.150 Commission to prevent unfair labor practices--Scope.

(1) The commission is empowered to prevent any person from engaging in any unfair labor practice as defined in RCW 41.59.140: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, equity or otherwise.

(2) If the commission determines that any person has engaged in or is engaging in any such unfair labor practices as defined in RCW 41.59.140, then the commission shall issue and cause to be served upon such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and/or the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or wherein the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief.

[1983 c 58 § 3; 1975 1st ex.s. c 288 § 16.]

RCW 41.59.160 Applicability of administrative procedure act provisions to commission action.

Actions taken by or on behalf of the commission shall be pursuant to chapter 34.05 RCW, or rules and regulations adopted in accordance therewith, and the right of judicial review provided by chapter 34.05 RCW shall be applicable to all such actions and rules and regulations.

[1975 1st ex.s. c 288 § 17.]

RCW 41.59.170 Effective date of certain agreements--Increased benefits during agreement authorized, when.

(1) Whenever a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and an employee organization representing the same employees, the effective date of such collective bargaining agreement may be the day after the termination date of the previous collective bargaining agreement and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with such effective date as established by this subsection, and may also accrue beginning with the effective date of any individual employee contracts affected thereby.

(2) Any collective bargaining agreement may provide for the increase of any wages, salaries and other benefits during the term of such agreement or the term of any individual employee contracts concerned, in the event that the employer receives by increased appropriation or from other sources, additional moneys for such purposes.

[1975 1st ex.s. c 288 § 18.]

RCW 41.59.180 Employees in specialized job category--Exclusion.

Notwithstanding the definition of "employee" in RCW 41.59.020, the commission may exclude from the coverage of chapter 288, Laws of 1975 1st ex. sess. any specialized job category of an employer where a majority of the persons employed in that job category consists of classified employees. At such time as a majority of such employees are certificated, the job category may be considered an appropriate unit under chapter 288, Laws of 1975 1st ex. sess.

[1997 c 13 § 14; 1975 1st ex.s. c 288 § 23.]

RCW 41.59.900 Short title.

This chapter may be cited as the educational employment relations act.

[1975 1st ex.s. c 288 § 1.]

RCW 41.59.910 Construction of chapter--Effect on existing agreements--Collective bargaining agreement prevails where conflict.

This chapter shall supersede existing statutes not expressly repealed to the extent that there is a conflict between a provision of this chapter and those other statutes. Except as otherwise expressly provided herein, nothing in this chapter shall be construed to annul, modify or preclude the renewal or continuation of any lawful agreement entered into prior to January 1, 1976 between an employer and an employee organization covering wages, hours, and terms and

conditions of employment. Where there is a conflict between any collective bargaining agreement and any resolution, rule, policy or regulation of the employer or its agents, the terms of the collective bargaining agreement shall prevail.

[1975 1st ex.s. c 288 § 19.]

RCW 41.59.920 Construction of chapter--Employee's rights preserved.

Except as otherwise expressly provided herein, nothing contained in this chapter shall be construed to deny or otherwise abridge any rights, privileges or benefits granted by law to employees.

[1975 1st ex.s. c 288 § 20.]

RCW 41.59.930 Construction of chapter--Employer's responsibilities and rights preserved.

Nothing in this chapter shall be construed to interfere with the responsibilities and rights of the employer as specified by federal and state law, including the employer's responsibilities to students, the public, and other constituent elements of the institution.

[1975 1st ex.s. c 288 § 24.]

RCW 41.59.935 Construction of chapter--Certain agreements subject to RCW 28A.150.410 and 28A.400.200.

Nothing in this chapter shall be construed to grant employers or employees the right to reach agreements regarding salary or compensation increases in excess of those authorized in accordance with RCW 28A.150.410 and 28A.400.200.

[1990 c 33 § 571; (1997 c 431 § 22 expired June 30, 1999); 1987 1st ex.s. c 2 § 206; 1981 c 16 § 3.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Intent--Severability--Effective dates--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Severability--1981 c 16: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 16 § 5.]

RCW 41.59.940 Effective date--1975 1st ex.s. c 288.

Except for RCW 41.59.040, 41.59.050, 41.59.110 and 41.59.160 which shall take effect ninety days following enactment hereof, this chapter and RCW 28A.150.060 and 28A.405.100 as amended by chapter 288, Laws of 1975 1st ex. sess. shall take effect on January 1, 1976. Where the term "effective date of this chapter" is used elsewhere in this chapter it shall mean January 1, 1976.

[1990 c 33 § 572; 1975 1st ex.s. c 288 § 26.]

Notes:

Reviser's note: (1) Engrossed Substitute Senate Bill No. 2500, which is chapter 288, Laws of 1975 1st ex. sess., was passed by the senate May 28, 1975, passed by the house of representatives June 2, 1975, and approved by the governor July 2, 1975, with the exception of section 4 thereof, which was vetoed by the governor; it includes the repeal of chapter 28A.72 RCW in section 28 thereof.

(2) RCW 41.59.040 and 41.59.050 were repealed by 1979 ex.s. c 146 § 3.

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

RCW 41.59.950 Severability--1975 1st ex.s. c 288.

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

[1975 1st ex.s. c 288 § 25.]

Notes:

***Reviser's note:** Session law [1975 1st ex.s. c 288 § 25] language here reads "this 1975 act" or "the act"; for codification of 1975 1st ex.s. c 288, see Codification Tables, Volume 0.

**Chapter 41.60 RCW
STATE EMPLOYEES' SUGGESTION AWARDS AND INCENTIVE PAY**

Sections

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41.60.020	Employee suggestion program--Rules for administration of chapter.
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41.60.910	Severability--1975-'76 2nd ex.s. c 122.
41.60.911	Effective dates--1987 c 387.

RCW 41.60.010 Definitions.

As used in this chapter:

- (1) "Board" means the productivity board.
- (2) "Delegated authority" means authority delegated to an agency head by the board to design and implement an agency unique employee suggestion program for the agency.
- (3) "Board designee" means an agency head with delegated authority from the board.
- (4) "Employee suggestion program" means the programs developed by the board under RCW 41.60.020.
- (5) "State-wide employee suggestion program" means an employee suggestion program administered by the productivity board.
- (6) "Agency unique suggestion program" means an employee suggestion program designed and administered by an agency head with delegated authority.
- (7) "Teamwork incentive program" means the program developed by the board under RCW 41.60.100 through 41.60.120.
- (8) "State employees" means present employees in state agencies and institutions of higher education except for elected officials, directors of such agencies and institutions, and their confidential secretaries and administrative assistants and others specifically ruled ineligible by the rules of the productivity board.

[1999 c 50 § 1; 1993 c 467 § 1; 1987 c 387 § 1; 1983 c 54 § 1; 1982 c 167 § 6; 1977 ex.s. c 169 § 103; 1969 ex.s. c 152 § 3; 1965 ex.s. c 142 § 1.]

Notes:

Effective date--1993 c 467: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 467 § 8.]

Severability--1982 c 167: See note following RCW 41.60.015.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 41.60.015 Productivity board created--Also known as employee involvement and recognition board--Members--Terms--Compensation.

- (1) There is hereby created the productivity board, which may also be known as the employee involvement and recognition board. The board shall administer the employee suggestion program and the teamwork incentive program under this chapter.
- (2) The board shall be composed of:
 - (a) The secretary of state who shall act as chairperson;
 - (b) The director of personnel appointed under the provisions of RCW 41.06.130 or the director's designee;
 - (c) The director of financial management or the director's designee;
 - (d) The director of general administration or the director's designee;
 - (e) Three persons with experience in administering incentives such as those used by industry, with the governor, lieutenant governor, and speaker of the house of representatives each appointing one person. The governor's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees;

(f) Two persons representing state agencies and institutions with employees subject to chapter 41.06 RCW, and one person representing those subject to chapter 28B.16 RCW, both appointed by the governor; and

(g) In addition, the governor and board chairperson may jointly appoint persons to the board on an ad hoc basis. Ad hoc members shall serve in an advisory capacity and shall not have the right to vote.

Members under subsection (2)(e) and (f) of this section shall be appointed to serve three-year terms.

Members of the board appointed pursuant to subsection (2)(e) of this section may be compensated in accordance with RCW 43.03.240. Any board member who is not a state employee may be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

[2000 c 139 § 1; 1999 c 50 § 2; 1993 c 467 § 2; 1987 c 387 § 2; 1985 c 114 § 1; 1984 c 287 § 72; 1983 c 54 § 2; 1982 c 167 § 1.]

Notes:

Effective date--1993 c 467: See note following RCW 41.60.010.

Effective date--1985 c 114: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985." [1985 c 114 § 8.]

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Severability--1982 c 167: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 167 § 18.]

RCW 41.60.020 Employee suggestion program--Rules for administration of chapter.

(1) The board shall formulate, establish, and maintain a state-wide employee suggestion program and adopt rules to allow for agency unique suggestion programs. Employee suggestion programs are developed to encourage and reward meritorious suggestions by state employees that will promote efficiency and economy in the performance of any function of state government: PROVIDED, That the program shall include provisions for the processing of suggestions having multi-agency impact and post-implementation auditing of suggestions for fiscal accountability.

(2) The board shall adopt rules necessary or appropriate for the proper administration and for the accomplishment of the purposes of this chapter. These rules shall include the adoption of a payment award schedule that establishes the criteria for determining the amounts of any financial or other awards under this chapter.

[1999 c 50 § 3; 1995 c 181 § 1; 1993 c 467 § 3; 1982 c 167 § 7; 1975-'76 2nd ex.s. c 122 § 1; 1969 ex.s. c 152 § 4; 1965 ex.s. c 142 § 2.]

Notes:

Effective date--1993 c 467: See note following RCW 41.60.010.

Severability--1982 c 167: See note following RCW 41.60.015.

RCW 41.60.030 Employee suggestion program--Determination of award.

The board, or [the] board's designee, shall make the final determination as to whether an employee suggestion award will be made and shall determine the nature and extent of the award based on the payment award scale.

No employee suggestion award may normally be made to an employee for a suggestion which is within the scope of the employee's regularly assigned responsibilities.

[1999 c 50 § 4; 1982 c 167 § 8; 1965 ex.s. c 142 § 3.]

Notes:

Severability--1982 c 167: See note following RCW 41.60.015.

RCW 41.60.041 Employee suggestion program--Amount and payment of award--Transfer of funds to general fund.

(1) Cash awards for suggestions generating net savings, revenue, or both to the state shall be determined by the board, or the board's designee, based on the payment award scale. No award may be granted in excess of ten thousand dollars. Savings, revenue, or both, shall be calculated for the first year of implementation.

(2) The board shall establish guidelines for making cash awards for suggestions for which benefits to the state are intangible or for which benefits cannot be calculated.

(3) Funds for the awards shall be drawn from the appropriation of the agency benefiting from the employee's suggestion. If the suggestion reduces costs to a nonappropriated fund or reduces costs paid without appropriation from a nonappropriated portion of an appropriated fund, an award may be paid from the benefiting fund or account without appropriation.

(4) Awards may be paid to state employees for suggestions which generate new or additional money for the general fund or any other funds of the state. The director of financial management shall distribute moneys appropriated for this purpose with the concurrence of the productivity board. Transfers shall be made from other funds of the state to the general fund, in amounts equal to award payments made by the general fund, for suggestions generating new or additional money for those other funds.

[1999 c 50 § 5; 1989 c 56 § 1; 1987 c 387 § 3; 1985 c 114 § 2; 1982 c 167 § 9.]

Notes:

Effective date--1989 c 56: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 56 § 7.]

Effective date--1985 c 114: See note following RCW 41.60.015.

Severability--1982 c 167: See note following RCW 41.60.015.

RCW 41.60.050 Appropriations for administrative costs.

The legislature shall appropriate from the department of personnel service fund for the payment of administrative costs of the productivity board. However, during the 1991-93 fiscal

biennium, the administrative costs of the productivity board shall be appropriated from the savings recovery account.

[1991 sp.s. c 16 § 918; 1987 c 387 § 4; 1985 c 114 § 3; 1983 c 54 § 3; 1982 c 167 § 11; 1975-'76 2nd ex.s. c 122 § 3; 1969 ex.s. c 152 § 6; 1965 ex.s. c 142 § 5.]

Notes:

Severability--Effective date--1991 sp.s. c 16: See notes following RCW 9.46.100.

Effective date--1985 c 114: See note following RCW 41.60.015.

Severability--1982 c 167: See note following RCW 41.60.015.

Department of personnel service fund: RCW 41.06.280.

RCW 41.60.080 Employee suggestion program--Contests to encourage participation.

The board and agency heads may design and initiate contests between agencies and between agency suggestion evaluators to encourage participation in the suggestion program at management levels. Any tokens of recognition offered during these contests shall be nonmonetary and shall not be considered an award, or subject to RCW 41.60.030.

[1999 c 50 § 6; 1982 c 167 § 12; 1975-'76 2nd ex.s. c 122 § 5.]

Notes:

Severability--1982 c 167: See note following RCW 41.60.015.

RCW 41.60.100 Employee teamwork incentive program--Applications.

(1) With the exception of agencies of the legislative and judicial branches, any organizational unit composed of employees in any agency or group of agencies of state government with the ability to identify costs, revenues, or both may apply to the board to participate in the teamwork incentive program as a team. The application shall have the approval of the heads of the agency or agencies within which the team is located.

(2) Applications shall be in the form specified by the board and contain such information as the board requires. This may include, but is not limited to, quantitative measures which establish a data base of program output or performance expectations, or both. This data base is used to evaluate savings in accordance with RCW 41.60.110.

[1999 c 50 § 7; 1993 c 467 § 4; 1989 c 56 § 2; 1987 c 387 § 5; 1985 c 114 § 4; 1982 c 167 § 2.]

Notes:

Effective date--1993 c 467: See note following RCW 41.60.010.

Effective date--1989 c 56: See note following RCW 41.60.041.

Effective date--1985 c 114: See note following RCW 41.60.015.

Severability--1982 c 167: See note following RCW 41.60.015.

RCW 41.60.110 Employee teamwork incentive program--Evaluation of savings.

To qualify for a teamwork incentive program award for its employees, a team must identify the net savings, revenue, or both, accomplished during the project period. The

calculations of net savings, revenue, or both, are not final until approved by the agency head, who may modify the team's calculations. The board may by rule establish criteria to be used in calculating net savings, revenue, or both.

[1999 c 50 § 8; 1993 c 467 § 5; 1989 c 56 § 3; 1987 c 387 § 6; 1985 c 114 § 5; 1982 c 167 § 3.]

Notes:

Effective date--1993 c 467: See note following RCW 41.60.010.

Effective date--1989 c 56: See note following RCW 41.60.041.

Effective date--1985 c 114: See note following RCW 41.60.015.

Severability--1982 c 167: See note following RCW 41.60.015.

RCW 41.60.120 Employee teamwork incentive program--Awards.

The agency head may recommend an award amount to the board. The board shall make the final determination as to whether an award will be made in accordance with applicable rules governing the teamwork incentive program. Awards will be based on the payment award scale. Funds for the teamwork incentive award shall be drawn from the agencies in which the unit is located or from the benefiting fund or account without appropriation when additional revenue is generated to the fund or account.

Awards may be paid to teams for process changes which generate new or additional money for the general fund or any other funds of the state. The director of the office of financial management shall distribute moneys appropriated for this purpose with the concurrence of the productivity board. Transfers shall be made from other funds of the state to the general fund in amounts equal to award payments made by the general fund, for innovations generating new or additional money for those other funds.

[1999 c 50 § 9; 1993 c 467 § 6; 1989 c 56 § 4; 1987 c 387 § 7; 1985 c 114 § 6; 1982 c 167 § 4.]

Notes:

Effective date--1993 c 467: See note following RCW 41.60.010.

Effective date--1989 c 56: See note following RCW 41.60.041.

Effective date--1985 c 114: See note following RCW 41.60.015.

Severability--1982 c 167: See note following RCW 41.60.015.

RCW 41.60.140 Incentive pay or awards not included in retirement calculations.

Incentive pay or awards provided under this chapter shall not be included for the purpose of computing a retirement allowance under any public retirement system of this state.

[1982 c 167 § 10.]

Notes:

Severability--1982 c 167: See note following RCW 41.60.015.

RCW 41.60.150 Recognition awards.

Other than suggestion awards and incentive pay unit awards, agencies shall have the authority to recognize employees, either individually or as a class, for accomplishments including outstanding achievements, safety performance, longevity, outstanding public service, or service as employee suggestion evaluators and implementors. Recognition awards may not exceed two hundred dollars in value per award. Such awards may include, but not be limited to, cash or such items as pen and desk sets, plaques, pins, framed certificates, clocks, and calculators. Award costs shall be paid by the agency giving the award.

[2000 c 139 § 2; 1999 c 50 § 10; 1989 c 56 § 5; 1985 c 114 § 7.]

Notes:

Effective date--1989 c 56: See note following RCW 41.60.041.

Effective date--1985 c 114: See note following RCW 41.60.015.

RCW 41.60.160 Persons ineligible for awards.

No award may be made under this chapter to any elected state official or state agency director.

[1993 c 467 § 7; 1987 c 387 § 8.]

Notes:

Effective date--1993 c 467: See note following RCW 41.60.010.

RCW 41.60.910 Severability--1975-'76 2nd ex.s. c 122.

If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1975-'76 2nd ex.s. c 122 § 9.]

RCW 41.60.911 Effective dates--1987 c 387.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987, except section 10 of this act which shall take effect immediately.

[1987 c 387 § 11.]

**Chapter 41.64 RCW
PERSONNEL APPEALS BOARD**

Sections

41.64.010	Personnel appeals board--Created--Membership--Definitions.
41.64.020	Removal of members--Hearing.
41.64.030	Compensation of members--Travel expenses--Disclosure of financial affairs.
41.64.040	Election of chairperson--Biennial meetings.
41.64.050	Executive secretary--Appointment of assistants.

41.64.060	Location of principal office--Hearings--Procedure.
41.64.070	Journal of official actions.
41.64.080	Employee appeals--Hearings examiners.
41.64.090	Employee appeals--Jurisdiction.
41.64.100	Employee appeals--Hearing--Decision to be rendered within ninety days, exceptions.
41.64.110	Employee appeals--Hearing--Procedure--Official record.
41.64.120	Employee appeals--Findings of fact, conclusions of law, order--Notice to employee and employing agency.
41.64.130	Employee appeals--Review by superior court--Grounds--Notice, service--Certified transcript.
41.64.140	Employee appeals--Review by superior court--Procedure--Appellate review.
41.64.910	Severability--1981 c 311.

RCW 41.64.010 Personnel appeals board--Created--Membership--Definitions.

(1) There is hereby created a "personnel appeals board," hereinafter in this chapter referred to as the "board," which shall consist of three members to be appointed by the governor, subject to confirmation by the senate. The first board shall be appointed within thirty days after May 19, 1981, for terms of two, four, and six years. Thereafter, appointments shall be made for six-year terms. A vacancy shall be filled by appointment by the governor for the unexpired term in which the vacancy exists. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Members may be reappointed to the board for successive terms. Persons appointed to the board shall be qualified by experience and training in the field of administrative procedures and merit principles. Such members:

(a) May not hold any other employment with the state;

(b) May not during the terms to which they are appointed be or become candidates for public office, hold any other public office or trust, engage in any occupation or business which interferes, or is inconsistent, with their duties as members of the board, serve on or under any committee of any political party, and may not have been officers of a political party for a period of one year immediately prior to their appointment; and

(c) May not for a period of one year after the termination of their membership on the board, act in a representative capacity before the board on any matter.

(2) Unless the context clearly indicates otherwise, the following definitions apply to this chapter:

(a) "Agency" means any agency as defined in RCW 41.06.020;

(b) For appeals filed on or after July 1, 1981, under RCW 41.64.090, "board" or "personnel appeals board" means the personnel appeals board created by subsection (1) of this section;

(c) For purposes of RCW 41.64.080 through 41.64.140 for appeals filed before July 1, 1981, under RCW 41.06.170, as it existed prior to or after May 19, 1981, "board" or "personnel appeals board" means the *state personnel board created by RCW 41.06.110.

[1981 c 311 § 1.]

Notes:

***Reviser's note:** Powers, duties, and functions of the higher education personnel board and the state personnel board were transferred to the Washington personnel resources board by 1993 c 281 §§ 1 through 7.

RCW 41.64.020 Removal of members--Hearing.

Any member of the board may be removed for incapacity, incompetence, neglect of duty, malfeasance, or misfeasance in office, upon specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time and the procedure for the hearing, which shall be public. The decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the board by the tribunal disqualifies such member for reappointment.

[1981 c 311 § 3.]

RCW 41.64.030 Compensation of members--Travel expenses--Disclosure of financial affairs.

(1) The board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the board shall operate on a full-time basis, each member of the board shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that the board shall operate on a part-time basis, each member of the board shall be compensated in accordance with RCW 43.03.250. Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060.

(2) Members of the board shall report their financial affairs to the public disclosure commission pursuant to RCW 42.17.240 and 42.17.241.

[1984 c 287 § 73; 1984 c 34 § 4; 1981 c 311 § 4.]

Notes:

Reviser's note: This section was amended by 1984 c 287 § 73, effective July 1, 1985, and by 1984 c 34 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

RCW 41.64.040 Election of chairperson--Biennial meetings.

The board shall, as soon as practicable after the initial appointment of its members, meet and elect from among its members a chairperson, and shall at least biennially thereafter meet and elect such a chairperson.

[1981 c 311 § 5.]

RCW 41.64.050 Executive secretary--Appointment of assistants.

The board may appoint and discharge an executive secretary who shall be exempt from

the provisions of chapter 41.06 RCW. The executive secretary may appoint and discharge such other clerical, professional, and technical assistants as may be necessary. The salary of the executive secretary shall be fixed by the governor pursuant to RCW 43.03.040, as now existing or hereafter amended.

[1981 c 311 § 6.]

RCW 41.64.060 Location of principal office--Hearings--Procedure.

The principal office of the board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the board shall constitute a quorum for making orders or decisions, promulgating rules necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

[1981 c 311 § 7.]

RCW 41.64.070 Journal of official actions.

The board shall maintain at its principal office a journal which shall contain all official actions of the board, with the exception of findings and decisions, together with the vote of each member on such actions. The journal shall be available for public inspection at the principal office of the board at all reasonable times.

[1981 c 311 § 8.]

RCW 41.64.080 Employee appeals--Hearings examiners.

The board may appoint one or more hearings examiners to preside over, conduct, and make recommended decisions, including findings of fact and conclusions of law in all cases of employee appeals to the board. The hearings examiner shall conduct hearings in the same manner and shall have the same authority as provided in hearings by the board. The recommended decisions shall be forthwith served upon the parties and transmitted to the board together with the record of the evidence. Within thirty days of service of the recommended decision, any party adversely affected may file exceptions, and thereafter all parties may present written and oral argument to the board, which shall consider the whole record or such portions thereof as may be cited by the parties.

[1981 c 311 § 9.]

RCW 41.64.090 Employee appeals--Jurisdiction.

(1) The board shall have jurisdiction to decide appeals filed on or after July 1, 1981, of

employees under the jurisdiction of the Washington personnel resources board pursuant to RCW 41.06.170, as now or hereafter amended.

(2) The board shall have jurisdiction to decide appeals filed on or after July 1, 1993, of employees of institutions of higher education and related boards under the jurisdiction of the Washington personnel resources board pursuant to RCW 41.06.170. An appeal under this subsection by an employee of an institution of higher education or a related board shall be held in the county in which the institution is located or the county in which the person was employed when the appeal was filed.

[1993 c 281 § 41; 1981 c 311 § 10.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

RCW 41.64.100 Employee appeals--Hearing--Decision to be rendered within ninety days, exceptions.

(1) In all appeals over which the board has jurisdiction involving reduction, dismissal, suspension, or demotion, the board shall set the case for hearing, and the final decision, including an appeal to the board from the hearing examiner, if any, shall be rendered within ninety days from the date the appeal was first received. An extension may be permitted if agreed to by the employee and the employing agency. The board shall furnish the agency with a copy of the appeal in advance of the hearing.

(2) Notwithstanding subsection (1) of this section, in a case involving misconduct that has placed a child at serious risk of harm as a result of actions taken or not taken under chapter 13.32A, 13.34, 13.40, 26.44, 74.13, 74.14A, 74.14B, 74.14C, or 74.15 RCW, the board shall hear the case before all unscheduled cases. The board shall issue its order within forty-five days of hearing the case unless there are extraordinary circumstances, in which case, an additional thirty days may elapse until the case is decided.

(3) In all appeals made pursuant to RCW 41.06.170(4), as now or hereafter amended, the decision of the board is final and not appealable to court.

[1997 c 386 § 43; 1981 c 311 § 11.]

Notes:

Intent--1997 c 386 § 43: "It is the intent of the legislature, in enacting the chapter 386, Laws of 1997 changes to RCW 41.64.100, to provide a prompt and efficient method of expediting employee appeals regarding alleged misconduct that may have placed children at serious risk of harm. The legislature recognizes that children are at risk of harm in cases of abuse or neglect and intends to provide a method of reducing such risk as well as mitigating the potential liability to the state associated with employee misconduct involving children. The legislature does not intend to impair any existing rights of appeals held by employees, nor does it intend to restrict consideration of any appropriate evidence or facts by the personnel appeals board." [1997 c 386 § 42.]

Construction--1997 c 386 § 43: "Section 43 of this act shall not be construed to alter an existing collective bargaining unit or the provisions of any existing bargaining agreement in place on July 27, 1997, before the expiration of such agreement." [1997 c 386 § 44.]

RCW 41.64.110 Employee appeals--Hearing--Procedure--Official record.

Hearings on such appeals shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing or in cases where the employee so requests, and shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law. Both the employee and his or her appointing agency shall be notified reasonably in advance of the hearing and may select representatives of their choosing, present and cross-examine witnesses, and give evidence before the board. Members of the board or the executive secretary may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and, if the evidence warrants, punish such refusal in the same manner and to the same extent as for contempt committed before, or in connection with the proceedings of, the court. The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it may not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge. However, payment of the cost of a transcript used on appeal shall await determination of the appeal and shall be made by the employing agency if the employee prevails.

[1985 c 461 § 7; 1981 c 311 § 12.]

Notes:

Severability--1985 c 461: See note following RCW 41.06.020.

RCW 41.64.120 Employee appeals--Findings of fact, conclusions of law, order--Notice to employee and employing agency.

(1) Within thirty days after the conclusion of the hearing, the board shall make and fully record in its permanent records the following: (a) Findings of fact; (b) conclusions of law when the construction of a rule, regulation, or statute is in question; (c) reasons for the action taken; and (d) the board's order based thereon. The order is final, subject to action by the court on appeal as provided in this chapter.

(2) The board shall simultaneously send a copy of the findings, conclusions, and order by certified mail to the employing agency and to the employee or the employee's designated representative.

[1981 c 311 § 13.]

RCW 41.64.130 Employee appeals--Review by superior court--Grounds--Notice, service--Certified transcript.

(1) Within thirty days after the recording of the order and the mailing thereof, the employee may appeal the decision and order of the board on appeals made pursuant to RCW

41.06.170(2), as now or hereafter amended, to the superior court of Thurston county on one or more of the grounds that the order was:

(a) Founded on or contained an error of law, which shall specifically include error in construction or application of any pertinent rules or regulations;

(b) Contrary to a preponderance of the evidence as disclosed by the entire record with respect to any specified finding or findings of fact;

(c) Materially affected by unlawful procedure;

(d) Based on violation of any constitutional provision; or

(e) Arbitrary or capricious.

(2) Such grounds shall be stated in a written notice of appeal filed with the court, with copies thereof served on a member of the board or the executive secretary and on the employing agency, all within the time stated.

(3) Within thirty days after service of such notice, or within such further time as the court may allow, the board shall transmit to the court a certified transcript, with exhibits, of the hearing; but by stipulation between the employing agency and the employee the transcript may be shortened, and either party unreasonably refusing to stipulate to such limitation may be ordered by the court to pay the additional cost involved. The court may require or permit subsequent corrections or additions to the transcript.

[1981 c 311 § 14.]

RCW 41.64.140 Employee appeals--Review by superior court--Procedure--Appellate review.

(1) The court shall review the hearing without a jury on the basis of the transcript and exhibits, except that in case of alleged irregularities in procedure before the board not shown by the transcript the court may order testimony to be given thereon. The court shall upon request by either party hear oral argument and receive written briefs.

(2) The court may affirm the order of the board, remand the matter for further proceedings before the board, or reverse or modify the order if it finds that the objection thereto is well taken on any of the grounds stated. Appellate review of the order of the superior court may be sought as in other civil cases.

[1988 c 202 § 42; 1981 c 311 § 15.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 41.64.910 Severability--1981 c 311.

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

[1981 c 311 § 24.]

Chapter 41.68 RCW
REPARATIONS TO STATE EMPLOYEES TERMINATED DURING WORLD WAR II

Sections

41.68.010	Legislative finding.
41.68.020	Eligibility for reparation.
41.68.030	Submittal of claim.
41.68.040	Determination of eligibility.
41.68.050	Payment of reparation.

Notes:

Redress authorized for municipal employees dismissed during World War II: RCW 41.04.580.

RCW 41.68.010 Legislative finding.

The dismissal or termination of various state employees during World War II resulted from the promulgation of federal Executive Order 9066 which was based mainly on fear and suspicion rather than on factual justification. It is fair and just that reparations be made to those employees who were terminated from state employment during the wartime years because of these circumstances. The legislature therefore finds that equity and fairness will be served by authorizing the filing of claims with the state for salary losses suffered by the state employees directly affected, and by authorizing the payment thereof, subject to the provisions of this chapter.

[1983 1st ex.s. c 15 § 1.]

RCW 41.68.020 Eligibility for reparation.

Any state employee or the living surviving spouse of a state employee who, due to the promulgation of federal Executive Order 9066, was dismissed, terminated from a temporary position, or rejected during the person's probationary period, or who voluntarily resigned in lieu of dismissal from state government employment, and who incurred salary losses as a result thereof, is eligible to file a claim with the state for the reparation of those losses.

[1983 1st ex.s. c 15 § 2.]

RCW 41.68.030 Submittal of claim.

A claim under this chapter may be submitted to the department of personnel for the reparation of salary losses suffered during the years 1942 through 1947. The claim shall be supported by appropriate verification, such as the person's name at the time of the dismissal, the name of the employing department, and a social security number, or by evidence of official

action of termination. The claimant shall also provide an address to which the department shall mail notification of its determination regarding the claimant's eligibility.

[1983 1st ex.s. c 15 § 3.]

RCW 41.68.040 Determination of eligibility.

(1) The department of personnel shall determine the eligibility of a claimant to receive reparations authorized by this chapter. The department shall then notify the claimant by mail of its determination regarding the claimant's eligibility.

(2) The department may adopt rules that will assist in the fair determination of eligibility and the processing of claims. The department, however, has no obligation to directly notify any person of possible eligibility for reparation of salary losses under this chapter.

[1983 1st ex.s. c 15 § 4.]

RCW 41.68.050 Payment of reparation.

A claimant under this chapter who is determined eligible by the department of personnel shall receive two thousand five hundred dollars each year for two years. All claims which the department determines are eligible for reparation shall be immediately forwarded to the state treasurer, who shall issue warrants in the appropriate amounts upon demand and verification of identity. If a claimant dies after filing a claim but before receiving full payment, payments shall be made to the claimant's estate upon demand and verification of identity.

[1983 1st ex.s. c 15 § 5.]

**Chapter 41.72 RCW
LAW ENFORCEMENT MEDAL OF HONOR**

Sections

41.72.010	Law enforcement medal of honor established.
41.72.020	Law enforcement medal of honor committee established--Membership--Establishment of qualifications for award.
41.72.030	Law enforcement medal of honor awarded-- When.
41.72.040	Law enforcement medal of honor may be awarded posthumously.
41.72.050	Law enforcement medal of honor--Design.

RCW 41.72.010 Law enforcement medal of honor established.

There is established a decoration of the state law enforcement medal of honor with accompanying ribbons and appurtenances for award by the governor in the name of the state to any law enforcement officer who has been seriously injured or killed while in the performance of duty, or who has been distinguished by exceptionally meritorious conduct, upon nomination of

the governor's state law enforcement medal of honor committee.

[1994 c 89 § 1.]

RCW 41.72.020 Law enforcement medal of honor committee established--Membership--Establishment of qualifications for award.

There is created the state law enforcement medal of honor committee for nominating candidates for the award of the state law enforcement medal of honor. The committee membership consists of a representative from the governor's office, the Washington state law enforcement association, the Washington state council of police officers, the Washington association of sheriffs and police chiefs, and the Washington state troopers association. The attorney general shall serve as chair of the committee and shall designate a secretary for the committee. The committee shall meet not less than semiannually to consider candidates for nomination. The committee shall adopt rules establishing the qualifications for the state law enforcement medal of honor, the protocol governing the decoration, and the appurtenances necessary to the implementation of this chapter.

[1994 c 89 § 2.]

RCW 41.72.030 Law enforcement medal of honor awarded--When.

The state law enforcement medal of honor shall be awarded to recipients during the national law enforcement recognition week. The governor may delegate the awarding of the medal to the lieutenant governor or the attorney general.

[1994 c 89 § 3.]

RCW 41.72.040 Law enforcement medal of honor may be awarded posthumously.

The state law enforcement medal of honor may be awarded posthumously to be presented to the representative of the deceased as may be deemed appropriate by the governor or the designees specified in RCW 41.72.030.

[1994 c 89 § 4.]

RCW 41.72.050 Law enforcement medal of honor--Design.

The decoration of the state law enforcement medal of honor shall be bronze and shall consist of a police shield overlaid by a sheriff's star with the seal of the state of Washington in the center and the words "law enforcement medal of honor" within the design and suspended from a ring attached by either a navy blue ribbon with a gold edge or a green ribbon with a gold edge. Such color choice shall be the recipient's. The reverse of the decoration shall be inscribed with the words "For exceptionally honorable and meritorious conduct in performing services as a law enforcement officer."

[1994 c 89 § 5.]

**Title 42 RCW
PUBLIC OFFICERS AND AGENCIES**

Chapters

- 42.04** **General provisions.**
- 42.08** **Official bonds.**
- 42.12** **Vacancies.**
- 42.14** **Continuity of government act.**
- 42.16** **Salaries and fees.**
- 42.17** **Disclosure--Campaign finances--Lobbying--Records.**
- 42.20** **Misconduct of public officers.**
- 42.23** **Code of ethics for municipal officers--Contract interests.**
- 42.24** **Payment of claims for expenses, material, purchases--Advancements.**
- 42.26** **Agency vendor payment revolving fund--Petty cash accounts.**
- 42.30** **Open Public Meetings Act.**
- 42.32** **Meetings.**
- 42.36** **Appearance of fairness doctrine--Limitations.**
- 42.40** **State employee whistleblower protection.**
- 42.41** **Local government whistleblower protection.**
- 42.44** **Notaries public.**
- 42.48** **Release of records for research.**
- 42.52** **Ethics in public service.**

Notes:

Collection agencies retained to collect public debts--Fees: RCW 19.16.500.

County officers, general provisions: Chapter 36.16 RCW.

Credit card use by local governments: RCW 43.09.2855.

Elections: Title 29 RCW.

Hospitalization and medical aid for public employees and dependents--Premiums, governmental contributions authorized: RCW 41.04.180, 41.04.190.

Military leave for public employees: RCW 38.40.060.

Public employment, civil service and pensions: Title 41 RCW.

State officers, general provisions: Chapter 43.01 RCW.

**Chapter 42.04 RCW
GENERAL PROVISIONS**

Sections

- 42.04.020 Eligibility to hold office.

- 42.04.040 Proceedings to impeach, etc., preserved.
- 42.04.060 Offices to be open certain days and hours.
- 42.04.070 Compensation for unofficial services.

RCW 42.04.020 Eligibility to hold office.

That no person shall be competent to qualify for or hold any elective public office within the state of Washington, or any county, district, precinct, school district, municipal corporation or other district or political subdivision, unless he be a citizen of the United States and state of Washington and an elector of such county, district, precinct, school district, municipality or other district or political subdivision.

[1919 c 139 § 1; RRS § 9929. FORMER PART OF SECTION: Code 1881 § 3050 codified as RCW 42.04.021.]

Notes:

- Apple advertising commission, qualifications of members: RCW 15.24.020.*
- Attorney general, qualifications: RCW 43.10.010.*
- Cemetery board, qualifications of members: RCW 68.05.050.*
- Cities, council-manager plan, qualifications of city manager: RCW 35.18.040.*
- Cities and towns, residence qualifications of officials and employees: RCW 35.21.200.*
- County hospital board of trustees, eligibility: RCW 36.62.140.*
- Court administrator, qualifications: RCW 2.56.010.*
- Court commissioners, qualifications: RCW 2.24.010.*
- Dairy products commission, members, qualifications: RCW 15.44.030.*
- Electors, qualifications: State Constitution Art. 6 § 1 (Amendment 5).*
- Engineers and land surveyors' board of registration, qualifications: RCW 18.43.030.*
- Fire protection district commissioners, qualifications: RCW 52.14.010.*
- Fish and wildlife commission members, qualifications: RCW 77.04.040.*
- Flood control districts, qualifications of governing board: RCW 85.38.070.*
- Fruit commission, qualifications of members: RCW 15.28.030.*
- Hardwoods commission, qualifications: RCW 15.74.010.*
- Honey bee commission, qualifications: RCW 15.62.060.*
- Horse racing commission, qualifications: RCW 67.16.012.*
- Judges of superior court, eligibility: State Constitution Art. 4 § 17.*
- Judges of supreme court, eligibility: State Constitution Art. 4 § 17.*
- Legislators, eligibility: State Constitution Art. 2 § 7; Art. 2 § 14.*
- Mosquito control district board members, qualifications: RCW 17.28.120.*
- Municipal court judges, qualifications: RCW 35.20.170.*
- Precinct committee officers: RCW 29.42.040.*
- Prosecuting attorney, eligibility: RCW 36.27.010.*
- Public utility district commissioners, qualifications: RCW 54.12.010.*
- Religious qualification to hold public office or employment prohibited: State Constitution Art. 1 § 11 (Amendment 4).*
- Residence for eligibility to public office: State Constitution Art. 6 § 4.*
- School directors, qualifications: RCW 28A.343.340.*
- School teachers, qualifications: RCW 28A.410.025, 28A.405.040.*
- State board of education, eligibility: RCW 28A.305.060.*
- State hospitals for mentally ill, superintendents' powers: RCW 72.23.030.*

State officers, eligibility: State Constitution Art. 3 § 25 (Amendment 31).
State schools for blind and deaf, qualifications of superintendents: RCW 72.40.020.
Subversive activities as disqualification from holding public office: Chapter 9.81 RCW.
Superior court reporters, qualifications: RCW 2.32.180.
Towns, eligibility of officers: RCW 35.27.080.
Utilities and transportation commission, qualifications: RCW 80.01.020.
Veterinary board members, qualifications: RCW 18.92.021.
Weed district director and electors, qualifications: RCW 17.04.070.
Wine commission, qualifications: RCW 15.88.030.

RCW 42.04.040 Proceedings to impeach, etc., preserved.

The omission to specify or affirm in *this act any ground of forfeiture of a public office or other trust or special authority conferred by law, or any power conferred by law to impeach, remove, depose or suspend any public officer or other person holding any trust, appointment or other special authority conferred by law, shall not affect such forfeiture or power, or any proceeding authorized by law to carry into effect such impeachment, removal, deposition or suspension.

[1909 c 249 § 45; RRS § 2297.]

Notes:

***Reviser's note:** The term "this act" relates to the criminal code of 1909. For disposition of sections, see note following RCW 9.01.120.

Forfeiture of office for conviction of felony or malfeasance: RCW 9.92.120.

Impeachment and removal: State Constitution Art. 5.

Recall of elective officers: State Constitution Art. 1 § 33 (Amendment 8); chapter 29.82 RCW.

RCW 42.04.060 Offices to be open certain days and hours.

All state elective and appointive officers shall keep their offices open for the transaction of business from eight o'clock a.m. to five o'clock p.m. of each business day from Monday through Friday, state legal holidays excepted. On Saturday, such offices may be closed.

This section shall not apply to the courts of record of this state or to their officers nor to the office of the attorney general and the lieutenant governor.

[1973 2nd ex.s. c 1 § 2; 1955 ex.s. c 9 § 3. Prior: 1951 c 100 §§ 3, 4; 1941 c 113 § 1; Rem. Supp. 1941 § 9963-1.]

Notes:

Office hours of city, county, precinct: RCW 35.21.175, 36.16.100.

RCW 42.04.070 Compensation for unofficial services.

That the directors, trustees and commissioners of state institutions in this state, serving as such without any compensation, shall not be precluded by reason of holding such offices from receiving compensation for services not official rendered without being procured or brought about by use of such official position, or by reason thereof, but such officers shall be allowed to

receive such reasonable compensation for services not official or connected with their respective offices as they would otherwise be allowed were they not such officers.

[1891 c 109 § 1; RRS § 10966.]

Chapter 42.08 RCW OFFICIAL BONDS

Sections

42.08.005 Official bonds--Payment of premiums.

OFFICIAL BONDS--CODE OF 1881

42.08.010 Scope of coverage.
42.08.020 Who may maintain action.
42.08.030 Leave of court required.
42.08.040 Judgment no bar to further action.
42.08.050 Recoveries limited to amount of bond.

OFFICIAL BONDS--1890 ACT

42.08.060 Form of official bonds.
42.08.070 Effect of bonds.
42.08.080 Who may bring action on bond.
42.08.090 Defective bonds validated.
42.08.100 Approval and filing.
42.08.110 Procedure when bond of county or township officer is insufficient.
42.08.120 Additional bond.
42.08.130 Remedy when bond of state officer becomes insufficient.
42.08.140 Force of additional bond.
42.08.150 Number of sureties.
42.08.160 Justification of sureties.
42.08.170 Liability of sureties.
42.08.180 Release of sureties.

Notes:

Adjutant general, official bond: RCW 38.12.010.
Apple advertising commission treasurer, bond required: RCW 15.24.150.
Attorney general, official bonds: RCW 43.10.010, 43.10.020.
Cities, code city retaining second class form, bond of officers: RCW 35.23.835.
Cities, commission form, bonds required: RCW 35.17.100.
Cities, council-manager plan, bond of manager: RCW 35.18.050.
Cities, second class, bond required: RCW 35.23.081.
Commissioner of public lands, official bonds: RCW 79.01.064.
County clerk, new bond may be required: RCW 36.23.020.
County commissioners, official bond: RCW 36.32.060.
County officers, official bonds: RCW 36.16.050.
County sheriff, additional bond: RCW 36.28.030.
Dairy products commission treasurer, bond required: RCW 15.44.050.

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Flood control districts, official bonds: RCW 86.09.301, 86.09.304, 86.09.307.
Fruit commission treasurer, bond required: RCW 15.28.190.
Horse racing commission, official bonds: RCW 67.16.012.
Insurance commissioner, official bond: RCW 48.02.030.
Irrigation districts, official bonds: RCW 87.03.082.
Liquor control board, official bond: RCW 66.08.014.
Municipal court judge, bond required: RCW 35.20.180.
Public printer, official bond: RCW 43.78.020.
Reclamation district directors, official bonds: RCW 89.30.259.
Reclamation districts, bond of secretary: RCW 89.30.262.
Secretary of state, official bond: RCW 43.07.010.
State administrative officers, official bonds: RCW 43.17.100.
State auditor, official bond: RCW 43.09.010.
State treasurer, official bond: RCW 43.08.020.
Superior court reporters, bond required: RCW 2.32.180.
Suretyship: Chapters 19.72, 48.28 RCW.
Towns, bond of officers: RCW 35.27.120.
University of Washington, board of regents, secretary to give bond: RCW 28B.30.135.
Utilities and transportation commission, official bonds: RCW 80.01.020.
Washington State University, board of regents, bonds required: RCW 28B.30.100, 28B.30.130.
Weed district officers, bond required: RCW 17.04.070.

RCW 42.08.005 Official bonds--Payment of premiums.

See RCW 48.28.040.

OFFICIAL BONDS--CODE OF 1881

RCW 42.08.010 Scope of coverage.

The official bond of a public officer, to the state, or to any county, city, town or other municipal or public corporation of like character therein, shall be deemed a security to the state, or to such county, city, town or other municipal or public corporation, as the case may be, and also to all persons severally, for the official delinquencies against which it is intended to provide.

[Code 1881 § 652; 1877 p 135 § 655; 1869 p 152 § 592; RRS § 958.]

Notes:

Bonds payable to state: RCW 42.08.060.

RCW 42.08.020 Who may maintain action.

When a public officer by official misconduct or neglect of duty, shall forfeit his official bond or render his sureties therein liable upon such bond, any person injured by such misconduct or neglect, or who is by law entitled to the benefit of the security, may maintain an action at law thereon in his own name against the officer and his sureties to recover the amount to which he

may by reason thereof be entitled.

[Code 1881 § 653; 1877 p 135 § 656; 1869 p 152 § 593; RRS § 959.]

Notes:

Action on official bond: RCW 42.08.080.

RCW 42.08.030 Leave of court required.

Before an action can be commenced by a plaintiff, other than the state, or the municipal or public corporation named in the bond, leave shall be obtained of the court or judge thereof where the action is triable. Such leave shall be granted upon the production of a certified copy of the bond and an affidavit of the plaintiff, or some person in his behalf, showing the delinquency. But if the matter set forth in his affidavit be such that, if true, the party applying would clearly not be entitled to recover in the action, the leave shall not be granted. If it does not appear from the complaint that the leave herein provided for has been granted, the defendant, on motion, shall be entitled to judgment of nonsuit; if it does, the defendant may controvert the allegation, and if the issue be found in his favor, judgment shall be given accordingly.

[Code 1881 § 654; 1877 p 136 § 657; 1869 p 152 § 594; RRS § 960.]

RCW 42.08.040 Judgment no bar to further action.

A judgment in favor of a party for one delinquency shall not preclude the same or another party from maintaining another action on the same bond for another delinquency.

[Code 1881 § 655; 1877 p 136 § 658; 1869 p 153 § 595; RRS § 961.]

RCW 42.08.050 Recoveries limited to amount of bond.

In an action upon an official bond, if judgments have been recovered against the surety therein other than by confession, equal in the aggregate to the penalty or any part thereof of such bond, and if such recovery be established on the trial, judgment shall not be given against such surety for an amount exceeding such penalty, or such portion thereof as is not already recovered against him.

[Code 1881 § 656; 1877 p 136 § 659; 1869 p 153 § 596; RRS § 962.]

Notes:

Liability of sureties: RCW 42.08.170.

OFFICIAL BONDS--1890 ACT

RCW 42.08.060 Form of official bonds.

All official bonds required by law of officers shall be in form, joint and several, and made payable to the state of Washington, in such penal sum and with such conditions as may be

required by law.

[1890 p 34 § 1; RRS § 9930.]

Notes:

Bonds deemed security to state, county, city, town, etc.: RCW 42.08.010.

County commissioner bond is payable to county: RCW 36.32.060.

RCW 42.08.070 Effect of bonds.

Every official bond executed by any officer pursuant to law shall be deemed and taken to be in force, and shall be obligatory upon the principal and sureties therein for any and all breach of the condition or conditions thereof committed during the time such officer shall continue to discharge any of the duties of, or hold such office, and every such bond shall be deemed to be in force and obligatory upon the principal and sureties therein for the faithful discharge of all duties which may be required of such officer by any law enacted subsequent to the execution of such bond, and such condition shall be expressed therein.

[1890 p 34 § 2; RRS § 9931.]

RCW 42.08.080 Who may bring action on bond.

Every official bond executed by any officer pursuant to law, shall be in force and obligatory upon the principal and sureties therein, to and for the state of Washington, and to and for the use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of such officer, in his official capacity, and any person so injured or aggrieved may bring suit on such bond in his or her own name without an assignment thereof.

[1890 p 34 § 3; RRS § 9932.]

Notes:

Action on official bond: RCW 42.08.020.

RCW 42.08.090 Defective bonds validated.

Whenever any such official bond shall not contain the substantial matter or condition or conditions required by law, or there shall be any defect in the approval or filing thereof, such bond shall not be void so as to discharge such officer and his sureties, but they shall be bound to the state, or party interested, and the state or such party may, by action instituted in any court of competent jurisdiction, suggest the defect of such bond or such approval or filing, and recover his proper and equitable demand or damages from such officer, and the person or persons, who intended to become, and were included in such bond as sureties.

[1890 p 35 § 4; RRS § 9933.]

RCW 42.08.100 Approval and filing.

The official bonds of officers shall be approved and filed as follows, to wit: The official bond of the secretary of state shall be approved by the governor and filed in the office of the state auditor. The official bonds of all other state officers required by law to give bonds, except as otherwise expressly provided by law, shall be approved by the governor and filed in the office of the secretary of state.

The official bonds of all county and township officers, except the county superintendent of schools, shall be approved by the board of county commissioners, if in session, and if not in session, by the chairman of such board, and filed and recorded in the office of the county clerk of their respective counties: PROVIDED, That the bond of the county clerk shall be recorded in the office of the county auditor and filed in the office of the county treasurer.

[1955 c 157 § 11. Prior: 1890 p 35 § 5; RRS § 9934.]

Notes:

Contractor's bonds: Chapter 39.08 RCW.

Official bonds--Payment of premiums: RCW 48.28.040.

Surety insurance: Chapter 48.28 RCW.

RCW 42.08.110 Procedure when bond of county or township officer is insufficient.

Whenever the sureties, or any one of them, in the official bond of any county or township officer shall die, remove from the state, become insolvent or insufficient, or the penalty of such bond shall become insufficient, on account of recoveries had thereon, or otherwise, it shall be the duty of the board of county commissioners of the proper county, of their own motion, or on the showing of any person, supported by affidavit, to summon any such officer to appear before them at a stated time, not less than five days after service of such summons, and show cause why he should not execute an additional official bond with good and sufficient sureties.

[1890 p 35 § 6; RRS § 9935.]

RCW 42.08.120 Additional bond.

Should such officer, after due notice, fail to appear at the time appointed, the matter may be heard and determined in his absence; if after examination the board of county commissioners shall be of opinion that the bond of such officer has become insufficient from any cause whatever, they shall require an additional bond with such security as may be deemed necessary, which said additional bond shall be executed and filed within such time as the board of county commissioners may order; and if any such officer shall fail to execute and file such additional bond within the time prescribed by such order, his office shall become vacant.

[1890 p 36 § 7; RRS § 9936.]

Notes:

Failure to give or renew official bond a cause for vacation of office: RCW 42.12.010.

RCW 42.08.130 Remedy when bond of state officer becomes insufficient.

Whenever the official bond of any state officer shall become insufficient from any cause whatever, the like proceedings may be had before the superior court of the county in which said state officer holds his office with reference thereto: PROVIDED, That such proceedings may be commenced by a written motion supported by affidavit.

[1890 p 36 § 8; RRS § 9937.]

RCW 42.08.140 Force of additional bond.

Every such additional bond shall be of like force and obligation upon the principal and sureties therein, and shall subject the officer and his sureties to the same liabilities as are prescribed respecting the original bonds of officers.

[1890 p 36 § 9; RRS § 9938.]

RCW 42.08.150 Number of sureties.

Unless otherwise expressly provided, there shall be at least two sureties upon the official bond of every officer.

[1890 p 36 § 10; RRS § 9939.]

Notes:

Corporate sureties: Chapter 48.28 RCW.

RCW 42.08.160 Justification of sureties.

In all cases where official bonds are required or may be hereafter required, from state, county, township or precinct officers, the officer or officers whose duty it is or may be to approve such bonds, shall not accept or approve any such bonds except such bond be that of a surety company, unless the sureties thereon shall severally justify before an officer authorized to administer oaths as follows: (1) On a bond given by a state or county officer that he is a resident and freeholder within this state, and on a bond given by a township or precinct officer that he is a resident and freeholder within the county in which such township or precinct is situated. (2) That he is worth double the amount for which he becomes surety over and above all his debts and liabilities, in property situated within this state which is not exempt from seizure and sale under execution.

[1901 c 14 § 1; 1890 p 36 § 11; RRS § 9940.]

Notes:

Qualification of individual sureties: RCW 19.72.030.

RCW 42.08.170 Liability of sureties.

When the penal sum of any bond amounts to more than two thousand dollars, the sureties may become severally liable for portions, not less than five hundred dollars, of such penal sum, making in the aggregate at least two sureties for the whole penal sum.

[1890 p 37 § 12; RRS § 9941.]

Notes:

Recoveries limited to amount of bond: RCW 42.08.050.

RCW 42.08.180 Release of sureties.

Release of sureties (1937 act), see chapter 19.72 RCW.

**Chapter 42.12 RCW
VACANCIES**

Sections

- 42.12.010 Causes of vacancy.
- 42.12.020 Resignations, to whom made.
- 42.12.030 Term of person elected to fill vacancy.
- 42.12.040 Vacancy in partisan elective office--Successor elected--When.
- 42.12.070 Filling nonpartisan vacancies.

Notes:

Apple advertising commission, vacancies, how filled: RCW 15.24.050.

Attorney general, removal from office: State Constitution Art. 4 § 9.

Bond, failure to file additional bond causes vacancy: RCW 42.08.120.

City offices, vacancies, how filled

commission plan: RCW 35.17.020.

council-manager plan

council: RCW 35.18.020.

optional municipal code: RCW 35A.13.020.

mayor-council plan, optional municipal code: RCW 35A.12.050.

second class: RCW 35.23.101.

Congress, vacancies, how filled: RCW 29.68.080 through 29.68.120.

County, township, precinct, or road district offices, vacancies, how filled: State Constitution Art. 11 § 6.

County annexation review board, vacancies: RCW 35A.14.170.

County clerk, failure to file new bond vacates office: RCW 36.23.020, 42.08.120.

County commissioners

removal for misconduct: RCW 36.32.225.

vacancies, how filled: RCW 36.32.070.

County hospital board of trustees, vacancies, how filled: RCW 36.62.160.

County officers

conviction for taking illegal fees vacates office: RCW 36.18.180.

vacancies: RCW 29.15.230, 36.16.110, 36.16.115, 42.12.040.

County treasurer, suspension for misconduct: RCW 36.29.090.

Educational service district superintendent: Chapter 28A.310 RCW.

Engineers and land surveyors' board of registration, vacancies on: RCW 18.43.030.

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Fire protection district commissioners, vacancies: RCW 52.14.050.

Flood control districts, vacancies in governing board: RCW 85.38.070.

Fruit commission, vacancies, how filled: RCW 15.28.080.

Governor

appointive state office, vacancies in, filled by: RCW 43.06.090.

vacancy in office of: State Constitution Art. 3 § 10 (Amendment 6).

Horse racing commission, vacancies: RCW 67.16.012.

Impeachment: State Constitution Art. 5.

Irrigation district directors, vacancies, how filled: RCW 87.03.081, 87.04.020.

Joint legislative audit and review committee, vacancies, how filled: RCW 44.28.020.

Judges

removal from office: State Constitution Art. 4 § 9.

vacancies, how filled

court of appeals: RCW 2.06.080.

district court: RCW 3.34.100.

superior court: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.

supreme court: State Constitution Art. 4 § 3; RCW 2.04.100.

Judicial officer's absence from state as forfeiting office: State Constitution Art. 4 § 8.

Legislators, expulsion of member: State Constitution Art. 2 § 9.

Legislators, vacancies, how filled: State Constitution Art. 2 § 15 (Amendment 52), RCW 42.12.040.

Liquor control board, vacancies, how filled: RCW 66.08.014.

Militia, vacancies, how filled: RCW 38.12.095 through 38.12.115.

Mosquito control districts, vacancies in board of trustees: RCW 17.28.130.

Partisan elective offices, vacancies, how filled: RCW 29.15.230.

Prosecuting attorney, removal from office: State Constitution Art. 4 § 9.

Public utility district commissioners, vacancies: RCW 54.12.010.

Recall proceedings, grounds: RCW 29.82.010.

Reclamation district directors, vacancies: RCW 89.30.256.

Regional universities--Trustees, appointment, terms, quorum, vacancies: RCW 28B.35.100.

School directors in second and third class districts, vacancies, how filled: RCW 28A.343.370.

State appointive office, vacancy in, how filled: State Constitution Art. 3 § 13; RCW 43.06.090.

State board of education, vacancies, how filled: RCW 28A.305.090.

State elective officers

recall: State Constitution Art. 1 § 33 (Amendment 8).

vacancy, successor elected: RCW 42.12.040.

State officers, removal from office: State Constitution Art. 5.

Statute law committee, vacancies, how filled: RCW 1.08.003.

The Evergreen State College--Trustees, appointment, terms, quorum, vacancies: RCW 28B.40.100.

United States senators, vacancies, how filled: RCW 29.68.070.

University of Washington board of regents, vacancies, how filled: RCW 28B.20.100.

Utilities and transportation commission, vacancies, how filled: RCW 80.01.010.

Washington State University board of regents, vacancies: RCW 28B.30.100.

Water-sewer district commissioners, vacancies: RCW 57.12.020.

Weed district directors, vacancies, how filled: RCW 17.04.070.

RCW 42.12.010 Causes of vacancy.

Every elective office shall become vacant on the happening of any of the following

events:

- (1) The death of the incumbent;
- (2) His or her resignation. A vacancy caused by resignation shall be deemed to occur upon the effective date of the resignation;
- (3) His or her removal;
- (4) Except as provided in RCW 3.46.067 and 3.50.057, his or her ceasing to be a legally registered voter of the district, county, city, town, or other municipal or quasi municipal corporation from which he or she shall have been elected or appointed, including where applicable the council district, commissioner district, or ward from which he or she shall have been elected or appointed;
- (5) His or her conviction of a felony, or of any offense involving a violation of his or her official oath;
- (6) His or her refusal or neglect to take his or her oath of office, or to give or renew his or her official bond, or to deposit such oath or bond within the time prescribed by law;
- (7) The decision of a competent tribunal declaring void his or her election or appointment; or
- (8) Whenever a judgment shall be obtained against that incumbent for breach of the condition of his or her official bond.

[1994 c 223 § 2; 1993 c 317 § 9; 1981 c 180 § 4; Code 1881 § 3063; 1866 p 28 § 2; RRS § 9950.]

NOTES:

Effective date--1994 c 223 § 2: "(1) Section 2 of this act shall take effect January 1, 1995.

*(2) Section 20 of this act shall take effect July 1, 1994." [1994 c 223 § 94.]

***Reviser's note:** The governor vetoed 1994 c 233 § 20.

Severability--Effective date--1993 c 317: See notes following RCW 3.50.810.

Severability--1981 c 180: See note following RCW 42.12.040.

RCW 42.12.020 Resignations, to whom made.

Resignations shall be made as follows: By the state officers and members of the legislature, to the governor; by all county officers, to the county commissioners of their respective counties; by all other officers, holding their offices by appointment, to the body, board or officer that appointed them.

[Code 1881 § 3062; 1865 p 28 § 1; RRS § 9949.]

Notes:

Appointments to fill vacancies: State Constitution Art. 2 § 15 (Amendment 32).

RCW 42.12.030 Term of person elected to fill vacancy.

Whenever any officer resigns his office before the expiration of his term, or the office becomes vacant from any other cause, and at a subsequent special election such vacancy is filled, the person so elected to fill such vacancy shall hold office for the remainder of the unexpired term.

[1981 c 180 § 5; Code 1881 § 3066; 1866 p 30 § 6; RRS § 9951.]

Notes:

Severability--1981 c 180: See note following RCW 42.12.040.

RCW 42.12.040 Vacancy in partisan elective office--Successor elected--When.

If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the fourth Tuesday prior to the primary for the next general election following the occurrence of the vacancy, a successor shall be elected to that office at that general election. Except during the last year of the term of office, if such a vacancy occurs on or after the fourth Tuesday prior to the primary for that general election, the election of the successor shall occur at the next succeeding general election. The elected successor shall hold office for the remainder of the unexpired term. This section shall not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section.

[1981 c 180 § 1.]

Notes:

Reviser's note: 1981 c 180 § 1 directed that this section be added to chapter 29.18 RCW. Since that placement appears inappropriate, this section has been codified as part of chapter 42.12 RCW.

Severability--1981 c 180: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1981 c 180 § 6.]

County office, appointment of acting official: RCW 36.16.115.

Filing period, special: RCW 29.15.230.

RCW 42.12.070 Filling nonpartisan vacancies.

A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote, a town, or a city other than a first class city or a charter code city, shall be filled as follows unless the provisions of law relating to the special district, town, or city provide otherwise:

(1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.

(2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.

(3) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person or persons to the governing body until the

governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or special district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(6) As provided in RCW 29.15.190 and 29.21.410, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected that occurs twenty-eight or more days after the occurrence of the vacancy. If needed, special filing periods shall be authorized as provided in RCW 29.15.170 and 29.15.180 for qualified persons to file for the vacant office. A primary shall be held to nominate candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, a primary shall not be held and the person receiving the greatest number of votes shall be elected. The person elected shall take office immediately and serve the remainder of the unexpired term.

If an election for the position that became vacant would otherwise have been held at this general election date, only one election to fill the position shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW 29.01.135 and shall service both the remainder of the unexpired term and the succeeding term.

[1994 c 223 § 1.]

Chapter 42.14 RCW CONTINUITY OF GOVERNMENT ACT

Sections

42.14.010	Definitions.
42.14.020	Office of governor.
42.14.030	Legislature.
42.14.035	Convening legislature at locations other than usual seat of government.
42.14.040	County commissioners.
42.14.050	City or town officers.
42.14.060	Appointed officers of the state.
42.14.070	Officers of political subdivisions.
42.14.075	Meetings of governing bodies of political subdivisions at other than usual places.
42.14.900	Short title.

42.14.910 Severability--1963 c 203.

Notes:

Continuity of government: State Constitution Art. 2 § 42 (Amendment 39).

Microfilming of records to provide continuity of civil government: Chapter 40.10 RCW.

RCW 42.14.010 Definitions.

Unless otherwise clearly required by the context, the following definitions apply:

(1) "Unavailable" means either that a vacancy in the office exists or that the lawful incumbent of the office is absent or unable to exercise the powers and discharge the duties of the office following an attack and a declaration of existing emergency by the governor or his successor.

(2) "Attack" means any acts of warfare taken by an enemy of the United States causing substantial damage or injury to persons or property in the United States and in the state of Washington.

[1963 c 203 § 2.]

RCW 42.14.020 Office of governor.

(1) In the event that all successors to the office of governor as provided by Article 3, section 10, as amended by amendment 6 of the Constitution of the state of Washington are unavailable following an enemy attack, the powers and duties of the office of governor shall be exercised and discharged by the speaker of the house of representatives.

(2) In the event the speaker of the house is unavailable, the powers and duties of the office of governor shall be exercised and discharged by the president pro tem of the senate.

(3) In the event that neither the speaker nor the president pro tem is available, the house of representatives and the senate in joint assembly shall elect an emergency interim governor.

[1963 c 203 § 3.]

RCW 42.14.030 Legislature.

In the event enemy attack reduces the number of legislators available for duty, then those legislators available for duty shall constitute the legislature and shall have full power to act in separate or joint assembly by majority vote of those present. In the event of an attack, (1) quorum requirements for the legislature shall be suspended, and (2) where the affirmative vote of a specified proportion of members for approval of a bill, resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient. In the event of an attack, the governor shall call the legislature into session as soon as practicable, and in any case within thirty days following the inception of the attack. If the governor fails to issue such call, the legislature shall, on the thirtieth day from the date of inception of the attack, automatically convene at the place where the governor then has his office. Each legislator shall

proceed to the place of session as expeditiously as practicable. At such session or at any session in operation at the inception of the attack, and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended.

[1963 c 203 § 4.]

RCW 42.14.035 Convening legislature at locations other than usual seat of government.

Whenever, in the judgment of the governor, it becomes impracticable, due to an emergency resulting from enemy attack or natural disaster, to convene the legislature in the usual seat of government at Olympia, the governor may call the legislature into emergency session in any location within this or an adjoining state. The first order of business of any legislature so convened shall be the establishment of temporary emergency seats of government for the state. After any emergency relocation, the affairs of state government shall be lawfully conducted at such emergency temporary location or locations for the duration of the emergency.

[1969 ex.s. c 106 § 1.]

RCW 42.14.040 County commissioners.

In the event enemy attack reduces the number of county commissioners of any county, then those commissioners available for duty shall have full authority to act in all matters as a board of county commissioners. In the event no county commissioner is available for duty, then those elected county officials, except for the members of the county board of education, as are available for duty shall jointly act as the board of county commissioners and shall possess by majority vote the full authority of the board of county commissioners.

[1963 c 203 § 5.]

RCW 42.14.050 City or town officers.

In the event that the executive head of any city or town is unavailable by reason of enemy attack to exercise the powers and discharge the duties of the office, then those members of the city or town council or commission available for duty shall by majority vote select one of their number to act as the executive head of such city or town. In the event enemy attack reduces the number of city or town councilmembers or commission members, then those members available for duty shall have full power to act by majority vote of those present.

[1981 c 213 § 8; 1963 c 203 § 6.]

RCW 42.14.060 Appointed officers of the state.

The governor shall, subject to such rules and regulations as he may adopt, permit each appointed officer of the state to designate temporary interim successors to the office of such

officer.

[1963 c 203 § 7.]

RCW 42.14.070 Officers of political subdivisions.

The legislative authority of each political subdivision, subject to the provisions of this chapter, shall adopt rules and regulations providing for appointment of temporary interim successors to the elected and appointed offices of the political subdivisions.

[1963 c 203 § 8.]

RCW 42.14.075 Meetings of governing bodies of political subdivisions at other than usual places.

Whenever, due to a natural disaster, an attack or an attack is imminent, it becomes imprudent, inexpedient or impossible to conduct the affairs of a political subdivision at the regular or usual place or places, the governing body of the political subdivision may meet at any place within or without the territorial limits of the political subdivision on the call of the presiding official or any two members of the governing body. After any emergency relocation, the affairs of political subdivisions shall be lawfully conducted at such emergency temporary location or locations for the duration of the emergency.

[1969 ex.s. c 106 § 2.]

RCW 42.14.900 Short title.

This act shall be known as the "continuity of government act."

[1963 c 203 § 1.]

RCW 42.14.910 Severability--1963 c 203.

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

[1963 c 203 § 9.]

**Chapter 42.16 RCW
SALARIES AND FEES**

Sections

- 42.16.010 Salaries paid twice each month--Policies and procedures to assure full payment--Exceptions.
- 42.16.011 State payroll revolving account, agency payroll revolving fund--Use.
- 42.16.012 State payroll revolving account, agency payroll revolving fund--Disbursements--Sources.

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- 42.16.013 Transfers to state payroll revolving account--Certification by agencies or director of financial management.
- 42.16.014 Disbursements by warrants--Certifications.
- 42.16.015 Cancellation of warrants--Transfer of increased balance amounts in state payroll revolving account.
- 42.16.016 Cancellation of warrants--Refund of increased balance amounts in agency payroll revolving fund.
- 42.16.017 Payroll preparation and accounting--Establishment of policies, procedures, and paydates.
- 42.16.020 Salaried officers not to receive witness fees--Exceptions.
- 42.16.030 Disposition of fees.
- 42.16.040 Official fees payable in advance.

Notes:

Boards and commissions, state, part-time, compensation: RCW 43.03.220 through 43.03.250.

Cities

commission form, salaries: RCW 35.17.108.

council-manager plan, salaries: RCW 35.18.220.

optional municipal code

council-manager plan, compensation: RCW 35A.13.040.

mayor-council plan, compensation: RCW 35A.12.070.

Commissioner of public lands

fees: RCW 79.01.720.

salary: State Constitution Art. 3 § 23; RCW 43.03.010.

Compensation not to be increased or diminished during term of office: State Constitution Art. 2 § 13; Art. 2 § 25; Art. 3 § 25 (Amendment 31); Art. 4 § 13; Art. 11 § 8; Art. 28 § 1 (Amendment 20).

County officers, compensation: State Constitution Art. 11 § 8.

County officers, fees: Chapter 36.18 RCW.

County officers, salaries: Chapter 36.17 RCW.

County sheriff, fees payable in advance: RCW 36.28.040.

Court commissioners, salary: RCW 2.24.030.

Courts of limited jurisdiction, salaries and fees: State Constitution Art. 4 § 10 (Amendment 28).

Elected officials, executive branch, salaries: RCW 43.03.011.

Election officials, fees: RCW 29.45.120.

Judges, salaries: RCW 43.03.012.

Judicial officers, salaries, how paid, etc.: State Constitution Art. 4 § 13.

Justices of supreme court, salaries: State Constitution Art. 4 § 14.

Legislators, salaries: RCW 43.03.013.

Militia, salaries and pay: RCW 38.24.050.

Municipal court judges, salaries: RCW 35.20.160.

Reformatory chief executive officer, salary: RCW 72.01.060.

Secretary of state, fees: RCW 43.07.120.

Secretary of transportation, salary: RCW 47.01.041.

State appointive officers, governor may fix salaries, maximum: RCW 43.03.040.

State boards and commissions, part-time, compensation: RCW 43.03.220 through 43.03.250.

State committee on agency officials' salaries: RCW 43.03.028.

State elective officers, salaries: RCW 43.03.011.

Superior court reporters, salaries: RCW 2.32.210.

*Supreme court reporter, salary: State Constitution Art. 4 § 18; **Rules of court:** SAR 17(1).*

University of Washington, disposition of fees: RCW 28B.15.210, 28B.15.220.

Utilities and transportation commission, salaries: RCW 80.01.010.

Washington State University, disposition of fees: RCW 28B.15.310.

RCW 42.16.010 Salaries paid twice each month--Policies and procedures to assure full payment--Exceptions.

(1) Except as provided otherwise in subsection (2) of this section, all state officers and employees shall be paid for services rendered from the first day of the month through the fifteenth day of the month and for services rendered from the sixteenth day of the month through the last calendar day of the month. Paydates for these two pay periods shall be established by the director of financial management through the administrative hearing process and the official paydates shall be established six months prior to the beginning of each subsequent calendar year. Under no circumstance shall the paydate be established more than ten days after the pay period in which the wages are earned except when the designated paydate falls on Sunday, in which case the paydate shall not be later than the following Monday. Payment shall be deemed to have been made by the established paydates if: (a) The salary warrant is available at the geographic work location at which the warrant is normally available to the employee; or (b) the salary has been electronically transferred into the employee's account at the employee's designated financial institution; or (c) the salary warrants are mailed at least two days before the established paydate for those employees engaged in work in remote or varying locations from the geographic location at which the payroll is prepared, provided that the employee has requested payment by mail.

The office of financial management shall develop the necessary policies and operating procedures to assure that all remuneration for services rendered including basic salary, shift differential, standby pay, overtime, penalty pay, salary due based on contractual agreements, and special pay provisions, as provided for by law, Washington personnel resources board rules, agency policy or rule, or contract, shall be available to the employee on the designated paydate. Overtime, penalty pay, and special pay provisions may be paid by the next following paydate if the postponement of payment is attributable to: The employee's not making a timely or accurate report of the facts which are the basis for the payment, or the employer's lack of reasonable opportunity to verify the claim.

Compensable benefits payable because of separation from state service shall be paid with the earnings for the final period worked unless the employee separating has not provided the agency with the proper notification of intent to terminate.

One-half of the employee's basic monthly salary shall be paid in each pay period. Employees paid on an hourly basis or employees who work less than a full pay period shall be paid for actual salary earned.

(2) Subsection (1) of this section shall not apply in instances where it would conflict with contractual rights or, with the approval of the office of financial management, to short-term, intermittent, noncareer state employees, to student employees of institutions of higher education, and to liquor control agency managers who are paid a percentage of monthly liquor sales.

[1993 c 281 § 42; 1983 1st ex.s. c 28 § 1; 1979 c 151 § 68; 1969 c 59 § 1; 1967 ex.s. c 25 § 1; 1891 c 130 § 1; RRS

§ 10965.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Application--1983 1st ex.s. c 28: "This act applies to pay periods beginning January 1, 1984." [1983 1st ex.s. c 28 § 8.]

Effective date--1967 ex.s. c 25: "This 1967 amendatory act shall take effect July 1, 1967: PROVIDED, That the budget director may by regulation postpone the operation of the act for any reasonable time, not extending beyond the 1967-1969 biennium, to facilitate an orderly transition in state payroll procedures." [1967 ex.s. c 25 § 9.] For codification of 1967 ex.s. c 25, see Codification Tables, Volume 0. "Budget director" redesignated "director of financial management"; see RCW 43.41.035 and 43.41.940.

RCW 42.16.011 State payroll revolving account, agency payroll revolving fund--Use.

A state payroll revolving account and an agency payroll revolving fund are created in the state treasury, for the payment of compensation to employees and officers of the state and distribution of all amounts withheld therefrom pursuant to law and amounts authorized by employees to be withheld pursuant to law; also for the payment of the state's contributions for retirement and insurance and other employee benefits: PROVIDED, That the utilization of the state payroll revolving account shall be optional except for agencies whose payrolls are prepared under a centralized system established pursuant to regulations of the director of financial management: PROVIDED FURTHER, That the utilization of the agency payroll revolving fund shall be optional for agencies whose operations are funded in whole or part other than by funds appropriated from the state treasury.

[1985 c 57 § 25; 1981 c 9 § 1; 1979 c 151 § 69; 1969 c 59 § 2; 1967 ex.s. c 25 § 2.]

Notes:

Effective date--1985 c 57: See note following RCW 18.04.105.

Transfer from state payroll revolving fund: "All moneys in the state treasury to the credit of the state payroll revolving fund shall be transferred on the effective date of this act to the state payroll revolving account." [1981 c 9 § 7.] The effective date of 1981 c 9 was February 27, 1981.

RCW 42.16.012 State payroll revolving account, agency payroll revolving fund--Disbursements--Sources.

The amounts to be disbursed from the state payroll revolving account from time to time on behalf of agencies utilizing such account shall be transferred thereto by the state treasurer from appropriated funds properly chargeable with the disbursement for the purposes set forth in RCW 42.16.011, on or before the day prior to scheduled disbursement. The amounts to be disbursed from the agency payroll revolving fund from time to time on behalf of agencies electing to utilize such fund shall be deposited therein by such agencies from funds held by the agency pursuant to law outside the state treasury and properly chargeable with the disbursement for the purposes set forth in RCW 42.16.011, on or before the day prior to scheduled disbursement.

[1981 c 9 § 2; 1967 ex.s. c 25 § 3.]

RCW 42.16.013 Transfers to state payroll revolving account--Certification by agencies or director of financial management.

The state treasurer shall make such transfers to the state payroll revolving account in the amounts to be disbursed as certified by the respective agencies: PROVIDED, That if the payroll is prepared on behalf of an agency from data authenticated and certified by the agency under a centralized system established pursuant to regulation of the director of financial management, the state treasurer shall make the transfer upon the certification of the head of the agency preparing the centralized payroll or his designee.

[1981 c 9 § 3; 1979 c 151 § 70; 1969 c 59 § 3; 1967 ex.s. c 25 § 4.]

RCW 42.16.014 Disbursements by warrants--Certifications.

Disbursements from the revolving account and fund created by RCW 42.16.010 through 42.16.017 shall be by warrant in accordance with the provisions of RCW 43.88.160: PROVIDED, That when the payroll is prepared under a centralized system established pursuant to regulations of the director of financial management, disbursements on behalf of the agency shall be certified by the head of the agency preparing the centralized payroll or his designee: PROVIDED FURTHER, That disbursements from a centralized paying agency representing amounts withheld, and/or contributions, for payment to any individual payee on behalf of several agencies, may be by single warrant representing the aggregate amounts payable by all such agencies to such payee. The procedure for disbursement and certification of these aggregate amounts shall be established by the director of financial management.

All payments to employees or other payees, from the revolving account and fund created by RCW 42.16.010 through 42.16.017, whether certified by an agency or by the director of financial management on behalf of such agency, shall be made wherever possible by a single warrant reflecting on its face the amount charged to each revolving account and fund.

[1981 c 9 § 4; 1979 c 151 § 71; 1969 c 59 § 4; 1967 ex.s. c 25 § 5.]

RCW 42.16.015 Cancellation of warrants--Transfer of increased balance amounts in state payroll revolving account.

All amounts increasing the balance in the state payroll revolving account, as a result of the cancellation of warrants issued therefrom shall be transferred by the state treasurer to the fund from which the canceled warrant would originally have been paid except for the provisions of RCW 42.16.010 through 42.16.017.

[1981 c 9 § 5; 1967 ex.s. c 25 § 6.]

RCW 42.16.016 Cancellation of warrants--Refund of increased balance amounts in agency payroll revolving fund.

All amounts increasing the balance in the agency payroll revolving fund, as a result of the

cancellation of warrants issued therefrom shall be refunded by the state treasurer to the appropriate state agency. The refund shall be deposited by the agency to the fund from which such amount was originally withdrawn for deposit in the agency payroll revolving fund.

[1967 ex.s. c 25 § 7.]

RCW 42.16.017 Payroll preparation and accounting--Establishment of policies, procedures, and paydates.

The director of financial management shall adopt the necessary policies and procedures to implement RCW 42.16.010 through 42.16.017, including the establishment of paydates. Such paydates shall conform to RCW 42.16.010. The director of financial management shall have approval over all agency and state payroll systems and shall determine the payroll systems to be used by state agencies to ensure the implementation of RCW 42.16.010 and 41.04.232: PROVIDED, That for purposes of the central personnel payroll system, the provisions of RCW 41.07.020 shall apply.

[1998 c 245 § 45; 1983 1st ex.s. c 28 § 6; 1979 c 151 § 72; 1967 ex.s. c 25 § 8.]

Notes:

Application--1983 1st ex.s. c 28: See note following RCW 42.16.010.

RCW 42.16.020 Salaried officers not to receive witness fees--Exceptions.

No state, county, municipal or other public officer within the state of Washington, who receives from the state, or from any county or municipality therein, a fixed and stated salary as compensation for services rendered as such public officer shall be allowed or paid any per diem for attending or testifying on behalf of the state of Washington, or any county or municipality therein, at any trial or other judicial proceeding, in any state, county or municipal court within this state; nor shall such officer, in any case, be allowed nor paid any per diem for attending or testifying in any state or municipal court of this state, in regard to matters and information that have come to his knowledge in connection with and as a result of the performance of his duties as a public officer as aforesaid: Provided, This section shall not apply when any deduction shall be made from the regular salary of such officer by reason of his being in attendance upon the superior court, but in such cases regular witness fees shall be paid; and further, that if a public officer be subpoenaed and required to appear or testify in judicial proceedings in a county other than that in which he resides, then said public officer shall be entitled to receive per diem and mileage as provided by statute in other cases; and, provided further, that this section shall not apply to police officers when called as witnesses in the superior courts during hours when they are off duty as such officers. A law enforcement officer who has issued a notice of traffic infraction is not entitled to receive witness fees or mileage in a contested traffic infraction case.

[1981 c 19 § 3; 1903 c 10 § 1; 1901 c 101 § 1; RRS § 499.]

Notes:

Severability--1981 c 19: See note following RCW 46.63.020.

RCW 42.16.030 Disposition of fees.

All officers enumerated in *this section, who are paid a salary in lieu of fees, shall collect the fees herein prescribed for the use of the state or county, as the case may be, and shall pay the same into the state or county treasury, as the case may be, on the first Monday of each month.

[1907 c 56 § 1, part; RRS § 4217. Prior: 1903 c 151 § 1, part; 1893 c 130 § 1, part.]

Notes:

***Reviser's note:** The term "this section" refers to 1907 c 56 § 1, of which RCW 42.16.030 is but a part. The other parts of 1907 c 56 § 1, as amended, are codified as RCW 2.32.070 (supreme court clerk's fees), 2.40.010 (witnesses' fees), 36.18.020 (superior court clerks' fees), 36.18.040 (sheriffs' fees), 36.18.010 (county auditor's fees), 36.18.030 (county coroner's fees), 2.36.150 (jurors' fees), 3.16.100 (constables' fees), and 42.28.090 (notaries' fees). *Daily remittance of moneys to state treasury required: RCW 43.01.050.*

RCW 42.16.040 Official fees payable in advance.

All fees are invariably due in advance where demanded by the officer required to perform any official act, and no officer shall be required to perform any official act unless his fees are paid when he demands the same: PROVIDED, This section shall not apply when the officer performs any official act for his county or the state.

[Code 1881 § 2099; 1869 p 374 § 21; RRS § 505. Formerly codified as RCW 42.04.050.]

Notes:

County officers, fees payable in advance: RCW 36.18.060.
County sheriff, demand of fees payable in advance: RCW 36.28.040.

**Chapter 42.17 RCW
DISCLOSURE--CAMPAIGN FINANCES--LOBBYING--RECORDS**

Sections

42.17.010 Declaration of policy.
42.17.020 Definitions.

CAMPAIGN FINANCING

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- 42.17.103 Special reports--Political advertising.
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- 42.17.314 Electrical utility records, request by law enforcement agency.
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Private and confidential information--Requests for disclosure: RCW 50.13.015.

Secretary of state, materials specifically authorized to be printed and distributed by: RCW 43.07.140.

RCW 42.17.010 Declaration of policy.

It is hereby declared by the sovereign people to be the public policy of the state of Washington:

(1) That political campaign and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is to be avoided.

(2) That the people have the right to expect from their elected representatives at all levels of government the utmost of integrity, honesty, and fairness in their dealings.

(3) That the people shall be assured that the private financial dealings of their public officials, and of candidates for those offices, present no conflict of interest between the public trust and private interest.

(4) That our representative form of government is founded on a belief that those entrusted with the offices of government have nothing to fear from full public disclosure of their financial and business holdings, provided those officials deal honestly and fairly with the people.

(5) That public confidence in government at all levels is essential and must be promoted by all possible means.

(6) That public confidence in government at all levels can best be sustained by assuring the people of the impartiality and honesty of the officials in all public transactions and decisions.

(7) That the concept of attempting to increase financial participation of individual contributors in political campaigns is encouraged by the passage of the Revenue Act of 1971 by the Congress of the United States, and in consequence thereof, it is desirable to have implementing legislation at the state level.

(8) That the concepts of disclosure and limitation of election campaign financing are established by the passage of the Federal Election Campaign Act of 1971 by the Congress of the

United States, and in consequence thereof it is desirable to have implementing legislation at the state level.

(9) That small contributions by individual contributors are to be encouraged, and that not requiring the reporting of small contributions may tend to encourage such contributions.

(10) That the public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private.

(11) That, mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society.

The provisions of this chapter shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns and lobbying, and the financial affairs of elected officials and candidates, and full access to public records so as to assure continuing public confidence of fairness of elections and governmental processes, and so as to assure that the public interest will be fully protected. In promoting such complete disclosure, however, this chapter shall be enforced so as to insure that the information disclosed will not be misused for arbitrary and capricious purposes and to insure that all persons reporting under this chapter will be protected from harassment and unfounded allegations based on information they have freely disclosed.

[1975 1st ex.s. c 294 § 1; 1973 c 1 § 1 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.020 Definitions.

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(3) "Ballot proposition" means any "measure" as defined by RCW 29.01.110, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

(4) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(5) "Bona fide political party" means:

(a) An organization that has filed a valid certificate of nomination with the secretary of

state under chapter 29.24 RCW;

(b) The governing body of the state organization of a major political party, as defined in RCW 29.01.090, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(6) "Depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.

(7) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.

(8) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(9) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(10) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(11) "Commission" means the agency established under RCW 42.17.350.

(12) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(13) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(14)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(15) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(16) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: PROVIDED, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(17) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(18) "Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.

(19) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

(20) "Final report" means the report described as a final report in RCW 42.17.080(2).

(21) "General election" means the election that results in the election of a person to a state office. It does not include a primary.

(22) "Gift," is as defined in RCW 42.52.010.

(23) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.

(24) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if

the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of *five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.

(25)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

(26) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

(27) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

(28) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

(29) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

(30) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(31) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

(32) "Political advertising" includes any advertising displays, newspaper ads, billboards,

signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(33) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

(34) "Primary" means the procedure for nominating a candidate to state office under chapter 29.18 or 29.21 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29.18 or 29.21 RCW.

(35) "Public office" means any federal, state, county, city, town, school district, port district, special district, or other state political subdivision elective office.

(36) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

(37) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29.82.015 and ending thirty days after the recall election.

(38) "State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

(39) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

(40) "State official" means a person who holds a state office.

(41) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

(42) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.

[1995 c 397 § 1; 1992 c 139 § 1; 1991 sp.s. c 18 § 1; 1990 c 139 § 2. Prior: 1989 c 280 § 1; 1989 c 175 § 89; 1984 c 34 § 5; 1979 ex.s. c 50 § 1; 1977 ex.s. c 313 § 1; 1975 1st ex.s. c 294 § 2; 1973 c 1 § 2 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

***Reviser's note:** The dollar amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17.690. For current dollar amounts, see chapter 390-05 of the Washington Administrative Code (WAC).

Legislative intent--1990 c 139: "The provisions of this act which repeal the reporting requirements established by chapter 423, Laws of 1987 for registered lobbyists and employers of lobbyists are not intended to alter, expand, or restrict whatsoever the definition of "lobby" or "lobbying" contained in RCW 42.17.020 as it existed prior to the enactment of chapter 423, Laws of 1987." [1990 c 139 § 1.]

Effective date--1989 c 280: "This act shall take effect January 1, 1990." [1989 c 280 § 14.]

Effective date--1989 c 175: See note following RCW 34.05.010.

Effective date--1977 ex.s. c 313: "This 1977 amendatory act shall take effect on January 1, 1978." [1977 ex.s. c 313 § 9.]

Severability--1977 ex.s. c 313: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 313 § 8.]

CAMPAIGN FINANCING

RCW 42.17.030 Applicability--Exceptions.

The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17.405(2) through (5).

[1987 c 295 § 18; 1986 c 12 § 1; 1985 c 367 § 2; 1977 ex.s. c 313 § 2; 1973 c 1 § 3 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Effective date--Severability--1977 ex.s. c 313: See notes following RCW 42.17.020.
Cemetery district commissioners exempt from chapter: RCW 68.52.140, 68.52.220.

RCW 42.17.040 Statement of organization by political committees.

(1) Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the

candidate resides, or in the case of any other political committee, the county in which the treasurer resides. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

(a) The name and address of the committee;

(b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;

(c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;

(d) The name and address of its treasurer and depository;

(e) A statement whether the committee is a continuing one;

(f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;

(g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;

(h) What distribution of surplus funds will be made, in accordance with RCW 42.17.095, in the event of dissolution;

(i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.080; and

(j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter.

(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission and to the appropriate county elections officer within the ten days following the change.

[1989 c 280 § 2; 1982 c 147 § 1; 1977 ex.s. c 336 § 1; 1975 1st ex.s. c 294 § 3; 1973 c 1 § 4 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Effective date--1989 c 280: See note following RCW 42.17.020.

Severability--1977 ex.s. c 336: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 336 § 8.]

Effective date--1973 c 1: See RCW 42.17.900.

RCW 42.17.050 Treasurer--Depositories.

(1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission and the appropriate county elections officer the names and addresses of:

(a) One legally competent individual, who may be the candidate, to serve as a treasurer; and

(b) A bank, mutual savings bank, savings and loan association, or credit union doing business in this state to serve as depository and the name of the account or accounts maintained in it.

(2) A candidate, a political committee, or a treasurer may appoint as many deputy treasurers as is considered necessary and may designate not more than one additional depository in each other county in which the campaign is conducted. The candidate or political committee shall file the names and addresses of the deputy treasurers and additional depositories with the commission and the appropriate county elections officer.

(3) A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (a) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates which includes the candidate; or (b) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.

(4)(a) A candidate or political committee may at any time remove a treasurer or deputy treasurer or change a designated depository.

(b) In the event of the death, resignation, removal, or change of a treasurer, deputy treasurer, or depository, the candidate or political committee shall designate and file with the commission and the appropriate county elections officer the name and address of any successor.

(5) No treasurer, deputy treasurer, or depository may be deemed to be in compliance with the provisions of this chapter until his name and address is filed with the commission and the appropriate county elections officer.

[1989 c 280 § 3; 1985 c 367 § 3; 1982 c 147 § 2; 1973 c 1 § 5 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Effective date--1989 c 280: See note following RCW 42.17.020.

RCW 42.17.060 Deposit of contributions--Investment--Unidentified contributions--Cash contributions.

(1) All monetary contributions received by a candidate or political committee shall be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

(2) Political committees which support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose: PROVIDED, That each such account shall bear the same name followed by an appropriate designation which accurately identifies its separate purpose: AND PROVIDED FURTHER, That transfers of funds which must be reported

under *RCW 42.17.090(1)(d) may not be made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a depository in bonds, certificates, tax-exempt securities, or savings accounts or other similar instruments in financial institutions or mutual funds other than the depository: PROVIDED, That the commission and the appropriate county elections officer is notified in writing of the initiation and the termination of the investment: PROVIDED FURTHER, That the principal of such investment when terminated together with all interest, dividends, and income derived from the investment are deposited in the depository in the account from which the investment was made and properly reported to the commission and the appropriate county elections officer prior to any further disposition or expenditure thereof.

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's treasurer pursuant to RCW 42.17.090(1)(b), which total in excess of one percent of the total accumulated contributions received in the current calendar year or three hundred dollars (whichever is more), may not be deposited, used, or expended, but shall be returned to the donor, if his identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state, and shall be paid to the state treasurer for deposit in the state general fund.

(5) A contribution of more than fifty dollars in currency may not be accepted unless a receipt, signed by the contributor and by the candidate, treasurer, or deputy treasurer, is prepared and made a part of the campaign's or political committee's financial records.

[1989 c 280 § 4; 1987 c 268 § 1; 1985 c 367 § 4; 1982 c 147 § 3; 1977 ex.s. c 313 § 3; 1975 1st ex.s. c 294 § 4; 1973 c 1 § 6 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

***Reviser's note:** RCW 42.17.090 was amended by 1989 c 280 § 9, changing subsection (1)(d) to subsection (1)(e).

Effective date--1989 c 280: See note following RCW 42.17.020.

Effective date--Severability--1977 ex.s. c 313: See notes following RCW 42.17.020.

RCW 42.17.065 Filing and reporting by continuing political committee.

(1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17.040, 42.17.050, and 42.17.060.

(2) A continuing political committee shall file with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters and if there is no such office or headquarters then in the county in which the committee treasurer resides a report on the tenth day of the month detailing its activities for the preceding calendar month in which the committee has received a contribution or made an expenditure: PROVIDED, That such report shall only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars: PROVIDED FURTHER, That after January 1, 2002, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer. The report shall be on a form supplied by the commission and shall include the following information:

- (a) The information required by RCW 42.17.090;
 - (b) Each expenditure made to retire previously accumulated debts of the committee; identified by recipient, amount, and date of payments;
 - (c) Such other information as the commission shall by rule prescribe.
- (3) If a continuing political committee shall make a contribution in support of or in opposition to a candidate or ballot proposition within sixty days prior to the date on which such candidate or ballot proposition will be voted upon, such continuing political committee shall report pursuant to RCW 42.17.080.
- (4) A continuing political committee shall file reports as required by this chapter until it is dissolved, at which time a final report shall be filed. Upon submitting a final report, the duties of the campaign treasurer shall cease and there shall be no obligation to make any further reports.
- (5) The campaign treasurer shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of any election, for which the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection in the same manner as provided for candidates and other political committees in RCW 42.17.080(5).
- (6) All reports filed pursuant to this section shall be certified as correct by the campaign treasurer.
- (7) The campaign treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

[2000 c 237 § 1; 1989 c 280 § 5; 1982 c 147 § 4; 1975 1st ex.s. c 294 § 5.]

Notes:

Effective date--1989 c 280: See note following RCW 42.17.020.

RCW 42.17.067 Fund-raising activities--Alternative reporting method.

- (1) Fund-raising activities which meet the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17.080.
- (2) Standards:
- (a) The activity consists of one or more of the following:
 - (i) The retail sale of goods or services at a reasonable approximation of the fair market value of each item or service sold at the activity; or
 - (ii) A gambling operation which is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW; or
 - (iii) A gathering where food and beverages are purchased, where the price of admission or the food and beverages is no more than twenty-five dollars; or
 - (iv) A concert, dance, theater performance, or similar entertainment event where the price of admission is no more than twenty-five dollars; or

(v) An auction or similar sale where the total fair market value of items donated by any person for sale is no more than fifty dollars; and

(b) No person responsible for receiving money at such activity knowingly accepts payments from a single person at or from such an activity to the candidate or committee aggregating more than fifty dollars unless the name and address of the person making such payment together with the amount paid to the candidate or committee are disclosed in the report filed pursuant to subsection (6) of this section; and

(c) Such other standards as shall be established by rule of the commission to prevent frustration of the purposes of this chapter.

(3) All funds received from a fund-raising activity which conforms with subsection (2) of this section shall be deposited within five business days of receipt by the treasurer or deputy treasurer in the depository.

(4) At the time reports are required under RCW 42.17.080, the treasurer or deputy treasurer making the deposit shall file with the commission and the appropriate county elections officer a report of the fund-raising activity which shall contain the following information:

(a) The date of the activity;

(b) A precise description of the fund-raising methods used in the activity; and

(c) The total amount of cash receipts from persons, each of whom paid no more than fifty dollars.

(5) The treasurer or deputy treasurer shall certify the report is correct.

(6) The treasurer shall report pursuant to RCW 42.17.080 and 42.17.090: (a) The name and address and the amount contributed of each person who contributes goods or services with a fair market value of more than fifty dollars to a fund-raising activity reported under subsection (4) of this section, and (b) the name and address of each person whose identity can be ascertained, and the amount paid, from whom were knowingly received payments to the candidate or committee aggregating more than fifty dollars at or from such a fund-raising activity.

[1989 c 280 § 6; 1982 c 147 § 5; 1975-'76 2nd ex.s. c 112 § 9.]

Notes:

Effective date--1989 c 280: See note following RCW 42.17.020.

RCW 42.17.070 Expenditures--Authorization of and restrictions on.

No expenditures may be made or incurred by any candidate or political committee except on the authority of the treasurer or the candidate, and a record of all such expenditures shall be maintained by the treasurer.

No expenditure of more than fifty dollars may be made in currency unless a receipt, signed by the recipient and by the candidate or treasurer, is prepared and made a part of the campaign's or political committee's financial records.

[1989 c 280 § 7; 1985 c 367 § 5; 1973 c 1 § 7 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Effective date--1989 c 280: See note following RCW 42.17.020.

RCW 42.17.080 Reporting of contributions and expenditures--Inspection of accounts.

(1) On the day the treasurer is designated, each candidate or political committee shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides, in addition to any statement of organization required under RCW 42.17.040 or 42.17.050, a report of all contributions received and expenditures made prior to that date, if any.

(2) At the following intervals each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, and if there is no office or headquarters then in the county in which the treasurer resides, a report containing the information required by RCW 42.17.090:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election: PROVIDED, That this report shall not be required following a primary election from:

(i) A candidate whose name will appear on the subsequent general election ballot; or

(ii) Any continuing political committee; and

(c) On the tenth day of each month in which no other reports are required to be filed under this section: PROVIDED, That such report shall only be filed if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there shall be no obligation to make any further reports.

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of the fifth business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date on which the special or general election is held and ending on the date of that election, each Friday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person. However, contributions of no more than twenty-five dollars in the aggregate from any

one person may be deposited without identifying the contributor. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

(4) If a city requires that candidates or committees for city offices file reports with a city agency, the candidate or treasurer so filing need not also file the report with the county auditor or elections officer.

(5) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17.040, the books of account must be open for public inspection as follows:

(a) For at least two consecutive hours between 8:00 a.m. and 8:00 p.m. on the eighth day immediately before the election, except when it is a legal holiday, in which case on the seventh day immediately before the election, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission; and

(b) By appointment for inspections to be conducted at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any other day from the seventh day through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days in the week prior to the election. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

(6) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(7) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(8) Copies of all reports filed pursuant to this section shall be readily available for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.

(9) After January 1, 2002, a report that is filed with the commission electronically need not also be filed with the county auditor or elections officer.

(10) The commission shall adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports.

[2000 c 237 § 2; 1999 c 401 § 13; 1995 c 397 § 2; 1989 c 280 § 8; 1986 c 28 § 1; 1982 c 147 § 6; 1975 1st ex.s. c

294 § 6; 1973 c 1 § 8 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Effective date--1989 c 280: See note following RCW 42.17.020.

RCW 42.17.090 Contents of report.

(1) Each report required under RCW 42.17.080 (1) and (2) shall disclose the following:

(a) The funds on hand at the beginning of the period;

(b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the campaign or in the case of a continuing political committee, the current calendar year: PROVIDED, That pledges in the aggregate of less than one hundred dollars from any one person need not be reported: PROVIDED FURTHER, That the income which results from a fund-raising activity conducted in accordance with RCW 42.17.067 may be reported as one lump sum, with the exception of that portion of such income which was received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067: PROVIDED FURTHER, That contributions of no more than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum so long as the campaign treasurer maintains a separate and private list of the name, address, and amount of each such contributor: PROVIDED FURTHER, That the money value of contributions of postage shall be the face value of such postage;

(c) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, together with the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

(d) All other contributions not otherwise listed or exempted;

(e) The name and address of each candidate or political committee to which any transfer of funds was made, together with the amounts and dates of such transfers;

(f) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, and the amount, date, and purpose of each such expenditure. A candidate for state executive or state legislative office or the political committee of such a candidate shall report this information for an expenditure under one of the following categories, whichever is appropriate: (i) Expenditures for the election of the candidate; (ii) expenditures for nonreimbursed public office-related expenses; (iii) expenditures required to be reported under (e) of this subsection; or (iv) expenditures of surplus funds and other expenditures. The report of such a candidate or committee shall contain a separate total of expenditures for each category and a total sum of all expenditures. Other candidates and political committees need not report information regarding expenditures under the categories listed in (i) through (iv) of this subsection or under similar such categories unless required to do so by the commission by rule. The report of such an other candidate or committee shall also contain the total sum of all expenditures;

(g) The name and address of each person to whom any expenditure was made directly or

indirectly to compensate the person for soliciting or procuring signatures on an initiative or referendum petition, the amount of such compensation to each such person, and the total of the expenditures made for this purpose. Such expenditures shall be reported under this subsection (1)(g) whether the expenditures are or are not also required to be reported under (f) of this subsection;

(h) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;

(i) The surplus or deficit of contributions over expenditures;

(j) The disposition made in accordance with RCW 42.17.095 of any surplus funds;

(k) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter; and

(l) Funds received from a political committee not otherwise required to report under this chapter (a "nonreporting committee"). Such funds shall be forfeited to the state of Washington unless the nonreporting committee has filed or within ten days following such receipt files with the commission a statement disclosing: (i) Its name and address; (ii) the purposes of the nonreporting committee; (iii) the names, addresses, and titles of its officers or if it has no officers, the names, addresses, and titles of its responsible leaders; (iv) the name, office sought, and party affiliation of each candidate in the state of Washington whom the nonreporting committee is supporting, and, if such committee is supporting the entire ticket of any party, the name of the party; (v) the ballot proposition supported or opposed in the state of Washington, if any, and whether such committee is in favor of or opposed to such proposition; (vi) the name and address of each person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than twenty-five dollars to the nonreporting committee during the current calendar year, together with the money value and date of such contributions; (vii) the name and address of each person in the state of Washington to whom an expenditure was made by the nonreporting committee on behalf of a candidate or political committee in the aggregate amount of more than fifty dollars, the amount, date, and purpose of such expenditure, and the total sum of such expenditures; (viii) such other information as the commission may prescribe by rule, in keeping with the policies and purposes of this chapter. A nonreporting committee incurring an obligation to file additional reports in a calendar year may satisfy the obligation by filing with the commission a letter providing updating or amending information.

(2) The treasurer and the candidate shall certify the correctness of each report.

[1993 c 256 § 6; 1989 c 280 § 9. Prior: 1986 c 228 § 1; 1986 c 12 § 2; 1983 c 96 § 1; 1982 c 147 § 7; 1977 ex.s. c 336 § 2; 1975-'76 2nd ex.s. c 112 § 3; 1975 1st ex.s. c 294 § 7; 1973 c 1 § 9 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

Effective date--1989 c 280: See note following RCW 42.17.020.

Severability--1977 ex.s. c 336: See note following RCW 42.17.040.

Appearance of fairness doctrine--Application to candidates for public office--Campaign contributions: RCW

42.36.040, 42.36.050.

RCW 42.17.095 Disposal of surplus funds.

The surplus funds of a candidate, or of a political committee supporting or opposing a candidate, may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) Transfer the surplus to the candidate's personal account as reimbursement for lost earnings incurred as a result of that candidate's election campaign. Such lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's political committee. The committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090;

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund; or

(6) Hold the surplus in the campaign depository or depositories designated in accordance with RCW 42.17.050 for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17.090: PROVIDED, That if the candidate subsequently announces or publicly files for office, information as appropriate is reported to the commission in accordance with RCW 42.17.040 through 42.17.090. If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or as provided in this section, and report any such disposition in accordance with RCW 42.17.090. The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this chapter.

[1995 c 397 § 31; 1993 c 2 § 20 (Initiative Measure No. 134, approved November 3, 1992); 1982 c 147 § 8; 1977 ex.s. c 336 § 3.]

Notes:

Severability--1977 ex.s. c 336: See note following RCW 42.17.040.

RCW 42.17.100 Special reports--Independent expenditures.

(1) For the purposes of this section and RCW 42.17.550 the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090. "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a local ballot proposition, the county of residence for the person making the expenditure) an initial report of all independent expenditures made during the campaign prior to and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure) a further report of the independent expenditures made since the date of the last report:

(a) On the twenty-first day and the seventh day preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

The report filed pursuant to paragraph (a) of this subsection (3) shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

(4) All reports filed pursuant to this section shall be certified as correct by the reporting person.

(5) Each report required by subsections (2) and (3) of this section shall disclose for the

period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

- (a) The name and address of the person filing the report;
- (b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each such expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure and where appropriate to attach a copy of the item produced or distributed by the expenditure;
- (c) The total sum of all independent expenditures made during the campaign to date; and
- (d) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter.

[1995 c 397 § 28; 1989 c 280 § 10; 1985 c 367 § 6; 1982 c 147 § 9; 1975-'76 2nd ex.s. c 112 § 4; 1973 c 1 § 10 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Effective date--1989 c 280: See note following RCW 42.17.020.

RCW 42.17.103 Special reports--Political advertising. (Effective January 1, 2002.)

(1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or supporting or opposing the same ballot proposition that was the subject of the previous independent expenditure.

(3) The special report must include at least:

- (a) The name and address of the person making the expenditure;
- (b) The name and address of the person to whom the expenditure was made;
- (c) A detailed description of the expenditure;
- (d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;
- (e) The amount of the expenditure;
- (f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the

expenditure supports or opposes the ballot proposition; and

(g) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17.080, 42.17.090, and 42.17.100 are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100.

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent.

[2001 c 54 § 1.]

NOTES:

Effective date--2001 c 54: "This act takes effect January 1, 2002." [2001 c 54 § 4.]

RCW 42.17.105 Special reports, late contributions or totals over five hundred dollars--Certain late contributions prohibited. (Effective until January 1, 2002.)

(1) Campaign treasurers shall prepare and deliver to the commission a special report regarding any contribution or aggregate of contributions which: Exceeds five hundred dollars; is from a single person or entity; and is received during a special reporting period.

Any political committee making a contribution or an aggregate of contributions to a single entity which exceeds five hundred dollars shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made during a special reporting period.

For the purposes of subsections (1) through (7) of this section:

(a) Each of the following intervals is a special reporting period: (i) The interval beginning after the period covered by the last report required by RCW 42.17.080 and 42.17.090 to be filed before a primary and concluding on the end of the day before that primary; and (ii) the interval composed of the twenty-one days preceding a general election; and

(b) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

(2) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

(3) Except as provided in subsection (4) of this section, the special report required by this section shall be delivered electronically or in written form, including but not limited to mailgram, telegram, or nightletter. The special report required of a contribution recipient by subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution exceeding five hundred dollars is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first exceeds five hundred dollars; or the subsequent contribution that must be reported under subsection (2) of this section is received by the candidate or treasurer. The special report required of a contributor by subsection (1) of this section or RCW 42.17.175 shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first exceeds five hundred dollars; or the subsequent contribution that must be reported under subsection (2) of this section is made.

(4) The special report may be transmitted orally by telephone to the commission to satisfy the delivery period required by subsection (3) of this section if the written form of the report is also mailed to the commission and postmarked within the delivery period established in subsection (3) of this section or the file transfer date of the electronic filing is within the delivery period established in subsection (3) of this section.

(5) The special report shall include at least:

- (a) The amount of the contribution or contributions;
- (b) The date or dates of receipt;
- (c) The name and address of the donor;
- (d) The name and address of the recipient; and
- (e) Any other information the commission may by rule require.

(6) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

(7) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17.175.

(8) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for state-wide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

(9) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135.

[1995 c 397 § 4; 1991 c 157 § 1; 1989 c 280 § 11; 1986 c 228 § 2; 1985 c 359 § 1; 1983 c 176 § 1.]

NOTES:

Effective date--1989 c 280: See note following RCW 42.17.020.

RCW 42.17.105 Special reports--Late contributions or large totals--Certain late contributions prohibited. (Effective January 1, 2002.)

(1) Campaign treasurers shall prepare and deliver to the commission a special report regarding any contribution or aggregate of contributions which: Is one thousand dollars or more; is from a single person or entity; and is received during a special reporting period.

Any political committee making a contribution or an aggregate of contributions to a single entity which is one thousand dollars or more shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made during a special reporting period.

For the purposes of subsections (1) through (7) of this section:

(a) Each of the following intervals is a special reporting period: (i) The interval beginning after the period covered by the last report required by RCW 42.17.080 and 42.17.090 to be filed before a primary and concluding on the end of the day before that primary; and (ii) the interval composed of the twenty-one days preceding a general election; and

(b) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

(2) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

(3) Except as provided in subsection (4) of this section, the special report required by this section shall be delivered electronically or in written form, including but not limited to mailgram, telegram, or nightletter. The special report required of a contribution recipient by subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution of one thousand dollars or more is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first equals one thousand dollars or more; or the subsequent contribution that must be reported under subsection (2) of this section is received by the candidate or treasurer. The special report required of a contributor by subsection (1) of this section or RCW 42.17.175 shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first equals one thousand dollars or more; or the subsequent contribution that must be reported under subsection (2) of this section is made.

(4) The special report may be transmitted orally by telephone to the commission to satisfy the delivery period required by subsection (3) of this section if the written form of the

report is also mailed to the commission and postmarked within the delivery period established in subsection (3) of this section or the file transfer date of the electronic filing is within the delivery period established in subsection (3) of this section.

(5) The special report shall include at least:

- (a) The amount of the contribution or contributions;
- (b) The date or dates of receipt;
- (c) The name and address of the donor;
- (d) The name and address of the recipient; and
- (e) Any other information the commission may by rule require.

(6) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

(7) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17.175.

(8) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

(9) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135.

[2001 c 54 § 2; 1995 c 397 § 4; 1991 c 157 § 1; 1989 c 280 § 11; 1986 c 228 § 2; 1985 c 359 § 1; 1983 c 176 § 1.]

NOTES:

Effective date--2001 c 54: See note following RCW 42.17.103.

Effective date--1989 c 280: See note following RCW 42.17.020.

RCW 42.17.110 Commercial advertisers--Public inspection of documents--Copies to commission.

(1) Each commercial advertiser who has accepted or provided political advertising during the election campaign shall maintain open for public inspection during the campaign and for a period of no less than three years after the date of the applicable election, during normal business hours, documents and books of account which shall specify:

- (a) The names and addresses of persons from whom it accepted political advertising;
- (b) The exact nature and extent of the advertising services rendered; and
- (c) The consideration and the manner of paying that consideration for such services.

(2) Each commercial advertiser which must comply with subsection (1) of this section shall deliver to the commission, upon its request, copies of such information as must be maintained open for public inspection pursuant to subsection (1) of this section.

[1975-'76 2nd ex.s. c 112 § 5; 1973 c 1 § 11 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.120 Identification of contributions and communications.

No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.

[1975 1st ex.s. c 294 § 8; 1973 c 1 § 12 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.125 Personal use of contributions--When permitted.

Contributions received and reported in accordance with RCW 42.17.060 through 42.17.090 may only be transferred to the personal account of a candidate, or of a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or loans to cover lost earnings incurred as a result of campaigning or services performed for the political committee. Such lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the individual or the individual's political committee. The political committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(3) Repayment of loans made by the individual to political committees, which repayment shall be reported pursuant to RCW 42.17.090. However, contributions may not be used to reimburse a candidate for loans totaling more than *three thousand dollars made by the candidate to the candidate's own political committee or campaign.

[1995 c 397 § 29; 1993 c 2 § 21 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 280 § 12; 1985 c 367 § 7; 1977 ex.s. c 336 § 6.]

Notes:

***Reviser's note:** The dollar amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17.690. For current dollar amounts, see chapter 390-05 of the Washington Administrative Code (WAC).

Effective date--1989 c 280: See note following RCW 42.17.020.

Severability--1977 ex.s. c 336: See note following RCW 42.17.040.

RCW 42.17.128 Use of public funds for political purposes.

Public funds, whether derived through taxes, fees, penalties, or any other sources, shall not be used to finance political campaigns for state or local office.

[1993 c 2 § 24 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.130 Forbids use of public office or agency facilities in campaigns.

No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: PROVIDED, That the foregoing provisions of this section shall not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

[1979 ex.s. c 265 § 2; 1975-'76 2nd ex.s. c 112 § 6; 1973 c 1 § 13 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Disposition of violations before January 1, 1995: "Any violations occurring prior to January 1, 1995, of any of the following laws shall be disposed of as if chapter 154, Laws of 1994 were not enacted and such laws continued in full force and effect: RCW 42.17.130, chapter 42.18 RCW, chapter 42.21 RCW, and chapter 42.22 RCW." [1994 c 154 § 226.]

RCW 42.17.131 Exemption from RCW 42.17.130.

RCW 42.17.130 does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010.

[1994 c 154 § 317.]

Notes:

Parts and captions not law--Effective date--Severability--1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

RCW 42.17.135 Earmarked contributions.

A candidate or political committee receiving a contribution earmarked for the benefit of another candidate or political committee shall:

- (1) Report the contribution as required in RCW 42.17.080 and 42.17.090;
- (2) Complete a report, entitled "Earmarked contributions," on a form prescribed by the commission by rule, which identifies the name and address of the person who made the contribution, the candidate or political committee for whose benefit the contribution is earmarked, the amount of the contribution, and the date on which the contribution was received; and
- (3) Notify the commission and the candidate or political committee for whose benefit the contribution is earmarked regarding the receipt of the contribution by mailing or delivering to the commission and to the candidate or committee a copy of the "Earmarked contributions" report. Such notice shall be given within two working days of receipt of the contribution.

A candidate or political committee receiving notification of an earmarked contribution under subsection (3) of this section shall report the contribution, once the contribution is received by the candidate or committee, in the same manner as the receipt of any other contribution is disclosed in reports required by RCW 42.17.080 and 42.17.090.

[1989 c 280 § 13; 1986 c 228 § 3.]

Notes:

Effective date--1989 c 280: See note following RCW 42.17.020.

LOBBYIST REPORTING

RCW 42.17.150 Registration of lobbyists.

(1) Before doing any lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, showing:

- (a) His name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;
- (b) The name, address and occupation or business of the lobbyist's employer;
- (c) The duration of his employment;
- (d) His compensation for lobbying; how much he is to be paid for expenses, and what expenses are to be reimbursed;
- (e) Whether the person from whom he receives said compensation employs him solely as a lobbyist or whether he is a regular employee performing services for his employer which include but are not limited to the influencing of legislation;
- (f) The general subject or subjects of his legislative interest;
- (g) A written authorization from each of the lobbyist's employers confirming such employment;
- (h) The name and address of the person who will have custody of the accounts, bills,

receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding five hundred dollars to such entity during the current year.

(2) Any lobbyist who receives or is to receive compensation from more than one person for his services as a lobbyist shall file a separate notice of representation with respect to each such person; except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed to by more than one person then such lobbyist may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing, and the amount of the respective payments or contributions made by each such person.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall, within one week of such change, modification or termination, furnish full information regarding the same by filing with the commission an amended registration statement.

(4) Each lobbyist who has registered shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year, and failure to do so shall terminate his registration.

[1987 c 201 § 1; 1982 c 147 § 10; 1973 c 1 § 15 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.155 Photograph and information--Booklet--Publication.

Each lobbyist shall at the time he or she registers submit to the commission a recent photograph of himself or herself of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of his or her employment as a lobbyist before the legislature, a brief biographical description, and any other information he or she may wish to submit not to exceed fifty words in length. Such photograph and information shall be published at least biennially in a booklet form by the commission for distribution to legislators and the public.

[1995 c 397 § 6; 1985 c 367 § 8; 1982 c 147 § 11; 1975 1st ex.s. c 294 § 21.]

RCW 42.17.160 Exemption from registration.

The following persons and activities shall be exempt from registration and reporting under RCW 42.17.150, 42.17.170, and 42.17.200:

(1) Persons who limit their lobbying activities to appearing before public sessions of committees of the legislature, or public hearings of state agencies;

(2) Activities by lobbyists or other persons whose participation has been solicited by an

agency under RCW 34.05.310(2);

(3) News or feature reporting activities and editorial comment by working members of the press, radio, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, or television station;

(4) Persons who lobby without compensation or other consideration for acting as a lobbyist: PROVIDED, Such person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. Any person exempt under this subsection (4) may at his or her option register and report under this chapter;

(5) Persons who restrict their lobbying activities to no more than four days or parts thereof during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed twenty-five dollars: PROVIDED, That the commission shall promulgate regulations to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (5) may at his or her option register and report under this chapter;

(6) The governor;

(7) The lieutenant governor;

(8) Except as provided by RCW 42.17.190(1), members of the legislature;

(9) Except as provided by RCW 42.17.190(1), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(10) Elected officials, and officers and employees of any agency reporting under RCW 42.17.190(5).

[1998 c 55 § 3; 1995 c 397 § 32; 1982 c 147 § 12; 1977 ex.s. c 313 § 4; 1975 1st ex.s. c 294 § 9; 1973 c 1 § 16 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Effective date--Severability--1977 ex.s. c 313: See notes following RCW 42.17.020.

RCW 42.17.170 Reporting by lobbyists.

(1) Any lobbyist registered under RCW 42.17.150 and any person who lobbies shall file with the commission periodic reports of his or her activities signed by the lobbyist. The reports shall be made in the form and manner prescribed by the commission. They shall be due monthly and shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) Each such monthly periodic report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer during the period covered by the report. Such totals for lobbying activities shall be segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons in the group partaking in or of such entertainment including any portion thereof attributable to the lobbyist's participation therein, and shall include amounts actually expended on each person where calculable, or allocating any portion of the expenditure to individual participants.

Notwithstanding the foregoing, lobbyists are not required to report the following:

- (i) Unreimbursed personal living and travel expenses not incurred directly for lobbying;
- (ii) Any expenses incurred for his or her own living accommodations;
- (iii) Any expenses incurred for his or her own travel to and from hearings of the legislature;
- (iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of such expenditures in each category incurred on behalf of each of his employers.

(c) An itemized listing of each such expenditure, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, in the nature of a contribution of money or of tangible or intangible personal property to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule-making under chapter 34.05 RCW, the state Administrative Procedure Act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17.160(2).

(e) Such other information relevant to lobbying activities as the commission shall by rule prescribe. Information supporting such activities as are required to be reported is subject to audit by the commission.

(f) A listing of each payment for an item specified in RCW 42.52.150(5) in excess of fifty dollars and each item specified in RCW 42.52.010(9) (d) and (f) made to a state elected official, state officer, or state employee. Each item shall be identified by recipient, date, and approximate value of the item.

(g) The total expenditures made during the reporting period by the lobbyist for lobbying

purposes, whether through or on behalf of a lobbyist or otherwise. As used in this subsection, "expenditures" includes amounts paid or incurred during the reporting period for (i) political advertising as defined in RCW 42.17.020; and (ii) public relations, telemarketing, polling, or similar activities if such activities, directly or indirectly, are intended, designed, or calculated to influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure act. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(3) If a state elected official or a member of such an official's immediate family is identified by a lobbyist in such a report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(9) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission.

(4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section.

[1995 c 397 § 33; 1991 sp.s. c 18 § 2; 1990 c 139 § 3; 1989 c 175 § 90; 1987 c 423 § 1; 1985 c 367 § 9; 1982 c 147 § 13; 1977 ex.s. c 313 § 5; 1975 1st ex.s. c 294 § 10; 1973 c 1 § 17 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Effective date--1995 c 397 § 33: "Section 33 of this act takes effect September 1, 1995." [1995 c 397 § 36.]

Legislative intent--1990 c 139: See note following RCW 42.17.020.

Effective date--1989 c 175: See note following RCW 34.05.010.

Effective date--Severability--1977 ex.s. c 313: See notes following RCW 42.17.020.

RCW 42.17.172 Notification to person named in report.

When a listing or a report of contributions is made to the commission under RCW 42.17.170(2)(c), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report.

[1993 c 2 § 32 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.175 Special reports--Late contributions or totals over five hundred dollars. (Effective until January 1, 2002.)

Any lobbyist registered under RCW 42.17.150, any person who lobbies, and any lobbyist's employer making a contribution or an aggregate of contributions to a single entity that exceeds five hundred dollars during a special reporting period before a primary or general election, as such period is specified in RCW 42.17.105(1), shall file one or more special reports for the contribution or aggregate of contributions and for subsequent contributions made during that period under the same circumstances and to the same extent that a contributing political committee must file such a report or reports under RCW 42.17.105. Such a special report shall be filed in the same manner provided under RCW 42.17.105 for a special report of a contributing

political committee.

[1991 c 157 § 2; 1985 c 359 § 2.]

**RCW 42.17.175 Special reports--Lobbyists--Late contributions or large totals.
(Effective January 1, 2002.)**

Any lobbyist registered under RCW 42.17.150, any person who lobbies, and any lobbyist's employer making a contribution or an aggregate of contributions to a single entity that is one thousand dollars or more during a special reporting period before a primary or general election, as such period is specified in RCW 42.17.105(1), shall file one or more special reports for the contribution or aggregate of contributions and for subsequent contributions made during that period under the same circumstances and to the same extent that a contributing political committee must file such a report or reports under RCW 42.17.105. Such a special report shall be filed in the same manner provided under RCW 42.17.105 for a special report of a contributing political committee.

[2001 c 54 § 3; 1991 c 157 § 2; 1985 c 359 § 2.]

NOTES:

Effective date--2001 c 54: See note following RCW 42.17.103.

RCW 42.17.180 Reports by employers of registered lobbyists, other persons.

(1) Every employer of a lobbyist registered under this chapter during the preceding calendar year and every person other than an individual that made contributions aggregating to more than *ten thousand dollars or independent expenditures aggregating to more than *five hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

(a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of five hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out in RCW 42.17.241(2), and the consideration given or performed in exchange for the compensation.

(b) The name of each state elected official, successful candidate for state office, or members of his immediate family to whom the person reporting made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of the expenditures and the purpose for the expenditures. For the purposes of this subsection, the term expenditure shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate.

(c) The total expenditures made by the person reporting for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(d) All contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a state-wide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(e) The name and address of each registered lobbyist employed by the person reporting and the total expenditures made by such person for each such lobbyist for lobbying purposes.

(f) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.

(g) The identifying proposition number and a brief description of any state-wide ballot proposition supported or opposed by expenditures not reported under (d) of this subsection and the amount of each such expenditure.

(h) Such other information as the commission prescribes by rule.

(2)(a) Except as provided in (b) of this subsection, an employer of a lobbyist registered under this chapter shall file a special report with the commission if the employer makes a contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer or employee, or political committee receiving the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within fifteen days after the last day of the calendar month during which the contribution was made.

(b) The provisions of (a) of this subsection do not apply to a contribution which is made through a registered lobbyist and reportable under RCW 42.17.170.

[1993 c 2 § 27 (Initiative Measure No. 134, approved November 3, 1992); 1990 c 139 § 4; 1987 c 423 § 2; 1984 c 34 § 6; 1975 1st ex.s. c 294 § 11; 1973 c 1 § 18 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

***Reviser's note:** The dollar amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17.370 or 42.17.690. For current dollar amounts, see Title 390 of the Washington Administrative Code (WAC).

Legislative intent--1990 c 139: See note following RCW 42.17.020.

RCW 42.17.190 Legislative activities of state agencies, other units of government, elective officials, employees.

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying: PROVIDED, This does not prevent officers or employees of an agency from communicating with a member of the

legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations which are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties: PROVIDED FURTHER, That this subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency: PROVIDED, That public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, the term "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication which has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17.130 and 42.52.180. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities which are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17.130 and 42.52.180 if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district which expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not

limited to travel, consultant or other special contractual services, and brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection the term "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official: PROVIDED, That the total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington do not exceed fifteen dollars for any three-month period: PROVIDED FURTHER, That the exemption under this subsection is in addition to the exemption provided in (A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section any county, city, town, municipal corporation, quasi municipal corporation, or special purpose district may determine and so notify the public disclosure commission, that elected officials, officers, or employees who on behalf of any such local agency engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17.150 and 42.17.170. Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17.180.

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs which relate

only indirectly or incidentally to lobbying or which are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy.

[1995 c 397 § 7; 1986 c 239 § 1; 1979 ex.s. c 265 § 1; 1977 ex.s. c 313 § 6; 1975 1st ex.s. c 294 § 12; 1973 c 1 § 19 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Effective date--Severability--1977 ex.s. c 313: See notes following RCW 42.17.020.

RCW 42.17.200 Grass roots lobbying campaigns.

(1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17.170 or by a candidate or political committee under RCW 42.17.065 or 42.17.080, exceeding *five hundred dollars in the aggregate within any three-month period or exceeding *two hundred dollars in the aggregate within any one-month period in presenting a program addressed to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation shall be required to register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) Within thirty days after becoming a sponsor of a grass roots lobbying campaign, the sponsor shall register by filing with the commission a registration statement, in such detail as the commission shall prescribe, showing:

(a) The sponsor's name, address, and business or occupation, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(b) The names, addresses, and business or occupation of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(c) The names and addresses of each person contributing twenty-five dollars or more to the campaign, and the aggregate amount contributed;

(d) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(e) The totals of all expenditures made or incurred to date on behalf of the campaign, which totals shall be segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount thereof paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission, which reports shall be filed by the tenth day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's

registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report, which notice shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement.

[1990 c 139 § 5; 1985 c 367 § 10; 1973 c 1 § 20 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

***Reviser's note:** The dollar amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17.370. For current dollar amounts, see chapter 390-20 of the Washington Administrative Code (WAC).

Legislative intent--1990 c 139: See note following RCW 42.17.020.

RCW 42.17.210 Employment of legislators, board or commission members, or state employees--Statement, contents and filing.

If any person registered or required to be registered as a lobbyist under this chapter employs, or if any employer of any person registered or required to be registered as a lobbyist under this chapter, employs any member of the legislature, or any member of any state board or commission, or any employee of the legislature, or any full-time state employee, if such new employee shall remain in the partial employ of the state or any agency thereof, then the new employer shall file a statement under oath with the commission setting out the nature of the employment, the name of the person to be paid thereunder, and the amount of pay or consideration to be paid thereunder. The statement shall be filed within fifteen days after the commencement of such employment.

[1973 c 1 § 21 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.220 Employment of unregistered persons.

It shall be a violation of this chapter for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to lobby who is not registered under this chapter except upon condition that such person register as a lobbyist as provided by this chapter, and such person does in fact so register as soon as practicable.

[1973 c 1 § 22 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.230 Lobbyists' duties, restrictions.

A person required to register as a lobbyist under this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, ratifies, or confirms any such act, to other civil liabilities, as provided by this chapter:

(1) Such persons shall obtain and preserve all accounts, bills, receipts, books, papers, and

documents necessary to substantiate the financial reports required to be made under this chapter for a period of at least five years from the date of the filing of the statement containing such items, which accounts, bills, receipts, books, papers, and documents shall be made available for inspection by the commission at any time: PROVIDED, That if a lobbyist is required under the terms of his employment contract to turn any records over to his employer, responsibility for the preservation of such records under this subsection shall rest with such employer.

(2) In addition, a person required to register as a lobbyist shall not:

(a) Engage in any activity as a lobbyist before registering as such;

(b) Knowingly deceive or attempt to deceive any legislator as to any fact pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its defeat;

(d) Knowingly represent an interest adverse to any of his employers without first obtaining such employer's written consent thereto after full disclosure to such employer of such adverse interest;

(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator by reason of such legislator's position with respect to, or his vote upon, any pending or proposed legislation;

(f) Enter into any agreement, arrangement, or understanding according to which his or her compensation, or any portion thereof, is or will be contingent upon the success of any attempt to influence legislation.

[1987 c 201 § 2; 1982 c 147 § 14; 1973 c 1 § 23 (Initiative Measure No. 276, approved November 7, 1972).]

REPORTING OF PUBLIC OFFICIALS' FINANCIAL AFFAIRS

RCW 42.17.240 Elected and appointed officials, candidates, and appointees--Reports of financial affairs and gifts.

(1) Every elected official and every executive state officer shall after January 1st and before April 15th of each year file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office expires immediately after December 31st shall file the statement required to be filed by this section for the year that ended on that December 31st.

(2) Every candidate shall within two weeks of becoming a candidate file with the commission a statement of financial affairs for the preceding twelve months.

(3) Every person appointed to a vacancy in an elective office or executive state officer position shall within two weeks of being so appointed file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior

obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) Every elected official and every executive state officer shall file with their statement of financial affairs a statement certifying that they have read and are familiar with RCW 42.17.130 or 42.52.180, whichever is applicable.

(8) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17.2401.

(9) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer.

[1995 c 397 § 8; 1993 c 2 § 31 (Initiative Measure No. 134, approved November 3, 1992); 1989 c 158 § 1; 1987 c 295 § 19. Prior: 1984 c 125 § 14; 1984 c 34 § 1; 1983 c 161 § 27; 1982 c 10 § 9; prior: 1981 c 311 § 20; 1981 c 67 § 15; 1979 ex.s. c 265 § 3; 1979 c 151 § 73; prior: 1975-'76 2nd ex.s. c 112 § 7; 1975-'76 2nd ex.s. c 104 § 1 (Ref. Bill No. 36); 1975 1st ex.s. c 294 § 13; 1973 c 1 § 24 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Severability--Headings--Effective date--1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Severability--Effective dates--1983 c 161: See RCW 43.180.903 and 43.180.904.

Severability--1982 c 10: See note following RCW 6.13.080.

Severability--1981 c 311: See RCW 41.64.910.

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

Cemetery district commissioners exempt from chapter: RCW 68.52.140, 68.52.220.

RCW 42.17.2401 "Executive state officer" defined.

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community, trade, and economic development, the secretary of corrections, the director of ecology, the commissioner of employment security, the chairman of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the

director of personnel, the executive director of the public disclosure commission, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, personnel appeals board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

[2001 c 36 § 1; 2001 c 9 § 1; 1996 c 186 § 504. Prior: 1995 c 399 § 60; 1995 c 397 § 10; prior: 1993 sp.s. c 2 § 18; 1993 c 492 § 488; 1993 c 281 § 43; 1991 c 200 § 404; 1991 c 3 § 293; prior: 1989 1st ex.s. c 9 § 812; 1989 c 279 § 22; 1989 c 158 § 2; 1988 c 36 § 13; 1987 c 504 § 14; 1985 c 6 § 8; 1984 c 34 § 2.]

NOTES:

Reviser's note: This section was amended by 2001 c 9 § 1 and by 2001 c 36 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Effective date--1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability--1993 sp.s. c 2: See RCW 43.300.901.

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective date--1993 c 281: See note following RCW 41.06.022.

Effective dates--Severability--1991 c 200: See RCW 90.56.901 and 90.56.904.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability--1989 c 279: See RCW 43.163.901.

Alphabetization--1989 c 158 § 2: "When section 2 of this act is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order." [1989 c 158 § 3.] The names of the agencies in the above section have been arranged according to the first distinctive word of each agency's name.

Severability--Effective date--1987 c 504: See RCW 43.105.901 and 43.105.902.

RCW 42.17.241 Contents of report.

(1) The statement of financial affairs required by RCW 42.17.240 shall disclose for the reporting individual and each member of his or her immediate family:

(a) Occupation, name of employer, and business address; and

(b) Each bank or savings account or insurance policy in which any such person or persons owned a direct financial interest that exceeded *five thousand dollars at any time during the reporting period; each other item of intangible personal property in which any such person or persons owned a direct financial interest, the value of which exceeded *five hundred dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each such direct financial interest during the reporting period; and

(c) The name and address of each creditor to whom the value of *five hundred dollars or more was owed; the original amount of each debt to each such creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each such debt; and the security given, if any, for each such debt: PROVIDED, That debts arising out of a "retail installment transaction" as defined in chapter 63.14 RCW (Retail Installment Sales Act) need not be reported; and

(d) Every public or private office, directorship, and position held as trustee; and

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation: PROVIDED, That for the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which such person serves as an elected official or state executive officer or professional staff member for his service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; and

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of five hundred dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation; and

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and with respect to each such entity: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the

entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of *two thousand five hundred dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation: PROVIDED, That the term "compensation" for purposes of this subsection (1)(g)(ii) does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service: PROVIDED, FURTHER, That with respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds *six hundred dollars; and

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds *two thousand five hundred dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest; and

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds *two thousand five hundred dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration; and

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds *two thousand five hundred dollars in which a direct financial interest was held: PROVIDED, That if a description of the property has been included in a report previously filed, the property may be listed, for purposes of this provision, by reference to the previously filed report; and

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds *five thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held; and

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of *fifty dollars was accepted under RCW 42.52.150(5); [and]

(m) A list of each occasion, specifying date, donor, and amount, at which items specified

in **RCW 42.52.010(9) (d) and (f) were accepted; [and]

(n) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.

(2) Where an amount is required to be reported under subsection (1)(a) through (m) of this section, it shall be sufficient to comply with the requirement to report whether the amount is less than *one thousand dollars, at least *one thousand dollars but less than *five thousand dollars, at least *five thousand dollars but less than *ten thousand dollars, at least *ten thousand dollars but less than *twenty-five thousand dollars, or *twenty-five thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.

(3) Items of value given to an official's or employee's spouse or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse or family member.

[1995 c 397 § 9; 1984 c 34 § 3; 1979 ex.s. c 126 § 42.]

Notes:

Reviser's note: *(1) The dollar amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17.370. For current dollar amounts, see chapter 390-24 of the Washington Administrative Code (WAC).

***(2) RCW 42.52.010 was amended by 1996 c 213 § 1, changing subsection (9) to subsection (10).

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 42.17.242 Concealing identity of source of payment prohibited--Exception.

No payment shall be made to any person required to report under RCW 42.17.240 and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment except that the commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes.

[1977 ex.s. c 336 § 4.]

Notes:

Severability--1977 ex.s. c 336: See note following RCW 42.17.040.

RCW 42.17.243 Public office fund--What constitutes, restrictions on use--Reporting of--Disposal of remaining funds.

Notes:

Reviser's note: RCW 42.17.243 was amended by 1991 sp.s. c 18 § 4 without reference to its repeal by

1993 c 2 § 35 (Initiative Measure No. 134). It has been decodified for publication purposes pursuant to RCW 1.12.025.

REPORTING BY PUBLIC TREASURERS

RCW 42.17.245 Public accounts of governmental entities held by financial institutions--Statements and reports--Contents--Filing.

After January 1st and before April 15th of each calendar year, the state treasurer, each county, public utility district, and port district treasurer, and each treasurer of an incorporated city or town whose population exceeds one thousand shall file with the commission:

(1) A statement under oath that no public funds under that treasurer's control were invested in any institution where the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest; or

(2) A report disclosing for the previous calendar year: (a) The name and address of each financial institution in which the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest which holds or has held during the reporting period public accounts of the governmental entity for which the treasurer is responsible; (b) the aggregate sum of time and demand deposits held in each such financial institution on December 31; and (c) the highest balance held at any time during such reporting period: PROVIDED, That the state treasurer shall disclose the highest balance information only upon request under RCW 42.17.250 through 42.17.330. The statement or report required by this section shall be filed either with the statement required under RCW 42.17.240 or separately.

[1983 c 213 § 1; 1981 c 102 § 1; 1975-'76 2nd ex.s. c 112 § 10.]

PUBLIC RECORDS

RCW 42.17.250 Duty to publish procedures.

(1) Each state agency shall separately state and currently publish in the Washington Administrative Code and each local agency shall prominently display and make available for inspection and copying at the central office of such local agency, for guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain copies of agency decisions;

(b) Statements of the general course and method by which its operations are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure;

(d) Substantive rules of general applicability adopted as authorized by law, and

statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(e) Each amendment or revision to, or repeal of any of the foregoing.

(2) Except to the extent that he has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published or displayed and not so published or displayed.

[1973 c 1 § 25 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.251 Construction.

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. The public records subdivision of this chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy.

[1992 c 139 § 2.]

RCW 42.17.255 Invasion of privacy, when.

A person's "right to privacy," "right of privacy," "privacy," or "personal privacy," as these terms are used in this chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. The provisions of this chapter dealing with the right to privacy in certain public records do not create any right of privacy beyond those rights that are specified in this chapter as express exemptions from the public's right to inspect, examine, or copy public records.

[1987 c 403 § 2.]

Notes:

Intent--1987 c 403: "The legislature intends to restore the law relating to the release of public records largely to that which existed prior to the Washington Supreme Court decision in *In Re Rosier*," 105 Wn.2d 606 (1986). The intent of this legislation is to make clear that: (1) Absent statutory provisions to the contrary, agencies possessing records should in responding to requests for disclosure not make any distinctions in releasing or not releasing records based upon the identity of the person or agency which requested the records, and (2) agencies having public records should rely only upon statutory exemptions or prohibitions for refusal to provide public records. Further, to avoid unnecessary confusion, "privacy" as used in RCW 42.17.255 is intended to have the same meaning as the definition given that word by the Supreme Court in *Hearst v. Hoppe*," 90 Wn.2d 123, 135 (1978)."
[1987 c 403 § 1.]

Severability--1987 c 403: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 403 § 7.]

RCW 42.17.258 Disclaimer of public liability.

No public agency, public official, public employee, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record if the public agency, public official, public employee, or custodian acted in good faith in attempting to comply with the provisions of this chapter.

[1992 c 139 § 11.]

RCW 42.17.260 Documents and indexes to be made public.

(1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, RCW 42.17.310, 42.17.315, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.17.310 and 42.17.315, an agency shall delete identifying details in a manner consistent with RCW 42.17.310 and 42.17.315 when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.

(2) For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

(3) Each local agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after January 1, 1973:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(4) A local agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which

compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(5) Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010 that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010 that were entered after June 30, 1990.

Rules establishing systems of indexing shall include, but not be limited to, requirements for the form and content of the index, its location and availability to the public, and the schedule for revising or updating the index. State agencies that have maintained indexes for records issued before July 1, 1990, shall continue to make such indexes available for public inspection and copying. Information in such indexes may be incorporated into indexes prepared pursuant to this subsection. State agencies may satisfy the requirements of this subsection by making available to the public indexes prepared by other parties but actually used by the agency in its operations. State agencies shall make indexes available for public inspection and copying. State agencies may charge a fee to cover the actual costs of providing individual mailed copies of indexes.

(6) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if--

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(7) Each agency shall establish, maintain, and make available for public inspection and copying a statement of the actual per page cost or other costs, if any, that it charges for providing photocopies of public records and a statement of the factors and manner used to determine the actual per page cost or other costs, if any.

(a) In determining the actual per page cost for providing photocopies of public records, an agency may include all costs directly incident to copying such public records including the actual cost of the paper and the per page cost for use of agency copying equipment. In determining other actual costs for providing photocopies of public records, an agency may include all costs directly incident to shipping such public records, including the cost of postage or delivery charges and the cost of any container or envelope used.

(b) In determining the actual per page cost or other costs for providing copies of public records, an agency may not include staff salaries, benefits, or other general administrative or overhead charges, unless those costs are directly related to the actual cost of copying the public records. Staff time to copy and mail the requested public records may be included in an agency's

costs.

(8) An agency need not calculate the actual per page cost or other costs it charges for providing photocopies of public records if to do so would be unduly burdensome, but in that event: The agency may not charge in excess of fifteen cents per page for photocopies of public records or for the use of agency equipment to photocopy public records and the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requestor.

(9) This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

[1997 c 409 § 601. Prior: 1995 c 397 § 11; 1995 c 341 § 1; 1992 c 139 § 3; 1989 c 175 § 36; 1987 c 403 § 3; 1975 1st ex.s. c 294 § 14; 1973 c 1 § 26 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Part headings--Severability--1997 c 409: See notes following RCW 43.22.051.

Effective date--1989 c 175: See note following RCW 34.05.010.

Intent--Severability--1987 c 403: See notes following RCW 42.17.255.

Exemption for registered trade names: RCW 19.80.065.

RCW 42.17.270 Facilities for copying--Availability of public records.

Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate *RCW 42.17.260(5) or other statute which exempts or prohibits disclosure of specific information or records to certain persons. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies shall honor requests received by mail for identifiable public records unless exempted by provisions of this chapter.

[1987 c 403 § 4; 1975 1st ex.s. c 294 § 15; 1973 c 1 § 27 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

***Reviser's note:** RCW 42.17.260 was amended by 1989 c 175 § 36, changing subsection (5) to subsection (6). RCW 42.17.260 was subsequently amended by 1992 c 139 § 3, changing subsection (6) to subsection (7). RCW 42.17.260 was subsequently amended by 1995 c 341 § 1, changing subsection (7) to subsection (9).

Intent--Severability--1987 c 403: See notes following RCW 42.17.255.

RCW 42.17.280 Times for inspection and copying.

Public records shall be available for inspection and copying during the customary office hours of the agency, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives: PROVIDED, That if the entity does not have customary office hours of at least thirty hours per week, the public records shall be available from nine o'clock a.m. to noon and from one o'clock p.m. to four o'clock p.m. Monday through Friday, excluding legal holidays, unless the person making the request and the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives or its representative agree on a different time.

[1995 c 397 § 12; 1973 c 1 § 28 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.290 Protection of public records--Public access.

Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring requests received by mail for copies of identifiable public records.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved.

[1995 c 397 § 13; 1992 c 139 § 4; 1975 1st ex.s. c 294 § 16; 1973 c 1 § 29 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.295 Destruction of information relating to employee misconduct.

Nothing in this chapter prevents an agency from destroying information relating to employee misconduct or alleged misconduct, in accordance with RCW 41.06.450, to the extent necessary to ensure fairness to the employee.

[1982 c 208 § 13.]

Notes:

Severability--1982 c 208: See RCW 42.40.900.

RCW 42.17.300 Charges for copying.

No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges shall not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying. Agency charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page.

[1995 c 397 § 14; 1995 c 341 § 2; 1973 c 1 § 30 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Reviser's note: This section was amended by 1995 c 341 § 2 and by 1995 c 397 § 14, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 42.17.305 Other provisions not superseded.

The provisions of RCW 42.17.260 (7) and (8) and 42.17.300 that establish or allow agencies to establish the costs charged for photocopies of public records do not supersede other statutory provisions, other than in this chapter, authorizing or governing fees for copying public records.

[1995 c 341 § 3.]

RCW 42.17.310 Certain personal and other records exempt.

- (1) The following are exempt from public inspection and copying:
 - (a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.
 - (b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.
 - (c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.
 - (d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the

responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under *RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and

when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under **RCW 43.07.360.

(jj) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when

reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers supplied to an agency for the purpose of electronic transfer of funds, except when disclosure is expressly required by law.

(tt) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) Those portions of records containing specific and unique vulnerability assessments or specific and unique response plans, either of which is intended to prevent or mitigate criminal terrorist acts as defined in RCW 70.74.285, the public disclosure of which would have a substantial likelihood of threatening public safety.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch

location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

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[2001 c 278 § 1; 2001 c 98 § 2; 2001 c 70 § 1. Prior: 2000 c 134 § 3; 2000 c 56 § 1; 2000 c 6 § 5; prior: 1999 c 326 § 3; 1999 c 290 § 1; 1999 c 215 § 1; 1998 c 69 § 1; prior: 1997 c 310 § 2; 1997 c 274 § 8; 1997 c 250 § 7; 1997 c 239 § 4; 1997 c 220 § 120 (Referendum Bill No. 48, approved June 17, 1997); 1997 c 58 § 900; prior: 1996 c 305 § 2; 1996 c 253 § 302; 1996 c 191 § 88; 1996 c 80 § 1; 1995 c 267 § 6; prior: 1994 c 233 § 2; 1994 c 182 § 1; prior: 1993 c 360 § 2; 1993 c 320 § 9; 1993 c 280 § 35; prior: 1992 c 139 § 5; 1992 c 71 § 12; 1991 c 301 § 13; 1991 c 87 § 13; 1991 c 23 § 10; 1991 c 1 § 1; 1990 2nd ex.s. c 1 § 1103; 1990 c 256 § 1; prior: 1989 1st ex.s. c 9 § 407; 1989 c 352 § 7; 1989 c 279 § 23; 1989 c 238 § 1; 1989 c 205 § 20; 1989 c 189 § 3; 1989 c 11 § 12; prior: 1987 c 411 § 10; 1987 c 404 § 1; 1987 c 370 § 16; 1987 c 337 § 1; 1987 c 107 § 2; prior: 1986 c 299 § 25; 1986 c 276 § 7; 1985 c 414 § 8; 1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972).]

NOTES:

Reviser's note: *(1) RCW 81.34.070 was repealed by 1991 c 49 § 1.

** (2) RCW 43.07.360 expired December 31, 2000, pursuant to 1996 c 253 § 502.

(3) This section was amended by 2001 c 70 § 1, 2001 c 98 § 2, and by 2001 c 278 § 1, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding--2001 c 98: "The legislature finds that public health and safety is promoted when the public has knowledge that enables them to make informed choices about their health and safety. Therefore, the legislature declares, as a matter of public policy, that the public has a right to information necessary to protect members of the public from harm caused by alleged hazards or threats to the public.

The legislature also recognizes that the public disclosure of those portions of records containing specific and unique vulnerability assessments or specific and unique response plans, either of which is intended to prevent or mitigate criminal terrorist acts as defined in RCW 70.74.285, could have a substantial likelihood of threatening public safety. Therefore, the legislature declares, as a matter of public policy, that such specific and unique information should be protected from unnecessary disclosure." [2001 c 98 § 1.]

Findings--Conflict with federal requirements--Severability--2000 c 134: See notes following RCW 50.13.060.

Effective date--1998 c 69: See note following RCW 28B.95.025.

Effective date--1997 c 274: See note following RCW 41.05.021.

Referendum--Other legislation limited--Legislators' personal intent not indicated--Reimbursements for election--Voters' pamphlet, election requirements--1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law--Severability--1997 c 220: See RCW 36.102.900 and 36.102.901.

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Severability--1996 c 305: See note following RCW 28B.85.020.

Findings--Purpose--Severability--Part headings not law--1996 c 253: See notes following RCW 28B.109.010.

Captions not law--Severability--Effective dates--1995 c 267: See notes following RCW 43.70.052.

Effective date--1994 c 233: See note following RCW 70.123.075.

Effective date--1994 c 182: "This act shall take effect July 1, 1994." [1994 c 182 § 2.]

Effective date--1993 c 360: See note following RCW 18.130.085.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding--1991 c 301: See note following RCW 10.99.020.

Effective date--1991 c 87: See note following RCW 18.64.350.

Effective dates--1990 2nd ex.s. c 1: See note following RCW 84.52.010.

Severability--1990 2nd ex.s. c 1: See note following RCW 82.14.300.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability--1989 c 279: See RCW 43.163.901.

Severability--1989 c 11: See note following RCW 9A.56.220.

Severability--1987 c 411: See RCW 69.45.900.

Severability--Effective date--1986 c 299: See RCW 28C.10.900 and 28C.10.902.

Severability--1986 c 276: See RCW 53.31.901.

Basic health plan records: RCW 70.47.150.

Exemptions from public inspection

accounting records of special inquiry judge: RCW 10.29.090.

bill drafting service of code reviser's office: RCW 1.08.027, 44.68.060.

certificate submitted by physically or mentally disabled person seeking a driver's license: RCW 46.20.041.

commercial fertilizers, sales reports: RCW 15.54.362.

criminal records: Chapter 10.97 RCW.

employer information: RCW 50.13.060.

family and children's ombudsman: RCW 43.06A.050.

joint legislative service center, information: RCW 44.68.060.

medical quality assurance commission, reports required to be filed with: RCW 18.71.0195.

organized crime

advisory board files: RCW 10.29.030.

investigative information: RCW 43.43.856.

public transportation information: RCW 47.04.230.

salary and fringe benefit survey information: RCW 41.06.160.

RCW 42.17.311 Duty to disclose or withhold information--Otherwise provided.

Nothing in RCW 42.17.310(1) (t) through (v) shall affect a positive duty of an agency to disclose or a positive duty to withhold information which duty to disclose or withhold is contained in any other law.

[1991 c 23 § 11; 1990 c 256 § 2; 1987 c 404 § 3.]

RCW 42.17.312 Medical records--Health care information.

Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

[1991 c 335 § 902.]

Notes:

Application and construction--Short title--Severability--Captions not law--1991 c 335: See RCW 70.02.901 through 70.02.904.

RCW 42.17.313 Application for license or small loan endorsement under chapter 31.45 RCW--Certain information exempt.

Information in an application for licensing or a small loan endorsement under chapter 31.45 RCW regarding the personal residential address, telephone number of the applicant, or financial statement is exempt from disclosure under this chapter.

[1995 c 18 § 8; 1991 c 355 § 22.]

Notes:

Effective date, implementation--1991 c 355: See RCW 31.45.900.

RCW 42.17.314 Electrical utility records, request by law enforcement agency.

A law enforcement authority may not request inspection or copying of records of any person, which belong to a public utility district or a municipally owned electrical utility, unless the authority provides the public utility district or municipally owned electrical utility with a written statement in which the authority states that it suspects that the particular person to whom the records pertain has committed a crime and the authority has a reasonable belief that the records could determine or help determine whether the suspicion might be true. Information obtained in violation of this rule is inadmissible in any criminal proceeding.

[1987 c 403 § 6.]

Notes:

Intent--Severability--1987 c 403: See notes following RCW 42.17.255.

RCW 42.17.315 Certain records obtained by colleges, universities, libraries, or archives exempt.

Notwithstanding the provisions of RCW 42.17.260 through 42.17.340, as now or hereafter amended, no state college, university, library, or archive shall be required by chapter 42.17 RCW to make available for public inspection and copying any records or documents obtained by said college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regulate public access to such records or documents: PROVIDED, That this section shall not apply to any public records as defined in RCW 40.14.010.

[1975 1st ex.s. c 294 § 22.]

RCW 42.17.316 Certain records of impaired physician program exempt.

The disclosure requirements of this chapter shall not apply to records of the entity obtained in an action under RCW 18.71.300 through 18.71.340.

[2001 c 64 § 3; 1994 sp.s. c 9 § 726; 1987 c 416 § 7.]

NOTES:

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

Effective date--1987 c 416: See note following RCW 18.71.300.

RCW 42.17.317 Information on commercial fertilizer distribution exempt.

Information provided under RCW 15.54.362 is exempt from disclosure under this chapter.

[1987 c 45 § 15.]

Notes:

Construction--Severability--1987 c 45: See notes following RCW 15.54.270.

RCW 42.17.318 Information on concealed pistol licenses exempt.

The license applications under RCW 9.41.070 are exempt from the disclosure requirements of this chapter. Copies of license applications or information on the applications may be released to law enforcement or corrections agencies.

[1988 c 219 § 2.]

RCW 42.17.319 Certain records of department of community, trade, and economic development exempt.

(1) Notwithstanding the provisions of RCW 42.17.260 through 42.17.340, the following information supplied to the department of community, trade, and economic development is exempt from disclosure under this chapter:

(a) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(b) Financial or proprietary information collected from any person and provided to the department or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this section and the locations being considered for siting, relocation, or expansion of a business.

(2) Any work product developed by the department based on information as described in subsection (1)(a) of this section is not exempt from disclosure.

(3) For the purposes of this section, "siting decision" means the decision to acquire or not to acquire a site.

(4) If there is no written contact for a period of sixty days to the department from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in subsection (1)(b) of this section will be available to the public under the provisions of RCW 42.17.250 through 42.17.340.

(5) Nothing in this section shall apply to records of any other state agency or of a local agency.

[2001 c 87 § 1; 1999 c 150 § 1; 1993 c 280 § 36; 1989 c 312 § 7.]

NOTES:

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability--1989 c 312: See note following RCW 43.31.403.

RCW 42.17.31901 Identity of child victims of sexual assault exempt.

Information revealing the identity of child victims of sexual assault who are under age eighteen is confidential and not subject to public disclosure. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the

child and the alleged perpetrator.

[1992 c 188 § 6.]

Notes:

Findings--Intent--Severability--1992 c 188: See notes following RCW 7.69A.020.

RCW 42.17.31902 Infant mortality review.

Notwithstanding the provisions of RCW 42.17.250 through 42.17.340, no local health department may be required under this chapter to make available for public inspection or copying any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department pursuant to RCW 70.05.170. This section shall not apply to published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information.

[1992 c 179 § 2.]

RCW 42.17.31903 Identification of viators regulated by the insurance commissioner exempt.

The names and individual identification data of all viators regulated by the insurance commissioner under chapter 48.102 RCW are exempt from the disclosure and reporting requirements of this chapter.

[1995 c 161 § 15.]

Notes:

Short title--1995 c 161: See RCW 48.102.900.

RCW 42.17.31904 Insurance antifraud plans exempt.

Information provided under RCW 48.30A.045 through 48.30A.060 are exempt from disclosure under this chapter.

[1995 c 285 § 15.]

Notes:

Effective date--1995 c 285: See RCW 48.30A.900.

RCW 42.17.31905 Insurance information on certain material transactions exempt.

Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625 is exempt from disclosure under this chapter.

[1995 c 86 § 25.]

RCW 42.17.31906 Fireworks records exempt.

All records obtained and all reports produced, as required under chapter 70.77 RCW, are not subject to the disclosure requirements under this chapter.

[1995 c 61 § 30.]

Notes:

Severability--Effective date--1995 c 61: See notes following RCW 70.77.111.

RCW 42.17.31907 Agricultural business and commodity commission records exempt.

The following agricultural business and commodity commission records are exempt from the disclosure requirements of this chapter:

(1) Production or sales records required to determine assessment levels and actual assessment payments to commodity commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, and 16.67 RCW or required by the department of agriculture under RCW 15.13.310(4) or 15.49.370(6);

(2) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture; and

(3) Financial and commercial information and records supplied by persons to commodity commissions formed under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, and 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information.

[2001 c 314 § 18; 1996 c 80 § 3.]

NOTES:

Findings--Construction--Severability--2001 c 314: See RCW 15.100.010, 15.100.900, and 15.100.901.

RCW 42.17.31908 Business information gathered under certain regulatory activities exempt.

The disclosure requirements of this chapter do not apply to information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business.

[1996 c 102 § 1.]

RCW 42.17.31909 American ginseng growers or dealers--Certain information exempt.

Except under RCW 15.19.080, information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer is exempt from disclosure under this chapter.

[1998 c 154 § 33; 1996 c 188 § 6.]

RCW 42.17.31910 Uniform Disciplinary Act complaints exempt.

Complaints filed under chapter 18.130 RCW after July 27, 1997, are exempt from disclosure under this chapter to the extent provided in RCW 18.130.095(1).

[1997 c 270 § 2.]

RCW 42.17.31911 Examination reports and information from financial institutions exempt.

Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100 are confidential and privileged information and not subject to public disclosure under this chapter.

[1997 c 258 § 1.]

RCW 42.17.31912 Motor carrier information systems.

Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer is confidential and not subject to public disclosure under this chapter. However, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this section, "motor carrier" has the same definition as provided in RCW 81.80.010.

[1999 c 146 § 1.]

RCW 42.17.31913 Marine employees salary surveys.

Salary and employee benefit information collected under RCW 47.64.220(1) and described in RCW 47.64.220(2) is exempt from disclosure under this chapter except as provided in RCW 47.64.220.

[1999 c 256 § 2.]

RCW 42.17.31914 Rail fixed guideway system--Safety and security program plan.

The security section of transportation system safety and security program plans required under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180 are exempt from disclosure under this chapter.

[1999 c 202 § 8.]

Notes:

Effective date--1999 c 202: See note following RCW 35.21.228.

RCW 42.17.31915 Service contract providers--Financial reports exempt.

Information provided to the insurance commissioner under RCW 48.110.040(3) is exempt from disclosure under this chapter.

[1999 c 112 § 18.]

Notes:

Severability--1999 c 112: See RCW 48.110.901.

RCW 42.17.31916 Insurance information.

Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065 are confidential and privileged and not subject to public disclosure under this chapter.

[2001 c 57 § 2.]

RCW 42.17.31917 Insurance information--Proprietary or trade secret.

Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070 are exempt from disclosure under this chapter.

[2001 c 179 § 14.]

NOTES:

Severability--Effective date--2001 c 179: See RCW 48.31C.900 and 48.31C.901.

RCW 42.17.320 Prompt responses required.

Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond by either (1) providing the record; (2) acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request; or (3) denying the public record request. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency, the office of the secretary of the

senate, or the office of the chief clerk of the house of representatives need not respond to it. Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review.

[1995 c 397 § 15; 1992 c 139 § 6; 1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.325 Review of agency denial.

Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter. The attorney general shall provide the person with his or her written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section.

[1992 c 139 § 10.]

RCW 42.17.330 Court protection of public records.

The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice.

[1992 c 139 § 7; 1975 1st ex.s. c 294 § 19; 1973 c 1 § 33 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.340 Judicial review of agency actions.

(1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a

statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.

(3) Judicial review of all agency actions taken or challenged under RCW 42.17.250 through 42.17.320 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

(4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not less than five dollars and not to exceed one hundred dollars for each day that he was denied the right to inspect or copy said public record.

[1992 c 139 § 8; 1987 c 403 § 5; 1975 1st ex.s. c 294 § 20; 1973 c 1 § 34 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Intent--Severability--1987 c 403: See notes following RCW 42.17.255.

RCW 42.17.341 Application of RCW 42.17.340.

The procedures in RCW 42.17.340 govern denials of an opportunity to inspect or copy a public record by the office of the secretary of the senate or the office of the chief clerk of the house of representatives.

[1995 c 397 § 16.]

RCW 42.17.348 Explanatory pamphlet.

The attorney general's office shall publish, and update when appropriate, a pamphlet, written in plain language, explaining the provisions of the public records subdivision of this chapter.

[1992 c 139 § 9.]

ADMINISTRATION AND ENFORCEMENT

RCW 42.17.350 Public disclosure commission--Established--Membership--Prohibited activities--Compensation, travel expenses.

(1) There is hereby established a "public disclosure commission" which shall be composed of five members who shall be appointed by the governor, with the consent of the senate. All appointees shall be persons of the highest integrity and qualifications. No more than three members shall have an identification with the same political party.

(2) The term of each member shall be five years. No member is eligible for appointment to more than one full term. Any member may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

(3) During his or her tenure, a member of the commission is prohibited from engaging in any of the following activities, either within or outside the state of Washington:

(a) Holding or campaigning for elective office;

(b) Serving as an officer of any political party or political committee;

(c) Permitting his or her name to be used in support of or in opposition to a candidate or proposition;

(d) Soliciting or making contributions to a candidate or in support of or in opposition to any candidate or proposition;

(e) Participating in any way in any election campaign; or

(f) Lobbying, employing, or assisting a lobbyist, except that a member or the staff of the commission may lobby to the limited extent permitted by RCW 42.17.190 on matters directly affecting this chapter.

(4) A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of his or her predecessor. A vacancy shall not impair the powers of the remaining members to exercise all of the powers of the commission.

(5) Three members of the commission shall constitute a quorum. The commission shall elect its own chair and adopt its own rules of procedure in the manner provided in chapter 34.05 RCW.

(6) Members shall be compensated in accordance with RCW 43.03.250 and in addition shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state.

[1998 c 30 § 1; 1984 c 287 § 74; 1982 c 147 § 15; 1975-'76 2nd ex.s. c 112 § 8; 1975-'76 2nd ex.s. c 34 § 93; 1975 1st ex.s. c 294 § 23; 1973 c 1 § 35 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 42.17.360 Commission--Duties.

The commission shall:

(1) Develop and provide forms for the reports and statements required to be made under this chapter:

(2) Prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter;

(3) Compile and maintain a current list of all filed reports and statements;

(4) Investigate whether properly completed statements and reports have been filed within the times required by this chapter;

(5) Upon complaint or upon its own motion, investigate and report apparent violations of this chapter to the appropriate law enforcement authorities;

(6) Prepare and publish an annual report to the governor as to the effectiveness of this chapter and its enforcement by appropriate law enforcement authorities; and

(7) Enforce this chapter according to the powers granted it by law.

[1973 c 1 § 36 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.362 Toll-free telephone number.

In addition to its regular telephone number, the commission shall offer political committees and residents of this state the opportunity to contact the commission by a toll-free telephone number.

[2000 c 237 § 6.]

RCW 42.17.365 Audits and investigations.

The commission shall conduct a sufficient number of audits and field investigations so as to provide a statistically valid finding regarding the degree of compliance with the provisions of this chapter by all required filers. Any documents, records, reports, computer files, papers, or materials provided to the commission for use in conducting audits and investigations must be returned to the candidate, campaign, or political committee from which they were received within one week of the commission's completion of an audit or field investigation.

[1999 c 401 § 8; 1993 c 2 § 29 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.367 Web site for commission documents.

By February 1, 2000, the commission shall operate a web site or contract for the operation of a web site that allows access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, and 42.17.105. By January 1, 2001, the web site shall allow access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180. In addition, the commission shall attempt to make available via the web site other public records submitted to or

generated by the commission that are required by this chapter to be available for public use or inspection.

[1999 c 401 § 9; 1994 c 40 § 2.]

Notes:

Findings--1994 c 40: "The legislature finds that government information is a strategic resource and needs to be managed as such and that broad public access to nonrestricted public information and records must be guaranteed. The legislature further finds that reengineering government processes along with capitalizing on advancements made in digital technology can build greater efficiencies in government service delivery. The legislature further finds that providing citizen electronic access to presently available public documents will allow increased citizen involvement in state policies and empower citizens to participate in state policy decision making." [1994 c 40 § 1.]

Severability--1994 c 40: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 40 § 6.]

Effective date--1994 c 40: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1994]." [1994 c 40 § 7.]

RCW 42.17.369 Electronic filing--Availability.

(1) By July 1, 1999, the commission shall make available to candidates, public officials, and political committees that are required to file reports under this chapter an electronic filing alternative for submitting financial affairs reports, contribution reports, and expenditure reports, including but not limited to filing by diskette, modem, satellite, or the Internet.

(2) By January 1, 2002, the commission shall make available to lobbyists and lobbyists' employers required to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180 an electronic filing alternative for submitting these reports including but not limited to filing by diskette, modem, satellite, or the Internet.

(3) The commission shall make available to candidates, public officials, political committees, lobbyists, and lobbyists' employers an electronic copy of the appropriate reporting forms at no charge.

[2000 c 237 § 3; 1999 c 401 § 11.]

RCW 42.17.3691 Electronic filing--When required.

(1) Beginning January 1, 2002, each candidate or political committee that expended twenty-five thousand dollars or more in the preceding year or expects to expend twenty-five thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369. The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.

(2) Beginning January 1, 2004, each candidate or political committee that expended ten thousand dollars or more in the preceding year or expects to expend ten thousand dollars or more

in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369. The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.

(3) Failure by a candidate or political committee to comply with this section is a violation of this chapter.

[2000 c 237 § 4; 1999 c 401 § 12.]

RCW 42.17.370 Commission--Additional powers.

The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint and set, within the limits established by the committee on agency officials' salaries under RCW 43.03.028, the compensation of an executive director who shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor shall it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Make from time to time, on its own motion, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt and promulgate a code of fair campaign practices;

(8) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than *one thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means

books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his or her examination reports concerning those agencies;

(10) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;

(12) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.

[1995 c 397 § 17; 1994 c 40 § 3; 1986 c 155 § 11; 1985 c 367 § 11; 1984 c 34 § 7; 1977 ex.s. c 336 § 7; 1975 1st ex.s. c 294 § 25; 1973 c 1 § 37 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

***Reviser's note:** The dollar amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of subsection (11) of this section. For current dollar amounts, see chapter 390-16 of the Washington Administrative Code (WAC).

Findings--Severability--Effective date--1994 c 40: See notes following RCW 42.17.367.

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Severability--1977 ex.s. c 336: See note following RCW 42.17.040.

RCW 42.17.375 Reports filed with county elections official--Rules governing.

With regard to the reports required by this chapter to be filed with a county auditor or county elections official, the commission shall adopt rules governing the arrangement, handling, indexing, and disclosing of those reports by the county auditor or county elections official. The rules shall ensure ease of access by the public to the reports and shall include, but not be limited to, requirements for indexing the reports by the names of candidates or political committees and by the ballot proposition for or against which a political committee is receiving contributions or making expenditures.

[1983 c 294 § 1.]

RCW 42.17.380 Secretary of state, attorney general--Duties.

(1) The office of the secretary of state shall be designated as a place where the public may file papers or correspond with the commission and receive any form or instruction from the commission.

(2) The attorney general, through his office, shall supply such assistance as the commission may require in order to carry out its responsibilities under this chapter. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this chapter.

[1982 c 35 § 196; 1975 1st ex.s. c 294 § 26; 1973 c 1 § 38 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 42.17.390 Civil remedies and sanctions.

One or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(1) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of said election may be held void and a special election held within sixty days of such finding. Any action to

void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(2) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his registration may be revoked or suspended and he may be enjoined from receiving compensation or making expenditures for lobbying: PROVIDED, HOWEVER, That imposition of such sanction shall not excuse said lobbyist from filing statements and reports required by this chapter.

(3) Any person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each such violation. However, a person or entity who violates RCW 42.17.640 may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(4) Any person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each such delinquency continues.

(5) Any person who fails to report a contribution or expenditure may be subject to a civil penalty equivalent to the amount he failed to report.

(6) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

[1993 c 2 § 28 (Initiative Measure No. 134, approved November 3, 1992); 1973 c 1 § 39 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.395 Violations--Determination by commission--Procedure.

(1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such determination.

(2) The commission, in cases where it chooses to determine whether an actual violation of this chapter has occurred, shall hold a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to make such determination. Any order that the commission issues under this section shall be pursuant to such hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general or other enforcement agency as provided in RCW 42.17.360.

(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in *RCW 42.17.390(1) (b), (c), (d), or (e): PROVIDED, That no individual penalty assessed by the commission may exceed one thousand dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed two thousand five hundred dollars.

(5) An order issued by the commission under this section shall be subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW. If the commission's order

is not satisfied and no petition for review is filed within thirty days as provided in RCW 34.05.542, the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17.397.

[1989 c 175 § 91; 1985 c 367 § 12; 1982 c 147 § 16; 1975-'76 2nd ex.s. c 112 § 12.]

Notes:

***Reviser's note:** RCW 42.17.390 was amended by 1993 c 2 § 28, changing subsection (1)(b), (c), (d), and (e) to subsections (2), (3), (4), and (5).

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 42.17.397 Procedure upon petition for enforcement of order of commission--Court's order of enforcement.

The following procedure shall apply in all cases where the commission has petitioned a court of competent jurisdiction for enforcement of any order it has issued pursuant to this chapter:

(1) A copy of the petition shall be served by certified mail directed to the respondent at his last known address. The court shall issue an order directing the respondent to appear at a time designated in the order, not less than five days from the date thereof, and show cause why the commission's order should not be enforced according to its terms.

(2) The commission's order shall be enforced by the court if the respondent does not appear, or if the respondent appears and the court finds, pursuant to a hearing held for that purpose:

(a) That the commission's order is unsatisfied; and

(b) That the order is regular on its face; and

(c) That the respondent's answer discloses no valid reason why the commission's order should not be enforced or that the respondent had an appropriate remedy by review under RCW 34.05.570(3) and failed to avail himself of that remedy without valid excuse.

(3) Upon appropriate application by the respondent, the court may, after hearing and for good cause, alter, amend, revise, suspend, or postpone all or part of the commission's order. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and such action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment.

(5) Notwithstanding RCW 34.05.578 through 34.05.590, this section is the exclusive method for enforcing an order of the commission.

[1989 c 175 § 92; 1982 c 147 § 17; 1975-'76 2nd ex.s. c 112 § 13.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 42.17.400 Enforcement.

(1) The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17.390.

(2) The attorney general and the prosecuting authorities of political subdivisions of this state may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of this chapter, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the county in which such person resides or is found, to give such information under oath and to produce all accounts, bills, receipts, books, paper and documents which may be relevant or material to any investigation authorized under this chapter.

(3) When the attorney general or the prosecuting authority of any political subdivision of this state requires the attendance of any person to obtain such information or the production of the accounts, bills, receipts, books, papers, and documents which may be relevant or material to any investigation authorized under this chapter, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena, shall be effective state-wide, and, upon application of the attorney general or said prosecuting authority, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and such action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) Any person who has notified the attorney general and the prosecuting attorney in the county in which the violation occurred in writing that there is reason to believe that some provision of this chapter is being or has been violated may himself bring in the name of the state any of the actions (hereinafter referred to as a citizen's action) authorized under this chapter. This citizen action may be brought only if the attorney general and the prosecuting attorney have failed to commence an action hereunder within forty-five days after such notice and such person has thereafter further notified the attorney general and prosecuting attorney that said person will commence a citizen's action within ten days upon their failure so to do, and the attorney general and the prosecuting attorney have in fact failed to bring such action within ten days of receipt of said second notice. If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he shall be entitled to be reimbursed by the state of Washington for costs and attorney's fees he has incurred: PROVIDED, That in the case of a citizen's action which is dismissed and which the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable attorney's fees incurred by the defendant.

(5) In any action brought under this section, the court may award to the state all costs of

investigation and trial, including a reasonable attorney's fee to be fixed by the court. If the violation is found to have been intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. If damages or trebled damages are awarded in such an action brought against a lobbyist, the judgment may be awarded against the lobbyist, and the lobbyist's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he shall be awarded all costs of trial, and may be awarded a reasonable attorney's fee to be fixed by the court to be paid by the state of Washington.

[1975 1st ex.s. c 294 § 27; 1973 c 1 § 40 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.405 Suspension, reapplication of reporting requirements in small political subdivisions.

(1) Except as provided in subsections (2) and (3) of this section, the reporting provisions of this chapter do not apply to candidates, elected officials, and agencies in political subdivisions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction, to political committees formed to support or oppose candidates or ballot propositions in such political subdivisions, or to persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this chapter apply in any exempt political subdivision from which a "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters, as of the date of the most recent general election in the political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the political subdivision is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(3) The reporting provisions of this chapter apply in any exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in RCW 42.17.030(3) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot measure, at least sixty days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

(6) Any person exempted from reporting under this chapter may at his or her option file the statement and reports.

[1986 c 12 § 3; 1985 c 367 § 13; 1982 c 60 § 1.]

RCW 42.17.410 Limitation on actions.

Any action brought under the provisions of this chapter must be commenced within five years after the date when the violation occurred.

[1982 c 147 § 18; 1973 c 1 § 41 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.420 Date of mailing deemed date of receipt--Exceptions--Electronic filings.

(1) Except as provided in subsection (2) of this section, when any application, report, statement, notice, or payment required to be made under the provisions of this chapter has been deposited postpaid in the United States mail properly addressed, it shall be deemed to have been received on the date of mailing. It shall be presumed that the date shown by the post office cancellation mark on the envelope is the date of mailing. The provisions of this section do not apply to reports required to be delivered under RCW 42.17.105 and 42.17.175.

(2) When a report is filed electronically with the commission, it is deemed to have been received on the file transfer date. The commission shall notify the filer of receipt of the electronically filed report. Such notification may be sent by mail, facsimile, or electronic mail. If the notification of receipt of the electronically filed report is not received by the filer, the filer may offer his or her own proof of sending the report, and such proof shall be treated as if it were a receipt sent by the commission. Electronic filing may be used for purposes of filing the special reports required to be delivered under RCW 42.17.105 and 42.17.175.

[1999 c 401 § 10; 1995 c 397 § 18; 1983 c 176 § 2; 1973 c 1 § 42 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.430 Certification of reports.

Every report and statement required to be filed under this chapter shall identify the person preparing it, and shall be certified as complete and correct, both by the person preparing it and by the person on whose behalf it is filed.

[1973 c 1 § 43 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.440 Statements and reports public records.

All statements and reports filed under this chapter shall be public records of the agency where they are filed, and shall be available for public inspection and copying during normal business hours at the expense of the person requesting copies, provided that the charge for such copies shall not exceed actual cost to the agency.

[1973 c 1 § 44 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.450 Duty to preserve statements and reports.

Persons with whom statements or reports or copies of statements or reports are required to be filed under this chapter shall preserve them for not less than six years. The commission, however, shall preserve such statements or reports for not less than ten years.

[1973 c 1 § 45 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.460 Access to reports--Legislative intent.

It is the intent of the legislature to ensure that the commission provide the general public timely access to all contribution and expenditure reports submitted by candidates, continuing political committees, bona fide political parties, lobbyists, and lobbyists' employers. The legislature finds that failure to meet goals for full and timely disclosure threatens to undermine our electoral process.

Furthermore, the legislature intends for the commission to consult with the department of information services as it seeks to implement chapter 401, Laws of 1999, and that the commission follow the standards and procedures established by the department of information services in chapter 43.105 RCW as they relate to information technology.

[1999 c 401 § 1.]

RCW 42.17.461 Access goals.

(1) The commission shall establish goals that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:

(a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and shall be accessible on the commission's web site within seven business days of the commission's receipt of the report; and

(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and shall be accessible on the commission's web site within fourteen business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.

(2) On January 1, 2001, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:

(a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and on the commission's web site within four business days of the commission's receipt of the report; and

(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and on the commission's web site within seven business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.

(3) On January 1, 2002, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:

(a) Submitted using the commission's electronic filing system must be accessible in the commission's office and on the commission's web site within two business days of the commission's receipt of the report; and

(b) Submitted in any format or using any method other than as described in (a) of this subsection, must be accessible in the commission's office and on the commission's web site within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.

[2000 c 237 § 5; 1999 c 401 § 2.]

RCW 42.17.463 Access performance measures.

By July 1st of each year beginning in 2000, the commission shall calculate the following performance measures, provide a copy of the performance measures to the governor and appropriate legislative committees, and make the performance measures available to the public:

(1) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.040, 42.17.065, 42.17.080, and 42.17.100 and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(2) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.105 and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(3) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180 and the time that the report, a

copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(4) The percentage of candidates, categorized as state-wide, state legislative, or local, that have used each of the following methods to file reports under RCW 42.17.080 or 42.17.105: (a) Hard copy paper format; (b) electronic format via diskette; (c) electronic format via modem or satellite; (d) electronic format via the Internet; and (e) any other format or method;

(5) The percentage of continuing political committees that have used each of the following methods to file reports under RCW 42.17.065 or 42.17.105: (a) Hard copy paper format; (b) electronic format via diskette; (c) electronic format via modem or satellite; (d) electronic format via the Internet; and (e) any other format or method; and

(6) The percentage of lobbyists and lobbyists' employers that have used each of the following methods to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180: (a) Hard copy paper format; (b) electronic format via diskette; (c) electronic format via modem or satellite; (d) electronic format via the Internet; and (e) any other format or method.

[1999 c 401 § 3.]

RCW 42.17.465 Information technology plan--Contents.

(1) The commission shall develop an information technology plan consistent with plans or portfolios required by chapter 43.105 RCW.

(2) The plan must include, but not be limited to, the following:

(a) A baseline assessment of the agency's information technology resources and capabilities that will serve as the benchmark for subsequent planning and performance measures;

(b) A statement of the agency's mission, goals, and objectives for information technology, including goals and objectives for achieving electronic access to agency records, information, and services for at least the next five years;

(c) An explanation of how the agency's mission, goals, and objectives for information technology support and conform to the state strategic information technology plan;

(d) An implementation strategy to enhance electronic access to public records and information required to be filed with and disclosed by the commission. This implementation strategy must be assembled to include:

(i) Adequate public notice and opportunity for comment;

(ii) Consideration of a variety of electronic technologies, including those that help to transcend geographic locations, standard business hours, economic conditions of users, and disabilities;

(iii) Methods to educate agency employees, the public, and the news media in the effective use of agency technology;

(iv) Ways to simplify and improve public access to information held by the commission through electronic means;

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

(f) If feasible, estimated schedules and funding required to implement identified projects.

[1999 c 401 § 4.]

RCW 42.17.467 Information technology plan--Consultation.

In preparing the information technology plan, the commission shall consult with affected state agencies, the department of information services, and stakeholders in the commission's work, including representatives of political committees, bona fide political parties, news media, and the general public.

[1999 c 401 § 5.]

RCW 42.17.469 Information technology plan--Submission.

The commission shall submit the information technology plan to the senate and house of representatives fiscal committees, the governor, the senate state and local government committee, the house of representatives state government committee, and the department of information services by February 1, 2000. It is the intent of the legislature that the commission thereafter comply with the requirements of chapter 43.105 RCW with respect to preparation and submission of biennial performance reports on the commission's information technology.

[1999 c 401 § 6.]

RCW 42.17.471 Access performance reports.

The commission shall prepare and submit to the department of information services a biennial performance report in accordance with chapter 43.105 RCW.

The report must include:

- (1) An evaluation of the agency's performance relating to information technology;
- (2) An assessment of progress made toward implementing the agency information technology plan;
- (3) An analysis of the commission's performance measures, set forth in RCW 42.17.463, that relate to the electronic filing of reports and timely public access to those reports via the commission's web site;
- (4) A comprehensive description of the methods by which citizens may interact with the agency in order to obtain information and services from the commission; and
- (5) An inventory of agency information services, equipment, and proprietary software.

[1999 c 401 § 7.]

POLITICAL ADVERTISING

RCW 42.17.505 Definitions.

The definitions set forth in this section apply throughout RCW 42.17.510 through

42.17.540.

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Sponsor" means the candidate, political committee, or person paying for the advertisement. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(3) "Incumbent" means a person who is in present possession of an elected office.

[1988 c 199 § 1.]

RCW 42.17.510 Identification of sponsor--Exemptions.

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name shall be unlawful. The party with which a candidate files shall be clearly identified in political advertising for partisan office.

(2) In addition to the materials required by subsection (1) of this section, all political advertising undertaken as an independent expenditure by a person or entity other than a party organization must include the following statement on the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)." If the advertisement undertaken as an independent expenditure is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions reportable under this chapter during the twelve-month period before the date of the advertisement.

(3) The statements and listings of contributors required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process;

(c) Be set apart from any other printed matter; and

(d) Be clearly spoken on any broadcast advertisement.

(4) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(5) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

[1995 c 397 § 19; 1993 c 2 § 22 (Initiative Measure No. 134, approved November 3, 1992); 1984 c 216 § 1.]

Notes:

Advertising rates for political candidates: RCW 65.16.095.

RCW 42.17.520 Picture of candidate.

At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than the largest picture of the same candidate used in the same advertisement.

[1984 c 216 § 2.]

RCW 42.17.530 False political advertising.

(1) It is a violation of this chapter for a person to sponsor with actual malice:

(a) Political advertising that contains a false statement of material fact about a candidate for public office. However, this subsection (1)(a) does not apply to statements made by a candidate or the candidate's agent about the candidate himself or herself;

(b) Political advertising that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;

(c) Political advertising that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

(2) Any violation of this section shall be proven by clear and convincing evidence.

[1999 c 304 § 2; 1988 c 199 § 2; 1984 c 216 § 3.]

Notes:

Finding--Intent--1999 c 304: "(1) The Washington supreme court in a case involving a ballot measure, *State v. 119 Vote Not Committee*, 135 Wn.2d 618 (1998), found the statute that prohibits persons from sponsoring, with actual malice, political advertising containing false statements of material fact to be invalid under the First Amendment to the United States Constitution.

(2) The legislature finds that a review of the opinions indicates that a majority of the supreme court may find valid a statute that limited such a prohibition on sponsoring with actual malice false statements of material fact in a political campaign to statements about a candidate in an election for public office.

(3) It is the intent of the legislature to amend the current law to provide protection for candidates for public office against false statements of material fact sponsored with actual malice." [1999 c 304 § 1.]

RCW 42.17.540 Responsibility for compliance.

(1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17.510 through 42.17.530 shall rest with the sponsor of the political advertising and not with the broadcasting station or other medium.

(2) If a broadcasting station or other medium changes the content of a political advertisement, the station or medium shall be responsible for any failure of the advertisement to

comply with RCW 42.17.510 through 42.17.530 that results from that change.

[1984 c 216 § 4.]

RCW 42.17.550 Independent expenditure disclosure.

A person or entity other than a party organization making an independent expenditure by mailing one thousand or more identical or nearly identical cumulative pieces of political advertising in a single calendar year shall, within two working days after the date of the mailing, file a statement disclosing the number of pieces in the mailing and an example of the mailed political advertising with the election officer of the county or residence for the candidate supported or opposed by the independent campaign expenditure or, in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure.

[1993 c 2 § 23 (Initiative Measure No. 134, approved November 3, 1992).]

CAMPAIGN CONTRIBUTION LIMITATIONS

RCW 42.17.610 Findings.

The people of the state of Washington find and declare that:

(1) The financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

(2) Rapidly increasing political campaign costs have led many candidates to raise larger percentages of money from special interests with a specific financial stake in matters before state government. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions.

(3) Candidates are raising less money in small contributions from individuals and more money from special interests. This has created the public perception that individuals have an insignificant role to play in the political process.

[1993 c 2 § 1 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.620 Intent.

By limiting campaign contributions, the people intend to:

(1) Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes;

(2) Reduce the influence of large organizational contributors; and

(3) Restore public trust in governmental institutions and the electoral process.

[1993 c 2 § 2 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.640 Limits specified--Exemptions.

(1) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed *five hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed *one thousand dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, during a recall campaign that in the aggregate exceed *five hundred dollars if for a state legislative office or *one thousand dollars if for a state office other than a state legislative office.

(3)(a) Notwithstanding subsection (1) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) *fifty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) *twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed *twenty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, during a recall campaign that in the aggregate exceed (i) *fifty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) *twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No state official against whom recall charges have been filed, no authorized

committee of the official, and no political committee having the expectation of making expenditures in support of the recall of a state official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed *twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(5) For purposes of determining contribution limits under subsections (3) and (4) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(6) Notwithstanding subsections (1) through (4) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed *five hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed *two thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(7) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate, or of a state official against whom recall charges have been filed, is considered to be a contribution to the candidate or state official.

(8) A contribution received within the twelve-month period after a recall election concerning a state office is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(9) The contributions allowed by subsection (2) of this section are in addition to those allowed by subsection (1) of this section, and the contributions allowed by subsection (4) of this section are in addition to those allowed by subsection (3) of this section.

(10) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in a state office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(11) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(12) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate, state official against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of a state official if the

county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the state official.

(13) No person may accept contributions that exceed the contribution limitations provided in this section.

(14) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates.

[2001 c 208 § 1; 1995 c 397 § 20; 1993 c 2 § 4 (Initiative Measure No. 134, approved November 3, 1992).]

NOTES:

***Reviser's note:** The monetary amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17.690. For current dollar amounts, see chapter 390-05 of the Washington Administration Code (WAC).

RCW 42.17.650 Attribution and aggregation of family contributions.

(1) Contributions by a husband and wife are considered separate contributions.

(2) Contributions by unemancipated children under eighteen years of age are considered contributions by their parents and are attributed proportionately to each parent. Fifty percent of the contributions are attributed to each parent or, in the case of a single custodial parent, the total amount is attributed to the parent.

[1993 c 2 § 5 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.660 Attribution of contributions by controlled entities.

For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation or a local unit, branch, or affiliate of a trade association, labor union, or collective bargaining association. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the same person or entity.

[1993 c 2 § 6 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.670 Attribution of contributions generally--"Earmarking."

All contributions made by a person or entity, either directly or indirectly, to a candidate, to a state official against whom recall charges have been filed, or to a political committee, are considered to be contributions from that person or entity to the candidate, state official, or political committee, as are contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, state official, or political committee. For the purposes of this section, "earmarked" means a designation, instruction, or encumbrance, whether direct or indirect, expressed or implied, or oral or written, that is intended to result in or does result in all or any part of a contribution being made to a certain candidate or state official. If a conduit or intermediary exercises any direction or control over the choice of the recipient candidate or state official, the contribution is considered to be by both the original contributor and the conduit or intermediary.

[1993 c 2 § 7 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.680 Limitations on employers or labor organizations.

(1) No employer or labor organization may increase the salary of an officer or employee, or give an emolument to an officer, employee, or other person or entity, with the intention that the increase in salary, or the emolument, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The request is valid for no more than twelve months from the date it is made by the employee.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request.

[1993 c 2 § 8 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.690 Changing monetary limits.

At the beginning of each even-numbered calendar year, the commission shall increase or decrease all dollar amounts in this chapter based on changes in economic conditions as reflected in the inflationary index used by the commission under RCW 42.17.370. The new dollar amounts established by the commission under this section shall be rounded off by the commission to amounts as judged most convenient for public understanding and so as to be within ten percent of the target amount equal to the base amount provided in this chapter multiplied by the increase in the inflationary index since December 3, 1992.

[1993 c 2 § 9 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.700 Contributions before December 3, 1992.

Contributions made and received before December 3, 1992, are considered to be contributions under RCW 42.17.640 through 42.17.790. Monetary contributions that exceed the contribution limitations and that have not been spent by the recipient of the contribution by December 3, 1992, must be disposed of in accordance with RCW 42.17.095.

[1993 c 2 § 10 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.710 Time limit for state official to solicit or accept contributions.

During the period beginning on the thirtieth day before the date a regular legislative session convenes and continuing thirty days past the date of final adjournment, and during the period beginning on the date a special legislative session convenes and continuing through the date that session adjourns, no state official or a person employed by or acting on behalf of a state official or state legislator may solicit or accept contributions to a public office fund, to a candidate or authorized committee, or to retire a campaign debt.

[1993 c 2 § 11 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.720 Restriction on loans.

(1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's political committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

(a) By a commercial lending institution;

(b) Made in the regular course of business; and

(c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this chapter.

[1995 c 397 § 22; 1993 c 2 § 12 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.730 Contributions on behalf of another.

(1) A person, other than an individual, may not be an intermediary or an agent for a contribution.

(2) An individual may not make a contribution on behalf of another person or entity, or while acting as the intermediary or agent of another person or entity, without disclosing to the recipient of the contribution both his or her full name, street address, occupation, name of employer, if any, or place of business if self-employed, and the same information for each contributor for whom the individual serves as intermediary or agent.

[1993 c 2 § 13 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.740 Certain contributions required to be by written instrument.

(1) A person may not make a contribution of more than *fifty dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A political committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee.

[1995 c 397 § 23; 1993 c 2 § 14 (Initiative Measure No. 134, approved November 3, 1992).]

Notes:

***Reviser's note:** The dollar amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17.690. For current dollar amounts, see chapter 390-05 of the Washington Administrative Code (WAC).

RCW 42.17.750 Solicitation of contributions by public officials or employees.

(1) No state or local official or state or local official's agent may knowingly solicit, directly or indirectly, a contribution to a candidate for public office, political party, or political committee from an employee in the state or local official's agency.

(2) No state or local official or public employee may provide an advantage or disadvantage to an employee or applicant for employment in the classified civil service concerning the applicant's or employee's:

- (a) Employment;
- (b) Conditions of employment; or
- (c) Application for employment,

based on the employee's or applicant's contribution or promise to contribute or failure to make a contribution or contribute to a political party or political committee.

[1995 c 397 § 24; 1993 c 2 § 15 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.760 Agency shop fees as contributions.

A labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual.

[1993 c 2 § 16 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.770 Solicitation of endorsement fees.

A person may not solicit from a candidate for public office, political committee, political party, or other person money or other property as a condition or consideration for an endorsement, article, or other communication in the news media promoting or opposing a candidate for public office, political committee, or political party.

[1995 c 397 § 25; 1993 c 2 § 17 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.780 Reimbursement for contributions.

A person may not, directly or indirectly, reimburse another person for a contribution to a candidate for public office, political committee, or political party.

[1995 c 397 § 26; 1993 c 2 § 18 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.790 Prohibition on use of contributions for a different office.

(1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's political committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate for public office or the candidate's political committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate for public office is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general elections for which the candidate for public office is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate for public office or the candidate's political committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate for public office or the candidate's political committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17.095.

[1995 c 397 § 27; 1993 c 2 § 19 (Initiative Measure No. 134, approved November 3, 1992).]

TECHNICAL PROVISIONS

RCW 42.17.900 Effective date--1973 c 1.

The effective date of this act shall be January 1, 1973.

[1973 c 1 § 49 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.910 Severability--1973 c 1.

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

[1973 c 1 § 46 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.911 Severability--1975 1st ex.s. c 294.

If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1975 1st ex.s. c 294 § 29.]

RCW 42.17.912 Severability--1975-'76 2nd ex.s. c 112.

If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1975-'76 2nd ex.s. c 112 § 16.]

RCW 42.17.920 Construction--1973 c 1.

The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act. In the event of conflict between the provisions of this act and any other act, the provisions of this act shall govern.

[1973 c 1 § 47 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.930 Chapter, section headings not part of law.

Chapter and section captions or headings as used in this act do not constitute any part of the law.

[1973 c 1 § 48 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.940 Repealer--1973 c 1.

Chapter 9, Laws of 1965, as amended by section 9, chapter 150, Laws of 1965 ex. sess., and RCW 29.18.140; and chapter 131, Laws of 1967 ex. sess. and RCW 44.64 [chapter 44.64 RCW]; and chapter 82, Laws of 1972 (42nd Leg. 2nd Ex. Sess.) and Referendum Bill No. 24; and chapter 98, Laws of 1972 (42nd Leg. 2nd Ex. Sess.) and Referendum Bill No. 25 are each hereby repealed.

[1973 c 1 § 50 (Initiative Measure No. 276, approved November 7, 1972).]

RCW 42.17.945 Construction--1975-'76 2nd ex.s. c 112.

The provisions of this 1976 amendatory act are intended to be remedial and shall be liberally construed, and nothing in this 1976 amendatory act shall be construed to limit the power of the commission under any other provision of chapter 42.17 RCW.

[1975-'76 2nd ex.s. c 112 § 15.]

RCW 42.17.950 Captions.

Section captions and part headings used in this act do not constitute any part of the law.

[1993 c 2 § 34 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.955 Short title--1993 c 2.

This act may be known and cited as the Fair Campaign Practices Act.

[1993 c 2 § 36 (Initiative Measure No. 134, approved November 3, 1992).]

RCW 42.17.960 Effective date--1995 c 397.

Sections 1 through 32, 34, and 37 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995.

[1995 c 397 § 35.]

RCW 42.17.961 Captions--1995 c 397.

Captions as used in chapter 397, Laws of 1995 constitute no part of the law.

[1995 c 397 § 37.]

RCW 42.17.962 Severability--1995 c 397.

If any provision of this act or its application to any person or circumstance is held

invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1995 c 397 § 38.]

Chapter 42.20 RCW MISCONDUCT OF PUBLIC OFFICERS

Sections

42.20.020	Powers may not be delegated for profit.
42.20.030	Intrusion into and refusal to surrender public office.
42.20.040	False report.
42.20.050	Public officer making false certificate.
42.20.060	Falsely auditing and paying claims.
42.20.070	Misappropriation and falsification of accounts by public officer.
42.20.080	Other violations by officers.
42.20.090	Misappropriation, etc., by treasurer.
42.20.100	Failure of duty by public officer a misdemeanor.
42.20.110	Improper conduct by certain justices.

Notes:

Bidding offenses: Chapter 9.18 RCW.

Bribery or corrupt solicitation prohibited: State Constitution Art. 2 § 30.

Cities

optional municipal code, council-manager plan, forfeiture of office for misconduct: RCW 35A.13.020.

optional municipal code, mayor-council plan, forfeiture of office for misconduct: RCW 35A.12.060.

Cities and towns, commission form, misconduct of officers and employees: RCW 35.17.150.

County commissioners, misconduct relating to inventories: RCW 36.32.220.

County officers, misconduct: RCW 36.18.160, 36.18.170.

County sheriff, misconduct: RCW 36.28.140.

County treasurer, suspension for misconduct: RCW 36.29.090.

Election officials, misconduct: Chapter 29.85 RCW.

Flood control district officers, interest in contracts prohibited: RCW 86.09.286.

Forfeiture of office upon conviction of felony or malfeasance: RCW 9.92.120.

Free transportation for public officers prohibited: State Constitution Art. 2 § 39, Art. 12 § 20.

Impersonating public officer: RCW 9A.60.040.

Juries, misconduct of public officers concerning: Chapter 9.51 RCW.

Militia, misconduct: Chapter 38.32 RCW.

Official misconduct: RCW 9A.80.010.

Penitentiary employees, misconduct: RCW 72.01.060.

Private use of public funds, penalty: State Constitution Art. 11 § 14.

School funds, failure to turn over: RCW 28A.635.070.

School officials

disclosing examination questions: RCW 28A.635.040.

grafting: RCW 28A.635.050.

School teachers

failure to display flag: RCW 28A.230.140.

failure to enforce rules: RCW 28A.405.060.

revocation or suspension of certificate or permit to teach--investigation by superintendent of public instruction--mandatory revocation for crimes against children: RCW 28A.410.090.

State and judicial officers, impeachment: State Constitution Art. 5.

State treasurer, embezzlement: RCW 43.08.140.

Subversive activities, disqualification from holding public office: RCW 9.81.040.

Utilities and transportation commission members and employees, interest in regulated companies prohibited: RCW 80.01.020.

RCW 42.20.020 Powers may not be delegated for profit.

Every public officer who, for any reward, consideration or gratuity paid or agreed to be paid, shall, directly or indirectly, grant to another the right or authority to discharge any function of his office, or permit another to perform any of his duties, shall be guilty of a gross misdemeanor.

[1909 c 249 § 83; RRS § 2335.]

Notes:

Reviser's note: Caption for 1909 c 249 § 83 reads as follows: "Sec. 83. *Grant of Official Powers.*"

RCW 42.20.030 Intrusion into and refusal to surrender public office.

Every person who shall falsely personate or represent any public officer, or who shall wilfully intrude himself into a public office to which he has not been duly elected or appointed, or who shall wilfully exercise any of the functions or perform any of the duties of such officer, without having duly qualified therefor, as required by law, or who, having been an executive or administrative officer, shall wilfully exercise any of the functions of his office after his right to do so has ceased, or wrongfully refuse to surrender the official seal or any books or papers appertaining to such office, upon the demand of his lawful successor, shall be guilty of a gross misdemeanor.

[1909 c 249 § 84; RRS § 2336.]

Notes:

Impersonating a public officer: RCW 9A.60.040.

Quo warranto: Chapter 7.56 RCW.

RCW 42.20.040 False report.

Every public officer who shall knowingly make any false or misleading statement in any official report or statement, under circumstances not otherwise prohibited by law, shall be guilty of a gross misdemeanor.

[1909 c 249 § 98; RRS § 2350.]

RCW 42.20.050 Public officer making false certificate.

Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing containing any statement which he knows to be false, in a case where the punishment thereof is not expressly prescribed by law, shall be guilty of a gross misdemeanor.

[1909 c 249 § 128; RRS § 2380.]

RCW 42.20.060 Falsely auditing and paying claims.

Every public officer, or person holding or discharging the duties of any public office or place of trust under the state or in any county, town or city, a part of whose duty it is to audit, allow or pay, or take part in auditing, allowing or paying, claims or demands upon the state or such county, town or city, who shall knowingly audit, allow or pay, or, directly or indirectly, consent to or in any way connive at the auditing, allowance or payment of any claim or demand against the state or such county, town or city, which is false or fraudulent or contains any charge, item or claim which is false or fraudulent, shall be guilty of a gross misdemeanor.

[1909 c 249 § 129; RRS § 2381.]

RCW 42.20.070 Misappropriation and falsification of accounts by public officer.

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

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

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

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

(4) Shall willfully omit or refuse to pay over to the state, its officer or agent authorized by law to receive the same, or to such county, city, town, or such school, diking, drainage, or irrigation district or to the proper officer or authority empowered to demand and receive the same, any money received by him or her as such officer when it is a duty imposed upon him or her by law to pay over and account for the same,

shall be punished by imprisonment in a state correctional facility for not more than fifteen years.

[1992 c 7 § 37; 1909 c 249 § 317; RRS § 2569. Prior: Code 1881 § 890; 1873 p 202 § 92; 1854 p 91 § 83.]

RCW 42.20.080 Other violations by officers.

Every officer or other person mentioned in RCW 42.20.070, who shall wilfully disobey any provision of law regulating his official conduct in cases other than those specified in said section, shall be guilty of a gross misdemeanor.

[1909 c 249 § 318; RRS § 2570.]

RCW 42.20.090 Misappropriation, etc., by treasurer.

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

[1992 c 7 § 38; 1909 c 249 § 319; RRS § 2571.]

Notes:

County treasurer, suspension for misconduct: RCW 36.29.090.

State treasurer, embezzlement: RCW 43.08.140.

RCW 42.20.100 Failure of duty by public officer a misdemeanor.

Whenever any duty is enjoined by law upon any public officer or other person holding any public trust or employment, their wilful neglect to perform such duty, except where otherwise specially provided for, shall be a misdemeanor.

[1909 c 249 § 16; RRS § 2268. Prior: Code 1881 § 889; 1854 p 90 § 82.]

Notes:

Official misconduct by public servant: RCW 9A.80.010.

RCW 42.20.110 Improper conduct by certain justices.

It shall be a misdemeanor for any judge or justice of any court not of record, during the hearing of any cause or proceeding therein, to address any person in his presence in unfit, unseemly or improper language.

[1911 c 115 § 1; RRS § 2696-1.]

Chapter 42.23 RCW

CODE OF ETHICS FOR MUNICIPAL OFFICERS--CONTRACT INTERESTS

Sections

42.23.010	Declaration of purpose.
42.23.020	Definitions.
42.23.030	Interest in contracts prohibited--Exceptions.
42.23.040	Remote interests.
42.23.050	Prohibited contracts void--Penalties for violation of chapter.
42.23.060	Local charter controls chapter.
42.23.070	Prohibited acts.

Notes:

Cities, free passes, services prohibited: RCW 35.17.150.

County officers, general provisions: Chapter 36.16 RCW.

Ethics in public service act: Chapter 42.52 RCW.

Public employment, civil service: Title 41 RCW.

State officers, general provisions: Chapter 43.01 RCW.

RCW 42.23.010 Declaration of purpose.

It is the purpose and intent of this chapter to revise and make uniform the laws of this state concerning the transaction of business by municipal officers, as defined in chapter 268, Laws of 1961, in conflict with the proper performance of their duties in the public interest; and to promote the efficiency of local government by prohibiting certain instances and areas of conflict while at the same time sanctioning, under sufficient controls, certain other instances and areas of conflict wherein the private interest of the municipal officer is deemed to be only remote, to the end that, without sacrificing necessary public responsibility and enforceability in areas of significant and clearly conflicting interests, the selection of municipal officers may be made from a wider group of responsible citizens of the communities which they are called upon to serve.

[1961 c 268 § 2.]

RCW 42.23.020 Definitions.

For the purpose of chapter 268, Laws of 1961:

(1) "Municipality" shall include all counties, cities, towns, districts, and other municipal corporations and quasi municipal corporations organized under the laws of the state of Washington;

(2) "Municipal officer" and "officer" shall each include all elected and appointed officers of a municipality, together with all deputies and assistants of such an officer, and all persons exercising or undertaking to exercise any of the powers or functions of a municipal officer;

(3) "Contract" shall include any contract, sale, lease or purchase;

(4) "Contracting party" shall include any person, partnership, association, cooperative, corporation, or other business entity which is a party to a contract with a municipality.

[1961 c 268 § 3.]

RCW 42.23.030 Interest in contracts prohibited--Exceptions.

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person

beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality for unskilled day labor at wages not exceeding two hundred dollars in any calendar month. The exception provided in this subsection does not apply to a county with a population of one hundred twenty-five thousand or more, a city with a population of more than one thousand five hundred, an irrigation district encompassing more than fifty thousand acres, or a first class school district;

(6)(a) The letting of any other contract in which the total amount received under the contract or contracts by the municipal officer or the municipal officer's business does not exceed one thousand five hundred dollars in any calendar month.

(b) However, in the case of a particular officer of a second class city or town, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW 36.32.240, the total amount of such contract or contracts authorized in this subsection (6) may exceed one thousand five hundred dollars in any calendar month but shall not exceed eighteen thousand dollars in any calendar year.

(c) The exceptions provided in this subsection (6) do not apply to a sale or lease by the municipality as the seller or lessor. The exceptions provided in this subsection (6) also do not apply to the letting of any contract by a county with a population of one hundred twenty-five thousand or more, a city with a population of ten thousand or more, or an irrigation district encompassing more than fifty thousand acres.

(d) The municipality shall maintain a list of all contracts that are awarded under this subsection (6). The list must be made available for public inspection and copying;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers and the superior court in the county where the property is situated finds that all terms and conditions of such lease are fair to the port district and are in the public interest. The appraisers must be appointed from members of the American Institute of Real Estate Appraisers by the presiding judge of the superior court;

(8) The letting of any employment contract for the driving of a school bus in a second class school district if the terms of such contract are commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of any employment contract to the spouse of an officer of a school district,

when such contract is solely for employment as a substitute teacher for the school district. This exception applies only if the terms of the contract are commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(10) The letting of any employment contract to the spouse of an officer of a school district if the spouse was under contract as a certificated or classified employee with the school district before the date in which the officer assumes office and the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district. However, in a second class school district that has less than two hundred full-time equivalent students enrolled at the start of the school year as defined in RCW 28A.150.040, the spouse is not required to be under contract as a certificated or classified employee before the date on which the officer assumes office;

(11) The authorization, approval, or ratification of any employment contract with the spouse of a public hospital district commissioner if: (a) The spouse was employed by the public hospital district before the date the commissioner was initially elected; (b) the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district for similar employees; (c) the interest of the commissioner is disclosed to the board of commissioners and noted in the official minutes or similar records of the public hospital district prior to the letting or continuation of the contract; and (d) and the commissioner does not vote on the authorization, approval, or ratification of the contract or any conditions in the contract.

A municipal officer may not vote in the authorization, approval, or ratification of a contract in which he or she is beneficially interested even though one of the exemptions allowing the awarding of such a contract applies. The interest of the municipal officer must be disclosed to the governing body of the municipality and noted in the official minutes or similar records of the municipality before the formation of the contract.

[1999 c 261 § 2; 1997 c 98 § 1; 1996 c 246 § 1. Prior: 1994 c 81 § 77; 1994 c 20 § 1; 1993 c 308 § 1; 1991 c 363 § 120; 1990 c 33 § 573; 1989 c 263 § 1; 1983 1st ex.s. c 44 § 1; prior: 1980 c 39 § 1; 1979 ex.s. c 4 § 1; 1971 ex.s. c 242 § 1; 1961 c 268 § 4.]

Notes:

Findings--Intent--1999 c 261: "The legislature finds that:

(1) The current statutes pertaining to municipal officers' beneficial interest in contracts are quite confusing and have resulted in some inadvertent violations of the law.

(2) The dollar thresholds for many of the exemptions have not been changed in over thirty-five years, and the restrictions apply to the total amount of the contract instead of the portion of the contract that pertains to the business operated by the municipal officer.

(3) The confusion existing over these current statutes discourages some municipalities from accessing some efficiencies available to them.

Therefore, it is the intent of the legislature to clarify the statutes pertaining to municipal officers and contracts and to enact reasonable protections against inappropriate conflicts of interest." [1999 c 261 § 1.]

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1989 c 263: "If any provision of this act or its application to any person or circumstance is

held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 263 § 3.]

Severability--1980 c 39: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 39 § 3.]

RCW 42.23.040 Remote interests.

A municipal officer is not interested in a contract, within the meaning of RCW 42.23.030, if the officer has only a remote interest in the contract and the extent of the interest is disclosed to the governing body of the municipality of which the officer is an officer and noted in the official minutes or similar records of the municipality prior to the formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest. As used in this section "remote interest" means:

- (1) That of a nonsalaried officer of a nonprofit corporation;
- (2) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
- (3) That of a landlord or tenant of a contracting party;
- (4) That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party.

None of the provisions of this section are applicable to any officer interested in a contract, even if the officer's interest is only remote, if the officer influences or attempts to influence any other officer of the municipality of which he or she is an officer to enter into the contract.

[1999 c 261 § 3; 1961 c 268 § 5.]

Notes:

Findings--Intent--1999 c 261: See note following RCW 42.23.030.

RCW 42.23.050 Prohibited contracts void--Penalties for violation of chapter.

Any contract made in violation of the provisions of this chapter is void and the performance thereof, in full or in part, by a contracting party shall not be the basis of any claim against the municipality. Any officer violating the provisions of this chapter is liable to the municipality of which he or she is an officer for a penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon the officer by law.

In addition to all other penalties, civil or criminal, the violation by any officer of the provisions of this chapter may be grounds for forfeiture of his or her office.

[1999 c 261 § 4; 1961 c 268 § 6.]

Notes:

Findings--Intent--1999 c 261: See note following RCW 42.23.030.

RCW 42.23.060 Local charter controls chapter.

If any provision of this chapter conflicts with any provision of a city or county charter, or with any provision of a city-county charter, the charter shall control if it contains stricter requirements than this chapter. The provisions of this chapter shall be considered as minimum standards to be enforced by municipalities.

[1999 c 261 § 5; 1961 c 268 § 16.]

Notes:

Findings--Intent--1999 c 261: See note following RCW 42.23.030.

RCW 42.23.070 Prohibited acts.

(1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.

(2) No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.

(3) No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position.

(4) No municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit.

[1994 c 154 § 121.]

Notes:

Parts and captions not law--Effective date--Severability--1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

**Chapter 42.24 RCW
PAYMENT OF CLAIMS FOR EXPENSES, MATERIAL,
PURCHASES--ADVANCEMENTS**

Sections

- 42.24.035 Payment for postage, books, and periodicals.
- 42.24.070 State agencies--Budget and accounting system.
- 42.24.080 Municipal corporations and political subdivisions--Claims against for contractual purposes--Auditing and payment--Forms--Authentication and certification.
- 42.24.090 Municipal corporations and political subdivisions--Reimbursement claims by officers and employees.
- 42.24.100 Municipal corporations and political subdivisions--Certificates need not be sworn--Penalty for false claim.
- 42.24.110 Municipal corporations and political subdivisions--Approving or paying false claim--Penalties.

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- 42.24.115 Municipal corporations and political subdivisions--Charge cards for officers' and employees' travel expenses.
- 42.24.120 Advancements for travel expenses--Municipal corporation or political subdivision officers and employees.
- 42.24.130 Advancements for travel expenses--Revolving fund.
- 42.24.140 Advancements for travel expenses--Provision to assure repayment.
- 42.24.150 Advancements for travel expenses--Travel expense voucher.
- 42.24.160 Advancements for travel expenses--Purpose--Not personal loan.
- 42.24.170 Expenditures by special purpose districts to recruit job candidates--Reimbursement for travel expenses.
- 42.24.180 Taxing district--Issuance of warrants or checks before approval by legislative body--Conditions.

Notes:

County auditor: Chapter 36.22 RCW.

State auditor: Chapter 43.09 RCW.

RCW 42.24.035 Payment for postage, books, and periodicals.

Notwithstanding the provisions of chapter 42.24 RCW or any other existing statute, school districts and other public agencies including but not limited to state agencies and municipal corporations which are expressly or by necessary implication authorized to subscribe to magazines or other periodical publications or books or to purchase postage or publications from the United States government or any other publisher may make payment of the costs of such purchases in a manner as consistent as possible and practicable with normal and usual business methods, and in the case of subscriptions, for periods not in excess of three years.

[1975 1st ex.s. c 72 § 1; 1963 c 116 § 1.]

RCW 42.24.070 State agencies--Budget and accounting system.

See chapter 43.88 RCW.

RCW 42.24.080 Municipal corporations and political subdivisions--Claims against for contractual purposes--Auditing and payment--Forms--Authentication and certification.

All claims presented against any county, city, district or other municipal corporation or political subdivision by persons furnishing materials, rendering services or performing labor, or for any other contractual purpose, shall be audited, before payment, by an auditing officer elected or appointed pursuant to statute or, in the absence of statute, an appropriate charter provision, ordinance or resolution of the municipal corporation or political subdivision. Such claims shall be prepared for audit and payment on a form and in the manner prescribed by the state auditor. The form shall provide for the authentication and certification by such auditing officer that the materials have been furnished, the services rendered or the labor performed as described, and that the claim is a just, due and unpaid obligation against the municipal corporation or political subdivision; and no claim shall be paid without such authentication and

certification: PROVIDED, That the certificates as to claims of officers and employees of a county, city, district or other municipal corporation or political subdivision, for services rendered, shall be made by the person charged with the duty of preparing and submitting vouchers for the payment of services, and he or she shall certify that the claim is just, true and unpaid, which certificate shall be part of the voucher.

[1995 c 301 § 72; 1965 c 116 § 1.]

RCW 42.24.090 Municipal corporations and political subdivisions--Reimbursement claims by officers and employees.

No claim for reimbursement of any expenditures by officers or employees of any municipal corporation or political subdivision of the state for transportation, lodging, meals or any other purpose shall be allowed by any officer, employee or board charged with auditing accounts unless the same shall be presented in a detailed account: PROVIDED, That, unless otherwise authorized by law, the legislative body of any municipal corporation or political subdivision of the state may prescribe by ordinance or resolution the amounts to be paid officers or employees thereof as reimbursement for the use of their personal automobiles or other transportation equipment in connection with officially assigned duties and other travel for approved public purposes, or as reimbursement to such officers or employees in lieu of actual expenses incurred for lodging, meals or other purposes. The rates for such reimbursements may be computed on a mileage, hourly, per diem, monthly, or other basis as the respective legislative bodies shall determine to be proper in each instance: PROVIDED, That in lieu of such reimbursements, payments for the use of personal automobiles for official travel may be established if the legislative body determines that these payments would be less costly to the municipal corporation or political subdivision of the state than providing automobiles for official travel.

All claims authorized under this section shall be duly certified by the officer or employee submitting such claims on forms and in the manner prescribed by the state auditor.

[1995 c 301 § 73; 1981 c 56 § 1; 1965 c 116 § 2.]

RCW 42.24.100 Municipal corporations and political subdivisions--Certificates need not be sworn--Penalty for false claim.

The certificates required by RCW 42.24.080 through 42.24.110 need not be sworn, but any person certifying a claim or making a claim knowing the same to be false or untrue shall be guilty of perjury in the second degree.

[1965 c 116 § 3.]

RCW 42.24.110 Municipal corporations and political subdivisions--Approving or paying false claim--Penalties.

Any person who knowingly approves or pays or causes to be approved or paid a false or untrue claim shall be guilty of a gross misdemeanor and, in addition, he shall be civilly liable on his bond to the municipal corporation or political subdivision, as the case may be, for the amount so paid or for three hundred dollars whichever is the greater.

[1965 c 116 § 4.]

RCW 42.24.115 Municipal corporations and political subdivisions--Charge cards for officers' and employees' travel expenses.

(1) Any municipal corporation or political subdivision may provide for the issuance of charge cards to officers and employees for the purpose of covering expenses incident to authorized travel.

(2) If a charge card is issued for the purpose of covering expenses relating to authorized travel, upon billing or no later than thirty days of the billing date, the officer or employee using a charge card issued under this section shall submit a fully itemized travel expense voucher. Any charges against the charge card not properly identified on the travel expense voucher or not allowed following the audit required under RCW 42.24.080 shall be paid by the official or employee by check, United States currency, or salary deduction.

(3) If, for any reason, disallowed charges are not repaid before the charge card billing is due and payable, the municipal corporation or political subdivision shall have a prior lien against and a right to withhold any and all funds payable or to become payable to the official or employee up to an amount of the disallowed charges and interest at the same rate as charged by the company which issued the charge card. Any official or employee who has been issued a charge card by a municipal corporation or political subdivision shall not use the card if any disallowed charges are outstanding and shall surrender the card upon demand of the auditing officer. The municipal corporation or political subdivision shall have unlimited authority to revoke use of any charge card issued under this section, and, upon such revocation order being delivered to the charge card company, shall not be liable for any costs.

[1995 c 30 § 3; 1984 c 203 § 5.]

Notes:

Findings--1995 c 30: See note following RCW 43.09.2855.

Severability--1984 c 203: See note following RCW 35.43.140.

RCW 42.24.120 Advancements for travel expenses--Municipal corporation or political subdivision officers and employees.

Whenever it becomes necessary for an elected or appointed official or employee of the municipal corporation or political subdivision to travel and incur expenses, the legislative body of such municipal corporation or political subdivision may provide, in the manner that local legislation is officially enacted, reasonable allowances to such officers and employees in advance of expenditure. Such advance shall be made under appropriate rules and regulations to

be prescribed by the state auditor.

[1969 c 74 § 1.]

RCW 42.24.130 Advancements for travel expenses--Revolving fund.

The legislative body of a municipal corporation or political subdivision wishing to make advance payments of travel expenses to officials and employees, as provided in RCW 42.24.120 through 42.24.160, will establish, in the manner that local legislation is officially enacted, a revolving fund to be used solely for the purpose of making advance payments of travel expenses. The revolving fund will be maintained in a bank as a checking account and advances to officials or employees will be by check. The fund will be replenished by warrant.

[1969 c 74 § 2.]

RCW 42.24.140 Advancements for travel expenses--Provision to assure repayment.

To protect the municipal corporation or political subdivision from any losses on account of advances made as provided in RCW 42.24.120 through 42.24.160, the municipal corporation or political subdivision shall have a prior lien against and a right to withhold any and all funds payable or to become payable by the municipal corporation or political subdivision to such officer or employee to whom such advance has been given, as provided in RCW 42.24.120 through 42.24.160, up to the amount of such advance and interest at the rate of ten percent per annum, until such time as repayment or justification has been made. No advance of any kind may be made to any officer or employee under RCW 42.24.120 through 42.24.160, at any time when he is delinquent in accounting for or repaying a prior advance under RCW 42.24.120 through 42.24.160.

[1969 c 74 § 3.]

RCW 42.24.150 Advancements for travel expenses--Travel expense voucher.

On or before the fifteenth day following the close of the authorized travel period for which expenses have been advanced to any officer or employee, he shall submit to the appropriate official a fully itemized travel expense voucher, for all reimbursable items legally expended, accompanied by the unexpended portion of such advance, if any.

Any advance made for this purpose, or any portion thereof, not repaid or accounted for in the time and manner specified herein, shall bear interest at the rate of ten percent per annum from the date of default until paid.

[1995 c 194 § 9; 1969 c 74 § 4.]

RCW 42.24.160 Advancements for travel expenses--Purpose--Not personal loan.

An advance made under RCW 42.24.120 through 42.24.160 shall be considered as

having been made to such officer or employee to be expended by him as an agent of the municipal corporation or political subdivision for the municipal corporation's or political subdivision's purposes only, and specifically to defray necessary costs while performing his official duties.

No such advance shall be considered as a personal loan to such officer or employee and any expenditure thereof, other than for official business purposes, shall be considered a misappropriation of public funds.

[1969 c 74 § 5.]

RCW 42.24.170 Expenditures by special purpose districts to recruit job candidates--Reimbursement for travel expenses.

Special purpose districts may expend funds to recruit job candidates and reimburse candidates for reasonable and necessary travel expenses, including transportation, subsistence, and lodging.

[1981 c 190 § 1.]

RCW 42.24.180 *Taxing district--Issuance of warrants or checks before approval by legislative body--Conditions.

In order to expedite the payment of claims, the legislative body of any *taxing district, as defined in RCW 43.09.260, may authorize the issuance of warrants or checks in payment of claims after the provisions of this chapter have been met and after the officer designated by statute, or, in the absence of statute, an appropriate charter provision, ordinance, or resolution of the *taxing district, has signed the checks or warrants, but before the legislative body has acted to approve the claims. The legislative body may stipulate that certain kinds or amounts of claims shall not be paid before the board has reviewed the supporting documentation and approved the issue of checks or warrants in payment of those claims. However, all of the following conditions shall be met before the payment:

(1) The auditing officer and the officer designated to sign the checks or warrants shall each be required to furnish an official bond for the faithful discharge of his or her duties in an amount determined by the legislative body but not less than fifty thousand dollars;

(2) The legislative body shall adopt contracting, hiring, purchasing, and disbursing policies that implement effective internal control;

(3) The legislative body shall provide for its review of the documentation supporting claims paid and for its approval of all checks or warrants issued in payment of claims at its next regularly scheduled public meeting or, for cities and towns, at a regularly scheduled public meeting within one month of issuance; and

(4) The legislative body shall require that if, upon review, it disapproves some claims, the auditing officer and the officer designated to sign the checks or warrants shall jointly cause the disapproved claims to be recognized as receivables of the *taxing district and to pursue collection diligently until the amounts disapproved are collected or until the legislative body is

satisfied and approves the claims.

[1994 c 273 § 18; 1984 c 128 § 11.]

Notes:

***Reviser's note:** "Taxing district" redesignated "local government" by 1995 c 301 § 15.

Chapter 42.26 RCW
AGENCY VENDOR PAYMENT REVOLVING FUND--PETTY CASH ACCOUNTS

Sections

42.26.010	Agency vendor payment revolving fund--Created--Use.
42.26.020	Disbursements--Deposits to cover.
42.26.030	Regulations.
42.26.040	Petty cash accounts--Authorized--Advancements.
42.26.050	Request for petty cash advancement--Approval.
42.26.060	Restrictions on use of petty cash account--Expenditures--Reimbursement.
42.26.070	Custodian of petty cash account--Bond.
42.26.080	Violation of petty cash account requirements.
42.26.090	Regulations for petty cash and accounts.
42.26.900	Effective date--1969 ex.s. c 60.

RCW 42.26.010 Agency vendor payment revolving fund--Created--Use.

An agency vendor payment revolving fund is hereby created in the state treasury. This fund is to be used for payment for services rendered or materials furnished to the state, which are properly payable from funds other than those appropriated from the state treasury: PROVIDED, That the use of this revolving fund by a state agency shall be optional: AND PROVIDED FURTHER, That payment of salaries and wages shall be subject to the provisions of chapter 42.16 RCW.

[1969 ex.s. c 60 § 1.]

RCW 42.26.020 Disbursements--Deposits to cover.

The amount to be disbursed from the vendor payment revolving fund on behalf of an agency electing to utilize such fund shall be deposited therein by the agency on or before the day prior to scheduled disbursement. The deposit shall be made from funds held by the agency outside the state treasury pursuant to law and which are properly chargeable for the disbursement. Disbursements from the revolving fund created by this chapter shall be by warrant in accordance with the provisions of RCW 43.88.160.

[1969 ex.s. c 60 § 2.]

RCW 42.26.030 Regulations.

The director of financial management shall adopt such regulations as may be necessary or desirable to implement the provisions of this chapter relating to the establishment of an agency vendor payment revolving fund.

[1979 c 151 § 74; 1969 ex.s. c 60 § 3.]

RCW 42.26.040 Petty cash accounts--Authorized--Advancements.

The state treasurer is authorized to advance moneys from treasury funds to state agencies for the purpose of establishing petty cash accounts. Any agency may petition the office of financial management for the establishment of a petty cash account. The maximum amount of such accounts shall be based on the special needs of the petitioning agency and shall be subject to approval by the office of financial management. The amount so advanced shall be reflected in the state treasurer's accounts as an amount due from the agency to the fund or account from which the advance was made.

[1979 c 151 § 75; 1977 c 40 § 1; 1969 ex.s. c 60 § 4.]

RCW 42.26.050 Request for petty cash advancement--Approval.

The agency requesting a petty cash account or an increase in the amount of petty cash advanced under the provisions of this chapter shall submit its request to the director of financial management in the form and detail prescribed by him. The agency's written request and the approval authorized by this chapter shall be the only documentation or certification required as a condition precedent to the issuance of such warrant. A copy of his approval shall be forwarded by the director of financial management to the state treasurer.

[1979 c 151 § 76; 1969 ex.s. c 60 § 5.]

RCW 42.26.060 Restrictions on use of petty cash account--Expenditures--Reimbursement.

The use of the petty cash account shall be restricted to miscellaneous petty or emergency expenditures, refunds legally payable by an agency, and for cash change to be used in the transaction of the agency's official business. All expenditures made from petty cash shall be charged to an existing appropriation for such purpose, except expenditures chargeable against funds for which no appropriation is required by law. All expenditures or refunds made from petty cash shall be reimbursed out of and charged to the proper appropriation or fund at the close of each month and such other times as may be necessary.

[1969 ex.s. c 60 § 6.]

RCW 42.26.070 Custodian of petty cash account--Bond.

The head of the agency or an employee designated by him shall have full responsibility

as custodian for the petty cash account and its proper use under this chapter and applicable regulations of the director of financial management. The custodian of the petty cash account shall be covered by a surety bond in the full amount of the account at all times and all advances to it, conditioned upon the proper accounting for and legal expenditure of all such funds, in addition to other conditions required by law.

[1979 c 151 § 77; 1969 ex.s. c 60 § 7.]

RCW 42.26.080 Violation of petty cash account requirements.

If a post audit by the state auditor discloses the amount of the petty cash account of any agency under this chapter to be excessive or the use of the account to be in violation of requirements governing its operation, the director of financial management may require the return of the account or of the excessive amount to the state treasury for credit to the fund from which the advance was made.

[1979 c 151 § 78; 1969 ex.s. c 60 § 8.]

RCW 42.26.090 Regulations for petty cash and accounts.

The director of financial management shall adopt such regulations as may be necessary or desirable to implement the provisions of this chapter. Such regulation shall include but not be limited to, (1) defining limitations on the use of petty cash, and (2) providing accounting and reporting procedures for operation of the petty cash account.

[1979 c 151 § 79; 1969 ex.s. c 60 § 9.]

RCW 42.26.900 Effective date--1969 ex.s. c 60.

This chapter shall take effect July 1, 1969.

[1969 ex.s. c 60 § 12.]

**Chapter 42.30 RCW
OPEN PUBLIC MEETINGS ACT**

Sections

42.30.010	Legislative declaration.
42.30.020	Definitions.
42.30.030	Meetings declared open and public.
42.30.040	Conditions to attendance not to be required.
42.30.050	Interruptions--Procedure.
42.30.060	Ordinances, rules, resolutions, regulations, etc., adopted at public meetings--Notice--Secret voting prohibited.
42.30.070	Times and places for meetings--Emergencies--Exception.
42.30.075	Schedule of regular meetings--Publication in state register--Notice of change--"Regular" meetings

	defined.
42.30.080	Special meetings.
42.30.090	Adjournments.
42.30.100	Continuances.
42.30.110	Executive sessions.
42.30.120	Violations--Personal liability--Penalty--Attorney fees and costs.
42.30.130	Violations--Mandamus or injunction.
42.30.140	Chapter controlling--Application.
42.30.200	Governing body of recognized student association at college or university--Chapter applicability to.
42.30.210	Assistance by attorney general.
42.30.900	Short title.
42.30.910	Construction--1971 ex.s. c 250.
42.30.920	Severability--1971 ex.s. c 250.

NOTES:

Drug reimbursement policy recommendations: RCW 43.20A.365.

RCW 42.30.010 Legislative declaration.

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

[1971 ex.s. c 250 § 1.]

Notes:

Reviser's note: Throughout this chapter, the phrases "this act" and "this 1971 amendatory act" have been changed to "this chapter." "This act" [1971 ex.s. c 250] consists of this chapter, the amendment to RCW 34.04.025, and the repeal of RCW 42.32.010 and 42.32.020.

RCW 42.30.020 Definitions.

As used in this chapter unless the context indicates otherwise:

- (1) "Public agency" means:
 - (a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;
 - (b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;
 - (c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;
 - (d) Any policy group whose membership includes representatives of publicly owned

utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.

(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken.

[1985 c 366 § 1; 1983 c 155 § 1; 1982 1st ex.s. c 43 § 10; 1971 ex.s. c 250 § 2.]

Notes:

Severability--Savings--1982 1st ex.s. c 43: See notes following RCW 43.52.374.

RCW 42.30.030 Meetings declared open and public.

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

[1971 ex.s. c 250 § 3.]

RCW 42.30.040 Conditions to attendance not to be required.

A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his attendance.

[1971 ex.s. c 250 § 4.]

RCW 42.30.050 Interruptions--Procedure.

In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance,

shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting.

[1971 ex.s. c 250 § 5.]

RCW 42.30.060 Ordinances, rules, resolutions, regulations, etc., adopted at public meetings--Notice--Secret voting prohibited.

(1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.

[1989 c 42 § 1; 1971 ex.s. c 250 § 6.]

RCW 42.30.070 Times and places for meetings--Emergencies--Exception.

The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body. Unless otherwise provided for in the act under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a meeting site other than the regular meeting site and the notice requirements of this chapter shall be suspended during such emergency. It shall not be a violation of the requirements of this chapter for a majority of the members of a governing body to travel together or gather for purposes other than a regular meeting or a special meeting as these terms are used in this chapter: PROVIDED, That they take no action as defined in this chapter.

[1983 c 155 § 2; 1973 c 66 § 1; 1971 ex.s. c 250 § 7.]

RCW 42.30.075 Schedule of regular meetings--Publication in state register--Notice of change--"Regular" meetings defined.

State agencies which hold regular meetings shall file with the code reviser a schedule of the time and place of such meetings on or before January of each year for publication in the Washington state register. Notice of any change from such meeting schedule shall be published

in the state register for distribution at least twenty days prior to the rescheduled meeting date.

For the purposes of this section "regular" meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule.

[1977 ex.s. c 240 § 12.]

Notes:

Effective date--Severability--1977 ex.s. c 240: See RCW 34.08.905 and 34.08.910.
Public meeting notices in state register: RCW 34.08.020.

RCW 42.30.080 Special meetings.

A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body; and to each local newspaper of general circulation and to each local radio or television station which has on file with the governing body a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

[1971 ex.s. c 250 § 8.]

RCW 42.30.090 Adjournments.

The governing body of a public agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned

regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

[1971 ex.s. c 250 § 9.]

RCW 42.30.100 Continuances.

Any hearing being held, noticed, or ordered to be held by a governing body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the governing body in the same manner and to the same extent set forth in RCW 42.30.090 for the adjournment of meetings.

[1971 ex.s. c 250 § 10.]

RCW 42.30.110 Executive sessions.

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective

office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(A) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(B) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(C) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

[2001 c 216 § 1; 1989 c 238 § 2; 1987 c 389 § 3; 1986 c 276 § 8; 1985 c 366 § 2; 1983 c 155 § 3; 1979 c 42 § 1; 1973 c 66 § 2; 1971 ex.s. c 250 § 11.]

NOTES:

Severability--Effective date--1987 c 389: See notes following RCW 41.06.070.

Severability--1986 c 276: See RCW 53.31.901.

RCW 42.30.120 Violations--Personal liability--Penalty--Attorney fees and costs.

(1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil

penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

(2) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. Pursuant to RCW 4.84.185, any public agency who prevails in any action in the courts for a violation of this chapter may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause.

[1985 c 69 § 1; 1973 c 66 § 3; 1971 ex.s. c 250 § 12.]

RCW 42.30.130 Violations--Mandamus or injunction.

Any person may commence an action either by mandamus or injunction for the purpose of stopping violations or preventing threatened violations of this chapter by members of a governing body.

[1971 ex.s. c 250 § 13.]

RCW 42.30.140 Chapter controlling--Application.

If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4)(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

[1990 c 98 § 1; 1989 c 175 § 94; 1973 c 66 § 4; 1971 ex.s. c 250 § 14.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

Drug reimbursement policy recommendations: RCW 43.20A.365.

Mediation testimony competency: RCW 5.60.070 and 5.60.072.

RCW 42.30.200 Governing body of recognized student association at college or university--Chapter applicability to.

The multimember student board which is the governing body of the recognized student association at a given campus of a public institution of higher education is hereby declared to be subject to the provisions of the open public meetings act as contained in this chapter, as now or hereafter amended. For the purposes of this section, "recognized student association" shall mean any body at any of the state's colleges and universities which selects officers through a process approved by the student body and which represents the interests of students. Any such body so selected shall be recognized by and registered with the respective boards of trustees and regents of the state's colleges and universities: PROVIDED, That there be no more than one such association representing undergraduate students, no more than one such association representing graduate students, and no more than one such association representing each group of professional students so recognized and registered at any of the state's colleges or universities.

[1980 c 49 § 1.]

RCW 42.30.210 Assistance by attorney general.

The attorney general's office may provide information, technical assistance, and training on the provisions of this chapter.

[2001 c 216 § 2.]

RCW 42.30.900 Short title.

This chapter may be cited as the "Open Public Meetings Act of 1971".

[1971 ex.s. c 250 § 16.]

RCW 42.30.910 Construction--1971 ex.s. c 250.

The purposes of this chapter are hereby declared remedial and shall be liberally construed.

[1971 ex.s. c 250 § 18.]

RCW 42.30.920 Severability--1971 ex.s. c 250.

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

[1971 ex.s. c 250 § 19.]

Chapter 42.32 RCW MEETINGS

Sections
42.32.030 Minutes.

Notes:

Drug reimbursement policy recommendations: RCW 43.20A.365.

Open Public Meetings Act: Chapter 42.30 RCW.

RCW 42.32.030 Minutes.

The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection.

[1953 c 216 § 3.]

Notes:

Reviser's note: RCW 42.32.010 and 42.32.020 were repealed by 1971 ex.s. c 250 § 15; later enactment, see chapter 42.30 RCW.

Chapter 42.36 RCW APPEARANCE OF FAIRNESS DOCTRINE--LIMITATIONS

Sections
42.36.010 Local land use decisions.
42.36.020 Members of local decision-making bodies.
42.36.030 Legislative action of local executive or legislative officials.
42.36.040 Public discussion by candidate for public office.
42.36.050 Campaign contributions.
42.36.060 Quasi-judicial proceedings--Ex parte communications prohibited, exceptions.
42.36.070 Quasi-judicial proceedings--Prior advisory proceedings.
42.36.080 Disqualification based on doctrine--Time limitation for raising challenge.
42.36.090 Participation of challenged member of decision-making body.
42.36.100 Judicial restriction of doctrine not prohibited--Construction of chapter.
42.36.110 Right to fair hearing not impaired.
42.36.900 Severability--1982 c 229.

RCW 42.36.010 Local land use decisions.

Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body,

planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

[1982 c 229 § 1.]

RCW 42.36.020 Members of local decision-making bodies.

No member of a local decision-making body may be disqualified by the appearance of fairness doctrine for conducting the business of his or her office with any constituent on any matter other than a quasi-judicial action then pending before the local legislative body.

[1982 c 229 § 2.]

RCW 42.36.030 Legislative action of local executive or legislative officials.

No legislative action taken by a local legislative body, its members, or local executive officials shall be invalidated by an application of the appearance of fairness doctrine.

[1982 c 229 § 3.]

RCW 42.36.040 Public discussion by candidate for public office.

Prior to declaring as a candidate for public office or while campaigning for public office as defined by *RCW 42.17.020 (5) and (25) no public discussion or expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine.

[1982 c 229 § 4.]

Notes:

***Reviser's note:** RCW 42.17.020 was amended by 1991 sp.s. c 18 § 1, changing subsection (25) to subsection (26). RCW 42.17.020 was subsequently amended by 1995 c 397 § 1, changing subsections (5) and (26) to subsections (8) and (35), respectively.

RCW 42.36.050 Campaign contributions.

A candidate for public office who complies with all provisions of applicable public disclosure and ethics laws shall not be limited from accepting campaign contributions to finance the campaign, including outstanding debts; nor shall it be a violation of the appearance of fairness doctrine to accept such campaign contributions.

[1982 c 229 § 5.]

Notes:

Public disclosure of campaign finances: Chapter 42.17 RCW.

RCW 42.36.060 Quasi-judicial proceedings--Ex parte communications prohibited, exceptions.

During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

(1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and

(2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

[1984 c 191 § 1; 1982 c 229 § 6.]

RCW 42.36.070 Quasi-judicial proceedings--Prior advisory proceedings.

Participation by a member of a decision-making body in earlier proceedings that result in an advisory recommendation to a decision-making body shall not disqualify that person from participating in any subsequent quasi-judicial proceeding.

[1982 c 229 § 7.]

RCW 42.36.080 Disqualification based on doctrine--Time limitation for raising challenge.

Anyone seeking to rely on the appearance of fairness doctrine to disqualify a member of a decision-making body from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the individual. Where the basis is known or should reasonably have been known prior to the issuance of a decision and is not raised, it may not be relied on to invalidate the decision.

[1982 c 229 § 8.]

RCW 42.36.090 Participation of challenged member of decision-making body.

In the event of a challenge to a member or members of a decision-making body which would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged member(s) shall be permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the member or members publicly disclose

the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine.

[1982 c 229 § 9.]

RCW 42.36.100 Judicial restriction of doctrine not prohibited--Construction of chapter.

Nothing in this chapter prohibits the restriction or elimination of the appearance of fairness doctrine by the appellate courts. Nothing in this chapter may be construed to expand the appearance of fairness doctrine.

[1982 c 229 § 10.]

RCW 42.36.110 Right to fair hearing not impaired.

Nothing in this chapter prohibits challenges to local land use decisions where actual violations of an individual's right to a fair hearing can be demonstrated.

[1982 c 229 § 11.]

RCW 42.36.900 Severability--1982 c 229.

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

[1982 c 229 § 12.]

**Chapter 42.40 RCW
STATE EMPLOYEE WHISTLEBLOWER PROTECTION**

Sections

42.40.010	Policy.
42.40.020	Definitions.
42.40.030	Right to disclose improper governmental actions--Interference prohibited.
42.40.035	Duty of correctness--Penalties for false information.
42.40.040	Report of improper governmental action--Investigations and reports by auditor, agency.
42.40.050	Retaliatory action against whistleblower--Remedies.
42.40.070	Summary of chapter available to employees.
42.40.080	Contracting for assistance.
42.40.090	Administrative costs.
42.40.100	Assertions against auditor.
42.40.110	Performance audit.
42.40.900	Severability--1982 c 208.
42.40.910	Application of chapter.

RCW 42.40.010 Policy.

It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions, and it is the intent of the legislature to protect the rights of state employees making these disclosures. It is also the policy of the legislature that employees should be encouraged to identify rules warranting review or provide information to the rules review committee, and it is the intent of the legislature to protect the rights of these employees.

[1995 c 403 § 508; 1982 c 208 § 1.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 42.40.020 Definitions.

As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Auditor" means the office of the state auditor.

(2) "Employee" means any individual employed or holding office in any department or agency of state government.

(3) "Good faith" means a reasonable basis in fact for the communication. "Good faith" is lacking when the employee knows or reasonably ought to know that the report is malicious, false, or frivolous.

(4) "Gross waste of funds" means to spend or use funds or to allow funds to be used without valuable result in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.

(5)(a) "Improper governmental action" means any action by an employee undertaken in the performance of the employee's official duties:

(i) Which is [a] gross waste of public funds or resources as defined in this section;

(ii) Which is in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature; or

(iii) Which is of substantial and specific danger to the public health or safety.

(b) "Improper governmental action" does not include personnel actions, for which other remedies exist, including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the state civil service law, alleged labor agreement violations, reprimands, claims of discriminatory treatment, or any action which may be taken under chapter 41.06 RCW, or other disciplinary action except as provided in RCW 42.40.030.

(6) "Substantial and specific danger" means a risk of serious injury, illness, peril, or loss, to which the exposure of the public is a gross deviation from the standard of care or competence

which a reasonable person would observe in the same situation.

(7) "Use of official authority or influence" includes taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, performance evaluation, or any adverse action under chapter 41.06 RCW, or other disciplinary action.

(8) "Whistleblower" means an employee who in good faith reports alleged improper governmental action to the auditor, initiating an investigation under RCW 42.40.040. For purposes of the provisions of this chapter and chapter 49.60 RCW relating to reprisals and retaliatory action, the term "whistleblower" also means: (a) An employee who in good faith provides information to the auditor in connection with an investigation under RCW 42.40.040 and an employee who is believed to have reported asserted improper governmental action to the auditor or to have provided information to the auditor in connection with an investigation under RCW 42.40.040 but who, in fact, has not reported such action or provided such information; or (b) an employee who in good faith identifies rules warranting review or provides information to the rules review committee, and an employee who is believed to have identified rules warranting review or provided information to the rules review committee but who, in fact, has not done so.

[1999 c 361 § 1; 1995 c 403 § 509; 1992 c 118 § 1; 1989 c 284 § 1; 1982 c 208 § 2.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 42.40.030 Right to disclose improper governmental actions--Interference prohibited.

(1) An employee shall not directly or indirectly use or attempt to use the employee's official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to: (a) Disclose to the auditor (or representative thereof) information concerning improper governmental action; or (b) identify rules warranting review or provide information to the rules review committee.

(2) Nothing in this section authorizes an individual to disclose information otherwise prohibited by law.

[1995 c 403 § 510; 1989 c 284 § 2; 1982 c 208 § 3.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 42.40.035 Duty of correctness--Penalties for false information.

An employee must make a reasonable attempt to ascertain the correctness of the information furnished and may be subject to disciplinary actions, including, but not limited to, suspension or termination, for knowingly furnishing false information as determined by the

employee's appointing authority.

[1999 c 361 § 2.]

RCW 42.40.040 Report of improper governmental action--Investigations and reports by auditor, agency.

(1)(a) In order to be investigated, an assertion of improper governmental action must be provided to the auditor within one year after the occurrence of the asserted improper governmental action.

(b) The auditor has the authority to determine whether to investigate any assertions received. In determining whether to conduct either a preliminary or further investigation, the auditor shall consider factors including, but not limited to: The nature and quality of evidence and the existence of relevant laws and rules; whether the action was isolated or systematic; the history of previous assertions regarding the same subject or subjects or subject matter; whether other avenues are available for addressing the matter; whether the matter has already been investigated or is in litigation; the seriousness or significance of the asserted improper governmental action; and the cost and benefit of the investigation. The auditor has the sole discretion to determine the priority and weight given to these and other relevant factors and to decide whether a matter is to be investigated. The auditor shall document the factors considered and the analysis applied.

(c) The auditor also has the authority to investigate assertions of improper governmental actions as part of an audit conducted under chapter 43.09 RCW. The auditor shall document the reasons for handling the matter as part of such an audit.

(2) Subject to subsection (5)(c) of this section, the identity of a whistleblower is confidential at all times unless the whistleblower consents to disclosure by written waiver or by acknowledging his or her identity in a claim against the state for retaliation.

(3) Upon receiving specific information that an employee has engaged in improper governmental action, the auditor shall, within five working days of receipt of the information, mail written acknowledgement to the whistleblower at the address provided stating whether a preliminary investigation will be conducted. For a period not to exceed thirty working days from receipt of the assertion, the auditor shall conduct such preliminary investigation of the matter as the auditor deems appropriate.

(4) In addition to the authority under subsection (3) of this section, the auditor may, on its own initiative, investigate incidents of improper state governmental action.

(5)(a) If it appears to the auditor, upon completion of the preliminary investigation, that the matter is so unsubstantiated that no further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower.

(b) The written notification shall contain a summary of the information received and of the results of the preliminary investigation with regard to each assertion of improper governmental action.

(c) In any case to which this section applies, the identity of the whistleblower shall be kept confidential unless the auditor determines that the information has been provided other than

in good faith.

(d) With the agency's consent, the auditor may forward the assertions to an appropriate agency to investigate and report back to the auditor no later than sixty working days after the assertions are received from the auditor. The auditor is entitled to all investigative records resulting from such a referral. All procedural and confidentiality provisions of this chapter apply to investigations conducted under this subsection. The auditor shall document the reasons the assertions were referred.

(6) During the preliminary investigation, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts and laws known at the time and the procedure for the subject or subjects of the investigation and the agency head to respond to the assertions and information obtained during the investigation. This notification does not limit the auditor from considering additional facts or laws which become known during further investigation.

(7)(a) If it appears to the auditor after completion of the preliminary investigation that further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower, the subject or subjects of the investigation, and the agency head and either conduct a further investigation or issue a report under subsection (10) of this section.

(b) If the preliminary investigation resulted from an anonymous assertion, a decision to conduct further investigation shall be subject to review by a three-person panel convened as necessary by the auditor prior to the commencement of any additional investigation. The panel shall include a state auditor representative knowledgeable of the subject agency operations, a citizen volunteer, and a representative of the attorney general's office. This group shall be briefed on the preliminary investigation and shall recommend whether the auditor should proceed with further investigation.

(c) If further investigation is to occur, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts known at the time and the procedure to be used by the subject or subjects of the investigation and the agency head to respond to the assertions and information obtained during the investigation.

(8) Within sixty working days after the preliminary investigation period in subsection (3) of this section, the auditor shall complete the investigation and report its findings to the whistleblower unless written justification for the delay is furnished to the whistleblower, agency head, and subject or subjects of the investigation. In all such cases, the report of the auditor's investigation and findings shall be sent to the whistleblower within one year after the information was filed under subsection (3) of this section.

(9)(a) At any stage of an investigation under this section the auditor may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the investigation at any designated place in the state. The auditor may issue subpoenas, administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the superior court for the county in which the person to whom the subpoena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey

the order of the court may be punished by the court as a contempt thereof.

(b) The auditor may order the taking of depositions at any stage of a proceeding or investigation under this chapter. Depositions shall be taken before an individual designated by the auditor and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(c) Agencies shall cooperate fully in the investigation and shall take appropriate action to preclude the destruction of any evidence during the course of the investigation.

(d) During the investigation the auditor shall interview each subject of the investigation. If it is determined there is reasonable cause to believe improper governmental action has occurred, the subject or subjects and the agency head shall be given fifteen working days to respond to the assertions prior to the issuance of the final report.

(10)(a) If the auditor determines there is reasonable cause to believe an employee has engaged in improper governmental action, the auditor shall report the nature and details of the activity to:

(i) The subject or subjects of the investigation and the head of the employing agency; and

(ii) If appropriate, the attorney general or such other authority as the auditor determines appropriate.

(b) The auditor has no enforcement power except that in any case in which the auditor submits an investigative report containing reasonable cause determinations to the agency, the agency shall send its plan for resolution to the auditor within fifteen working days of having received the report. The agency is encouraged to consult with the subject or subjects of the investigation in establishing the resolution plan. The auditor may require periodic reports of agency action until all resolution has occurred. If the auditor determines that appropriate action has not been taken, the auditor shall report the determination to the governor and to the legislature and may include this determination in the agency audit under chapter 43.09 RCW.

(11) Once the auditor concludes that appropriate action has been taken to resolve the matter, the auditor shall so notify the whistleblower, the agency head, and the subject or subjects of the investigation. If the resolution takes more than one year, the auditor shall provide annual notification of its status to the whistleblower, agency head, and subject or subjects of the investigation.

(12) This section does not limit any authority conferred upon the attorney general or any other agency of government to investigate any matter.

[1999 c 361 § 3; 1992 c 118 § 2; 1989 c 284 § 3; 1982 c 208 § 4.]

RCW 42.40.050 Retaliatory action against whistleblower--Remedies.

(1) Any person who is a whistleblower, as defined in RCW 42.40.020, and who has been subjected to workplace reprisal or retaliatory action is presumed to have established a cause of action for the remedies provided under chapter 49.60 RCW. For the purpose of this section "reprisal or retaliatory action" means but is not limited to any of the following:

(a) Denial of adequate staff to perform duties;

- (b) Frequent staff changes;
- (c) Frequent and undesirable office changes;
- (d) Refusal to assign meaningful work;
- (e) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;
- (f) Demotion;
- (g) Reduction in pay;
- (h) Denial of promotion;
- (i) Suspension;
- (j) Dismissal;
- (k) Denial of employment;
- (l) A supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower; and
- (m) A change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish.

(2) The agency presumed to have taken retaliatory action under subsection (1) of this section may rebut that presumption by proving by a preponderance of the evidence that the agency action or actions were justified by reasons unrelated to the employee's status as a whistleblower.

(3) Nothing in this section prohibits an agency from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. However, the agency also shall implement any order under chapter 49.60 RCW (other than an order of suspension if the agency has terminated the retaliator).

[1999 c 283 § 1; 1992 c 118 § 3; 1989 c 284 § 4; 1982 c 208 § 5.]

RCW 42.40.070 Summary of chapter available to employees.

A written summary of this chapter and procedures for reporting improper governmental actions established by the auditor's office shall be made available by each department or agency of state government to each employee upon entering public employment. Employees shall be notified by each department or agency of state government each year of the procedures and protections under this chapter.

[1989 c 284 § 5; 1982 c 208 § 7.]

RCW 42.40.080 Contracting for assistance.

The auditor has the authority to contract for any assistance necessary to carry out the provisions of this chapter.

[1999 c 361 § 4.]

RCW 42.40.090 Administrative costs.

The cost of administering this chapter is funded through the auditing services revolving account created in RCW 43.09.410.

[1999 c 361 § 5.]

RCW 42.40.100 Assertions against auditor.

A whistleblower wishing to provide information under this chapter regarding asserted improper governmental action against the state auditor or an employee of that office shall provide the information to the attorney general who shall act in place of the auditor in investigating and reporting the matter.

[1999 c 361 § 6.]

RCW 42.40.110 Performance audit.

The office of financial management shall contract for a performance audit of the state employee whistleblower program on a cycle to be determined by the office of financial management. The audit shall be done in accordance with generally accepted government auditing standards beginning with the fiscal year ending June 30, 2001. The audit shall determine at a minimum: Whether the program is acquiring, protecting, and using its resources such as personnel, property, and space economically and efficiently; the causes of inefficiencies or uneconomical practices; and whether the program has complied with laws and rules on matters of economy and efficiency. The audit shall also at a minimum determine the extent to which the desired results or benefits established by the legislature are being achieved, the effectiveness of the program, and whether the auditor has complied with significant laws and rules applicable to the program.

The cost of the audit is a cost of operating the program and shall be funded by the auditing services revolving account created by RCW 43.09.410.

[1999 c 361 § 8.]

RCW 42.40.900 Severability--1982 c 208.

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

[1982 c 208 § 14.]

RCW 42.40.910 Application of chapter.

Chapter 361, Laws of 1999 does not affect the jurisdiction of the legislative ethics board, the executive ethics board, or the commission on judicial conduct, as set forth in chapter 42.52

RCW. The senate, the house of representatives, and the supreme court shall adopt policies regarding the applicability of chapter 42.40 RCW to the senate, house of representatives, and judicial branch.

[1999 c 361 § 7.]

Chapter 42.41 RCW

LOCAL GOVERNMENT WHISTLEBLOWER PROTECTION

Sections

42.41.010	Policy.
42.41.020	Definitions.
42.41.030	Right to report improper governmental action--Policies and procedures.
42.41.040	Retaliatory action unlawful--Relief by whistleblower--Penalty.
42.41.045	Prohibition on intimidation of whistleblower--Nondisclosure of protected information.
42.41.050	Exemptions.
42.41.060	Local government administrative hearings account.
42.41.900	Construction.
42.41.901	Effective dates--1992 c 44.
42.41.902	Severability--1992 c 44.

RCW 42.41.010 Policy.

It is the policy of the legislature that local government employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions of local government officials and employees. The purpose of this chapter is to protect local government employees who make good-faith reports to appropriate governmental bodies and to provide remedies for such individuals who are subjected to retaliation for having made such reports.

[1992 c 44 § 1.]

RCW 42.41.020 Definitions.

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

(1)(a) "Improper governmental action" means any action by a local government officer or employee:

(i) That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment; and

(ii) That is in violation of any federal, state, or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.

(b) "Improper governmental action" does not include personnel actions including but not

limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the local government collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any action that may be taken under chapter 41.08, 41.12, 41.14, 41.56, 41.59, or 53.18 RCW or RCW 54.04.170 and 54.04.180.

(2) "Local government" means any governmental entity other than the state, federal agencies, or an operating system established under chapter 43.52 RCW. It includes, but is not limited to cities, counties, school districts, and special purpose districts.

(3) "Retaliatory action" means: (a) Any adverse change in a local government employee's employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action; or (b) hostile actions by another employee towards a local government employee that were encouraged by a supervisor or senior manager or official.

(4) "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.

[1994 c 210 § 1; 1992 c 44 § 2.]

RCW 42.41.030 Right to report improper governmental action--Policies and procedures.

(1) Every local government employee has the right to report to the appropriate person or persons information concerning an alleged improper governmental action.

(2) The governing body or chief administrative officer of each local government shall adopt a policy on the appropriate procedures to follow for reporting such information and shall provide information to their employees on the policy. Local governments are encouraged to consult with their employees on the policy.

(3) The policy shall describe the appropriate person or persons within the local government to whom to report information and a list of appropriate person or persons outside the local government to whom to report. The list shall include the county prosecuting attorney.

(4) Each local government shall permanently post a summary of the procedures for reporting information on an alleged improper governmental action and the procedures for protection against retaliatory actions described in RCW 42.41.040 in a place where all employees will have reasonable access to it. A copy of the summary shall be made available to any employee upon request.

(5) A local government may require as part of its policy that, except in the case of an emergency, before an employee provides information of an improper governmental action to a person or an entity who is not a public official or a person listed pursuant to subsection (3) of this section, the employee shall submit a written report to the local government. Where a local

government has adopted such a policy under this section, an employee who fails to make a good faith attempt to follow the policy shall not receive the protections of this chapter.

(6) If a local government has failed to adopt a policy as required by subsection (2) of this section, an employee may report alleged improper government action directly to the county prosecuting attorney or, if the prosecuting attorney or an employee of the prosecuting attorney participated in the alleged improper government action, to the state auditor. The cost incurred by the state auditor in such investigations shall be paid by the local government through the municipal revolving account authorized in RCW 43.09.282.

(7) The identity of a reporting employee shall be kept confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing.

[1995 c 213 § 1; 1992 c 44 § 3.]

RCW 42.41.040 Retaliatory action unlawful--Relief by whistleblower--Penalty.

(1) It is unlawful for any local government official or employee to take retaliatory action against a local government employee because the employee provided information in good faith in accordance with the provisions of this chapter that an improper governmental action occurred.

(2) In order to seek relief under this chapter, a local government employee shall provide a written notice of the charge of retaliatory action to the governing body of the local government that:

- (a) Specifies the alleged retaliatory action; and
- (b) Specifies the relief requested.

(3) The charge shall be delivered to the local government no later than thirty days after the occurrence of the alleged retaliatory action. The local government has thirty days to respond to the charge of retaliatory action and request for relief.

(4) Upon receipt of either the response of the local government or after the last day upon which the local government could respond, the local government employee may request a hearing to establish that a retaliatory action occurred and to obtain appropriate relief as defined in this section. The request for a hearing shall be delivered to the local government within fifteen days of delivery of the response from the local government, or within fifteen days of the last day on which the local government could respond.

(5) Within five working days of receipt of the request for hearing, the local government shall apply to the state office of administrative hearings for an adjudicative proceeding before an administrative law judge. Except as otherwise provided in this section, the proceedings shall comply with RCW 34.05.410 through 34.05.598.

(6) The employee, as the initiating party, must prove his or her claim by a preponderance of the evidence. The administrative law judge shall issue a final decision consisting of findings of fact, conclusions of law, and judgment no later than forty-five days after the date the request for hearing was delivered to the local government. The administrative law judge may grant specific extensions of time beyond this period of time for rendering a decision at the request of either party upon a showing of good cause, or upon his or her own motion.

(7) Relief that may be granted by the administrative law judge consists of reinstatement,

with or without back pay, and such injunctive relief as may be found to be necessary in order to return the employee to the position he or she held before the retaliatory action and to prevent any recurrence of retaliatory action. The administrative law judge may award costs and reasonable attorneys' fees to the prevailing party.

(8) If a determination is made that retaliatory action has been taken against the employee, the administrative law judge may, in addition to any other remedy, impose a civil penalty personally upon the retaliator of up to three thousand dollars payable by each person found to have retaliated against the employee and recommend to the local government that any person found to have retaliated against the employee be suspended with or without pay or dismissed. All penalties recovered shall be paid to the local government administrative hearings account created in RCW 42.41.060.

(9) The final decision of the administrative law judge is subject to judicial review under the arbitrary and capricious standard. Relief ordered by the administrative law judge may be enforced by petition to superior court.

[1992 c 44 § 4.]

RCW 42.41.045 Prohibition on intimidation of whistleblower--Nondisclosure of protected information.

(1) A local government official or employee may not use his or her official authority or influence, directly or indirectly, to threaten, intimidate, or coerce an employee for the purpose of interfering with that employee's right to disclose information concerning an improper governmental action in accordance with the provisions of this chapter.

(2) Nothing in this section authorizes an individual to disclose information prohibited by law.

[1994 c 210 § 2.]

RCW 42.41.050 Exemptions.

Any local government that has adopted or adopts a program for reporting alleged improper governmental actions and adjudicating retaliation resulting from such reporting shall be exempt from this chapter if the program meets the intent of this chapter.

[1992 c 44 § 6.]

RCW 42.41.060 Local government administrative hearings account.

The local government administrative hearings account is created in the custody of the state treasurer. All receipts from penalties in RCW 42.41.040 and the surcharges under RCW 43.09.2801 shall be deposited into the account. Expenditures from the account may be used only for administrative hearings under this chapter. Only the chief administrative law judge or his or her designee may authorize expenditures from the account. The account is subject to allotment

procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

[1992 c 44 § 7.]

RCW 42.41.900 Construction.

This chapter shall not be construed to permit disclosures that would diminish the rights of any person to the continued protection of confidentiality of communications where statute or common law provides such protection.

[1992 c 44 § 5.]

RCW 42.41.901 Effective dates--1992 c 44.

Sections 1 through 10 of this act shall take effect January 1, 1993. Section 11 of this act shall take effect July 1, 1992.

[1992 c 44 § 13.]

RCW 42.41.902 Severability--1992 c 44.

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

[1992 c 44 § 14.]

**Chapter 42.44 RCW
NOTARIES PUBLIC**

Sections

42.44.010	Definitions.
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42.44.030	Appointment denied certain persons.
42.44.040	Certificate of appointment.
42.44.050	Seal or stamp.
42.44.060	Term.
42.44.070	Reappointment without endorsements.
42.44.080	Standards for notarial acts.
42.44.090	Form of certificate--General--Seal or stamp as exclusive property.
42.44.100	Short forms of certificate.
42.44.110	Illegible writing.
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42.44.130	Notarial acts by officials of other jurisdictions.
42.44.140	Notarial acts by federal authorities.
42.44.150	Notarial acts by foreign authorities.
42.44.160	Official misconduct--Penalty.

42.44.170	Revocation of appointment--Resignation.
42.44.180	Evidence of authenticity of notarial seal and signature.
42.44.190	Rules.
42.44.200	Transfer of records.
42.44.900	Savings--1985 c 156.
42.44.901	Construction.
42.44.902	Severability--1985 c 156.
42.44.903	Effective date--1985 c 156.

RCW 42.44.010 Definitions.

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

(1) "Director" means the director of licensing of the state of Washington or the director's designee.

(2) "Notarial act" and "notarization" mean: (a) Taking an acknowledgment; (b) administering an oath or affirmation; (c) taking a verification upon oath or affirmation; (d) witnessing or attesting a signature; (e) certifying or attesting a copy; (f) receiving a protest of a negotiable instrument; (g) certifying that an event has occurred or an act has been performed; and (h) any other act that a notary public of this state is authorized to perform.

(3) "Notary public" and "notary" mean any person appointed to perform notarial acts in this state.

(4) "Acknowledgment" means a statement by a person that the person has executed an instrument as the person's free and voluntary act for the uses and purposes stated therein and, if the instrument is executed in a representative capacity, a statement that the person signed the document with proper authority and executed it as the act of the person or entity represented and identified therein.

(5) "Verification upon oath or affirmation" means a statement by a person who asserts it to be true and makes the assertion upon oath or affirmation administered in accordance with chapter 5.28 RCW.

(6) "In a representative capacity" means:

(a) For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(b) As a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(c) As an attorney in fact for a principal; or

(d) In any other capacity as an authorized representative of another.

(7) "Serious crime" means any felony or any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, the unauthorized practice of law, deceit, bribery, extortion, misappropriation, theft, or an attempt, a conspiracy, or the solicitation of another to commit a serious crime.

State of Washington

County of

On this day appeared before me, signed this Declaration of Application, and swore (or affirmed) that (he/she) understood its contents and that its contents are truthful.

Dated:

.....
Signature of notary public

(Seal or stamp)

Residing at

(5) Every applicant shall submit to the director proof from a surety company that a ten thousand dollar surety bond, insuring the proper performance of notarial acts by the applicant, will be effective for a term commencing on the date the person is appointed, and expiring on the date the applicant's notary appointment expires. The surety for the bond shall be a company qualified to write surety bonds in this state.

[1985 c 156 § 2.]

RCW 42.44.030 Appointment denied certain persons.

The director may deny appointment as a notary public to any person who:

- (1) Has been convicted of a serious crime;
- (2) Has had a notary appointment or other professional license revoked, suspended, or restricted in this or any other state;
- (3) Has engaged in official misconduct as defined in *section 17(1) of this act, whether or not criminal penalties resulted; or
- (4) Has performed a notarial act or acts in a manner found by the director to constitute gross negligence, a course of negligent conduct, or reckless disregard of his or her responsibility as a notary public.

[1985 c 156 § 3.]

Notes:

*Reviser's note: A literal translation of "section 17(1) of this act" would be RCW 42.44.170(1); however, RCW 42.44.160(1) was apparently intended.

RCW 42.44.040 Certificate of appointment.

The director shall deliver a certificate evidencing the appointment to each person

appointed as a notary public. The certificate may be signed in facsimile by the governor, the secretary of state, and the director or the director's designee. The certificate shall bear a printed seal of the state of Washington.

[1985 c 156 § 4.]

RCW 42.44.050 Seal or stamp.

Every person appointed as a notary public in this state shall procure a seal or stamp, on which shall be engraved or impressed the words "Notary Public" and "State of Washington," the date the appointment expires, the person's surname, and at least the initials of the person's first and middle names. The director shall prescribe by rule the size and form or forms of the seal or stamp. It is unlawful for any person intentionally to manufacture, give, sell, procure or possess a seal or stamp evidencing the current appointment of a person as a notary public until the director has delivered a certificate evidencing the appointment as provided for in RCW 42.44.040.

[1985 c 156 § 5.]

RCW 42.44.060 Term.

A person appointed as a notary public by the director may perform notarial acts in this state for a term of four years, unless:

- (1) The notarial appointment has been revoked under RCW 42.44.130 or 42.44.140; or
- (2) The notarial appointment has been resigned.

[1985 c 156 § 6.]

RCW 42.44.070 Reappointment without endorsements.

A person who has received an appointment as a notary public may be reappointed without the endorsements required in RCW 42.44.020(2) if the person submits a new application before the expiration date of the current appointment.

[1985 c 156 § 7.]

RCW 42.44.080 Standards for notarial acts.

A notary public is authorized to perform notarial acts in this state. Notarial acts shall be performed in accordance with the following, as applicable:

- (1) In taking an acknowledgment, a notary public must determine and certify, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the acknowledgement is the person whose true signature is on the document.
- (2) In taking an acknowledgment authorized by RCW 64.08.100 from a person physically unable to sign his or her name or make a mark, a notary public shall, in addition to other requirements for taking an acknowledgment, determine and certify from personal knowledge or

satisfactory evidence that the person appearing before the notary public is physically unable to sign his or her name or make a mark and is otherwise competent. The notary public shall include in the acknowledgment a statement that the signature in the acknowledgment was obtained under the authority of RCW 64.08.100.

(3) In taking a verification upon oath or affirmation, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the verification is the person whose true signature is on the statement verified.

(4) In witnessing or attesting a signature, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary public and named in the document.

(5) In certifying or attesting a copy of a document or other item, a notary public must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(6) In making or noting a protest of a negotiable instrument, a notary public must determine the matters set forth in *RCW 62A.3-509.

(7) In certifying that an event has occurred or an act has been performed, a notary public must determine the occurrence or performance either from personal knowledge or from satisfactory evidence based upon the oath or affirmation of a credible witness personally known to the notary public.

(8) A notary public has satisfactory evidence that a person is the person described in a document if that person: (a) Is personally known to the notary public; (b) is identified upon the oath or affirmation of a credible witness personally known to the notary public; or (c) is identified on the basis of identification documents.

(9) The signature and seal or stamp of a notary public are prima facie evidence that the signature of the notary is genuine and that the person is a notary public.

(10) A notary public is disqualified from performing a notarial act when the notary is a signer of the document which is to be notarized.

[1987 c 76 § 3; 1985 c 156 § 8.]

Notes:

***Reviser's note:** RCW 62A.3-509 was repealed by 1993 c 229 § 76, effective July 1, 1994.

RCW 42.44.090 Form of certificate--General--Seal or stamp as exclusive property.

(1) A notarial act by a notary public must be evidenced by a certificate signed and dated by a notary public. The certificate must include the name of the jurisdiction in which the notarial act is performed and the title of the notary public or other notarial officer and shall be accompanied by an impression of the official seal or stamp. It shall not be necessary for a notary public in certifying an oath to be used in any of the courts in this state, to append an impression of the official seal or stamp. If the notarial officer is a notary public, the certificate shall also indicate the date of expiration of such notary public's appointment, but omission of that information may subsequently be corrected.

(2) A certificate of a notarial act is sufficient if it meets the requirements of subsection (1) of this section and it:

- (a) Is in the short form set forth in RCW 42.44.100;
- (b) Is in a form otherwise permitted or prescribed by the laws of this state;
- (c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or
- (d) Is in a form that sets forth the actions of the notary public and the described actions are sufficient to meet the requirements of the designated notarial act.

If any law of this state specifically requires a certificate in a form other than that set forth in RCW 42.44.100 in connection with a form of document or transaction, the certificate required by such law shall be used for such document or transaction.

(3) By executing a certificate of a notarial act, the notary public certifies that he or she has made the determinations required by RCW 42.44.080.

(4) A notary public's seal or stamp shall be the exclusive property of the notary public, shall not be used by any other person, and shall not be surrendered to an employer upon termination of employment, regardless of whether the employer paid for the seal or for the notary's bond or appointment fees.

[1985 c 156 § 9.]

RCW 42.44.100 Short forms of certificate.

The following short forms of notarial certificates are sufficient for the purposes indicated, if completed with the information required by this section:

- (1) For an acknowledgment in an individual capacity:

State of Washington
County of

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated:

.....
(Signature)

(Seal or stamp)

.....
Title
My appointment
expires

(2) For an acknowledgment in a representative capacity:

State of Washington

County of

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:

.....
(Signature)

(Seal or stamp)

.....
Title
My appointment
expires

(3) For a verification upon oath or affirmation:

State of Washington

County of

Signed and sworn to (or affirmed) before me on (date) by (name of person making statement).

.....
(Signature)

(Seal or stamp)

.....
Title
My appointment
expires

(4) For witnessing or attesting a signature:

State of Washington

County of

Signed or attested before me on by

.....

(Signature)

(Seal or stamp)

.....

Title

My appointment

expires

(5) For attestation of a copy of a document:

State of Washington

County of

I certify that this is a true and correct copy of a document in the possession of as of this date.

Dated:

.....

(Signature)

(Seal or stamp)

.....

Title

My appointment

expires

(6) For certifying the occurrence of an event or the performance of an act:

State of Washington

County of

I certify that the event or act described in this document has occurred or been performed.

Dated:

.....

(Signature)

(Seal or stamp)

.....
Title
My appointment
expires

[1988 c 69 § 4; 1985 c 156 § 10.]

RCW 42.44.110 Illegible writing.

The illegibility of any wording, writing, or marking required under this chapter does not in and of itself affect the validity of a document or transaction.

[1985 c 156 § 11.]

RCW 42.44.120 Fees.

(1) The director shall establish by rule the maximum fees that may be charged by notaries public for various notarial services.

(2) A notary public need not charge fees for notarial acts.

[1985 c 156 § 12.]

RCW 42.44.130 Notarial acts by officials of other jurisdictions.

(1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state, if performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

- (a) A notary public of that jurisdiction;
- (b) A judge, clerk, or deputy clerk of a court of that jurisdiction; or
- (c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

Notarial acts performed in other jurisdictions of the United States under federal authority as provided in RCW 42.44.140 have the same effect as if performed by a notarial officer of this state.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title of an officer listed in subsection (1)(a) and (b) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

[1985 c 156 § 13.]

RCW 42.44.140 Notarial acts by federal authorities.

(1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed by any of the following persons under authority granted by the law of the United States:

- (a) A judge, clerk, or deputy clerk of a court;
- (b) A commissioned officer in active service with the military forces of the United States;
- (c) An officer of the foreign service or consular agent of the United States; or
- (d) Any other person authorized by federal law to perform notarial acts.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title or rank of an officer listed in subsection (1)(a), (b), and (c) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

[1985 c 156 § 14.]

RCW 42.44.150 Notarial acts by foreign authorities.

(1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

- (a) A notary public or notary;
- (b) A judge, clerk, or deputy clerk of a court of record; or
- (c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(2) An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the designated office.

(3) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, is prima facie evidence of the authenticity or validity of the notarial act set forth in the certificate.

(4) A stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds that designated title.

(5) A stamp or seal of an officer listed in subsection (1)(a) or (b) of this section is prima facie evidence that a person with that title has authority to perform notarial acts.

(6) If the title of officer and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

[1985 c 156 § 15.]

RCW 42.44.160 Official misconduct--Penalty.

(1) A notary public commits official misconduct when he or she signs a certificate evidencing a notarial act, knowing that the contents of the certificate are false.

(2) A notary public who commits an act of official misconduct shall be guilty of a gross misdemeanor.

(3) Any person not appointed as a notary public who acts as or otherwise impersonates a notary public shall be guilty of a gross misdemeanor.

[1985 c 156 § 16.]

RCW 42.44.170 Revocation of appointment--Resignation.

(1) The director may revoke the appointment of any notary public for any reason for which appointment may be denied under RCW 42.44.030.

(2) The director shall revoke the appointment of a notary public upon a judicial finding of incompetency of the notary public. If a notary public is found to be incompetent, his or her guardian or conservator shall within thirty days of such finding mail or deliver to the director a letter of resignation on behalf of the notary public.

(3) A notary public may voluntarily resign by mailing or delivering to the director a letter of resignation.

[1985 c 156 § 17.]

RCW 42.44.180 Evidence of authenticity of notarial seal and signature.

(1) The authenticity of the notarial seal and official signature of a notary public of this state may be evidenced by:

(a) A certificate of authority from the director or the secretary of state; or

(b) An apostille in the form prescribed by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961.

(2) An apostille as specified by the Hague Convention shall be attached to any document requiring authentication that is sent to a nation that has signed and ratified the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

[1985 c 156 § 18.]

RCW 42.44.190 Rules.

On or before January 1, 1986, the director shall adopt rules to carry out this chapter. Such rules shall include but shall not be limited to rules concerning applications for appointment, application and renewal fees, fees chargeable for notarial services, the replacement of lost or stolen seals or stamps, changes of names or addresses of notaries, resignations of notaries, appeals of denials and revocations of appointments, and issuance of evidences of authenticity of notarial seals and signatures.

[1985 c 156 § 20.]

RCW 42.44.200 Transfer of records.

Records relating to the appointment and commissioning of notaries public that are in the custody of county clerks of this state on *the effective date of this act shall be transferred to the director of licensing on or before December 31, 1985. Such records may be archived by the director.

[1985 c 156 § 22.]

Notes:

***Reviser's note:** As used in this section, the phrase "the effective date of this act," is ambiguous; see RCW 42.44.903.

RCW 42.44.900 Savings--1985 c 156.

Nothing in this act may be interpreted to revoke any notary public appointment or commission existing on January 1, 1986. This act does not terminate, or in any way modify, any liability, civil or criminal, which exists on January 1, 1986. A notarial act performed before January 1, 1986, is not affected by this act.

[1985 c 156 § 21.]

RCW 42.44.901 Construction.

RCW 42.44.010, 42.44.080, 42.44.090, 42.44.100, 42.44.130, 42.44.140, and 42.44.150 shall be applied and construed to effectuate their general purpose to make the law uniform with respect to the subject of this chapter among states enacting such sections of this chapter.

[1985 c 156 § 23.]

RCW 42.44.902 Severability--1985 c 156.

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

[1985 c 156 § 24.]

RCW 42.44.903 Effective date--1985 c 156.

Sections 1 through 19, 21, and 23 through 26 shall take effect on January 1, 1986.

[1985 c 156 § 27.]

**Chapter 42.48 RCW
RELEASE OF RECORDS FOR RESEARCH**

Sections	
42.48.010	Definitions.
42.48.020	Access to personal records.
42.48.030	Charge for costs of assistance.
42.48.040	Disclosure by research professional.
42.48.050	Unauthorized disclosure--Penalties.
42.48.060	Exclusions from chapter.
42.48.900	Severability--1985 c 334.

RCW 42.48.010 Definitions.

For the purposes of this chapter, the following definitions apply:

(1) "Individually identifiable" means that a record contains information which reveals or can likely be associated with the identity of the person or persons to whom the record pertains.

(2) "Legally authorized representative" means a person legally authorized to give consent for the disclosure of personal records on behalf of a minor or a legally incompetent adult.

(3) "Personal record" means any information obtained or maintained by a state agency which refers to a person and which is declared exempt from public disclosure, confidential, or privileged under state or federal law.

(4) "Research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, by a scientific research professional associated with a bona fide scientific research organization, or by a graduate student currently enrolled in an advanced academic degree curriculum, with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This definition excludes methods of record analysis and data collection that are subjective, do not permit replication, and are not designed to yield reliable and valid results.

(5) "Research record" means an item or grouping of information obtained for the purpose of research from or about a person or extracted for the purpose of research from a personal record.

(6) "State agency" means: (a) The department of social and health services; (b) the department of corrections; (c) an institution of higher education as defined in RCW 28B.10.016; or (d) the department of health.

[1989 1st ex.s. c 9 § 207; 1985 c 334 § 1.]

Notes:

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

RCW 42.48.020 Access to personal records.

(1) A state agency may authorize or provide access to or provide copies of an individually identifiable personal record for research purposes if informed written consent for the disclosure has been given to the appropriate department secretary, or the president of the institution, as applicable, or his or her designee, by the person to whom the record pertains or, in

the case of minors and legally incompetent adults, the person's legally authorized representative.

(2) A state agency may authorize or provide access to or provide copies of an individually identifiable personal record for research purposes without the informed consent of the person to whom the record pertains or the person's legally authorized representative, only if:

(a) The state agency adopts research review and approval rules including, but not limited to, the requirement that the appropriate department secretary, or the president of the institution, as applicable, appoint a standing human research review board competent to review research proposals as to ethical and scientific soundness; and the review board determines that the disclosure request has scientific merit and is of importance in terms of the agency's program concerns, that the research purposes cannot be reasonably accomplished without disclosure of the information in individually identifiable form and without waiver of the informed consent of the person to whom the record pertains or the person's legally authorized representative, that disclosure risks have been minimized, and that remaining risks are outweighed by anticipated health, safety, or scientific benefits; and

(b) The disclosure does not violate federal law or regulations; and

(c) The state agency negotiates with the research professional receiving the records or record information a written and legally binding confidentiality agreement prior to disclosure. The agreement shall:

(i) Establish specific safeguards to assure the continued confidentiality and security of individually identifiable records or record information;

(ii) Ensure that the research professional will report or publish research findings and conclusions in a manner that does not permit identification of the person whose record was used for the research. Final research reports or publications shall not include photographs or other visual representations contained in personal records;

(iii) Establish that the research professional will destroy the individual identifiers associated with the records or record information as soon as the purposes of the research project have been accomplished and notify the agency to this effect in writing;

(iv) Prohibit any subsequent disclosure of the records or record information in individually identifiable form except as provided in RCW 42.48.040; and

(v) Provide for the signature of the research professional, of any of the research professional's team members who require access to the information in identified form, and of the agency official authorized to approve disclosure of identifiable records or record information for research purposes.

[1985 c 334 § 2.]

RCW 42.48.030 Charge for costs of assistance.

In addition to the copying charges provided in RCW 42.17.300, a state agency may impose a reasonable charge for costs incurred in providing assistance in the following research activities involving personal records:

(1) Manual or computer screening of personal records for scientific sampling purposes according to specifications provided by the research professional;

(2) Manual or computer extraction of information from a universe or sample of personal records according to specifications provided by the research professional;

(3) Statistical manipulation or analysis of personal record information, whether manually or by computer, according to specifications provided by the research professional.

The charges imposed by the agency may not exceed the amount necessary to reimburse the agency for its actual costs in providing requested research assistance.

[1985 c 334 § 3.]

RCW 42.48.040 Disclosure by research professional.

No research professional who has established an individually identifiable research record from personal record information pursuant to RCW 42.48.020(2), or who has established a research record from data or information voluntarily provided by an agency client or employee under a written confidentiality assurance for the explicit purpose of research, may disclose such a record in individually identifiable form unless:

(1) The person to whom the research record pertains or the person's legally authorized representative has given prior informed written consent for the disclosure; or

(2) The research professional reasonably believes that disclosure will prevent or minimize injury to a person and the disclosure is limited to information necessary to protect the person who has been or may be injured, and the research professional reports the disclosure only to the person involved or the person's guardian, the person's physician, and the agency; or

(3)(a) The research record is disclosed in individually identifiable form for the purposes of auditing or evaluating a research program; and

(b) The audit or evaluation is authorized or required by federal or state law or regulation or is based upon an explicit provision in a research contract, grant, or other written research agreement; and

(c) No subsequent disclosure of the research record in individually identifiable form will be made by the auditor or evaluator except as provided in this section; or

(4) The research record is furnished in compliance with a search warrant or court order: PROVIDED, That:

(a) The court issues the search warrant or judicial subpoena concerning the research record solely for the purpose of facilitating inquiry into an alleged violation of law by the research professional using the record for a research purpose or by the agency; and

(b) Any research record obtained pursuant to (a) of this subsection and any information directly or indirectly derived from the research record shall remain confidential to the extent possible and shall not be used as evidence in an administrative, judicial, or legislative proceeding except against the research professional using the record for a research purpose or against the state agency.

[1985 c 334 § 4.]

RCW 42.48.050 Unauthorized disclosure--Penalties.

Unauthorized disclosure, whether wilful or negligent, by a research professional who has obtained an individually identifiable personal record or record information from a state agency pursuant to RCW 42.48.020(2) is a gross misdemeanor. In addition, violation of any provision of this chapter by the research professional or the state agency may subject the research professional or the agency to a civil penalty of not more than ten thousand dollars for each such violation.

[1985 c 334 § 5.]

RCW 42.48.060 Exclusions from chapter.

Nothing in this chapter is applicable to, or in any way affects, the powers and duties of the state auditor or the joint legislative audit and review committee.

[1996 c 288 § 34; 1985 c 334 § 6.]

RCW 42.48.900 Severability--1985 c 334.

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

[1985 c 334 § 8.]

**Chapter 42.52 RCW
ETHICS IN PUBLIC SERVICE**

Sections

42.52.010	Definitions.
42.52.020	Activities incompatible with public duties.
42.52.030	Financial interests in transactions.
42.52.040	Assisting in transactions.
42.52.050	Confidential information--Improperly concealed records.
42.52.060	Testimony of state officers and state employees.
42.52.070	Special privileges.
42.52.080	Employment after public service.
42.52.090	Limited assistance by former state officers and employees.
42.52.100	Conditions on appearance before state agencies or doing business with the state--Hearing--Judicial review.
42.52.110	Compensation for official duties or nonperformance.
42.52.120	Compensation for outside activities.
42.52.130	Honoraria.
42.52.140	Gifts.
42.52.150	Limitations on gifts.
42.52.160	Use of persons, money, or property for private gain.
42.52.170	Giving, paying, loaning, etc., any thing of economic value to state employee.

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42.52.180	Use of public resources for political campaigns.
42.52.185	Restrictions on mailings by legislators.
42.52.190	Investments.
42.52.200	Agency rules.
42.52.310	Legislative ethics board.
42.52.320	Authority of legislative ethics board.
42.52.330	Interpretation.
42.52.340	Transfer of jurisdiction.
42.52.350	Executive ethics board.
42.52.360	Authority of executive ethics board.
42.52.370	Authority of commission on judicial conduct.
42.52.380	Political activities of board members.
42.52.390	Hearing and subpoena authority.
42.52.400	Enforcement of subpoena authority.
42.52.410	Filing complaint.
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42.52.425	Dismissal of complaint.
42.52.430	Public hearing--Findings.
42.52.440	Review of order.
42.52.450	Complaint against legislator or state-wide elected official.
42.52.460	Citizen actions.
42.52.470	Referral for enforcement.
42.52.480	Action by boards.
42.52.490	Action by attorney general.
42.52.500	Optional hearings by administrative law judge.
42.52.510	Rescission of state action.
42.52.520	Disciplinary action.
42.52.530	Additional investigative authority.
42.52.540	Limitations period.
42.52.550	Compensation of ethics boards.
42.52.800	Capitol furnishings preservation committee--Exemption.
42.52.900	Legislative declaration.
42.52.901	Liberal construction.
42.52.902	Parts and captions not law--1994 c 154.
42.52.903	Serving on board, committee, or commission not prevented.
42.52.904	Effective date--1994 c 154.
42.52.905	Severability--1994 c 154.

RCW 42.52.010 Definitions.

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

(1) "Agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch of state government. "Agency" includes all elective offices, the state legislature, those institutions of higher education created and supported by the state government, and those courts that are parts of state government.

(2) "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee, or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.

(3) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

(4) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(5) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person.

(6) "Confidential information" means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

(7) "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement.

(8) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive ethics board.

(9) "Family" has the same meaning as "immediate family" in RCW 42.17.020.

(10) "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

(a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;

(b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(e) Items a state officer or state employee is authorized by law to accept;

(f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses

incurred the day before through the day after the event;

(g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under chapter 42.17 RCW;

(i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

(11) "Honorarium" means money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer's or state employee's official role.

(12) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

(13) "Participate" means to participate in state action or a proceeding personally and substantially as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.

(14) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

(15) "Regulatory agency" means any state board, commission, department, or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings, issue permits or licenses, or to control or affect interests of identified persons.

(16) "Responsibility" in connection with a transaction involving the state, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove, or otherwise direct state action in respect of such transaction.

(17) "State action" means any action on the part of an agency, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

(18) "State officer" means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. "State officer" includes judges of the superior court, judges of the court of appeals, justices of the supreme court, members of the legislature together with the secretary of the senate and the chief clerk of the house of representatives, holders of elective offices in the executive branch of state government, chief executive officers of state agencies, members of boards, commissions, or committees with authority over one or more state agencies or institutions, and employees of the state who are engaged in supervisory, policy-making, or policy-enforcing work. For the purposes of this chapter, "state officer" also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

(19) "State employee" means an individual who is employed by an agency in any branch of state government. For purposes of this chapter, employees of the superior courts are not state officers or state employees.

(20) "Thing of economic value," in addition to its ordinary meaning, includes:

(a) A loan, property interest, interest in a contract or other chose in action, and employment or another arrangement involving a right to compensation;

(b) An option, irrespective of the conditions to the exercise of the option; and

(c) A promise or undertaking for the present or future delivery or procurement.

(21)(a) "Transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit.

[1998 c 7 § 1; 1996 c 213 § 1; 1994 c 154 § 101.]

RCW 42.52.020 Activities incompatible with public duties.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

[1996 c 213 § 2; 1994 c 154 § 102.]

RCW 42.52.030 Financial interests in transactions.

(1) No state officer or state employee, except as provided in subsections (2) and (3) of this section, may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

(2) No officer or employee of an institution of higher education or of the Spokane intercollegiate research and technology institute, except as provided in subsection (3) of this section, may be beneficially interested, directly or indirectly, in a contract or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or

accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract or grant, unless the institution of higher education or the Spokane intercollegiate research and technology institute has in effect a written administrative process to identify and manage, reduce, or eliminate conflicting interests with respect to such transactions as adopted pursuant to the national science investigator financial disclosure (GPM 510) 1995 and the public health service regulations, 42 C.F.R. Part 50 and 45 C.F.R. Subtitle A as each of those regulations existed on June 6, 1996, and the state employee or state officer has complied with such policy.

(3) No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest, except that an officer or employee of an institution of higher education or the Spokane intercollegiate research and technology institute may serve as an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel for any nonprofit institute, foundation, or fundraising entity; and may serve as a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

[1996 c 213 § 3; 1994 c 154 § 103.]

RCW 42.52.040 Assisting in transactions.

(1) Except in the course of official duties or incident to official duties, no state officer or state employee may assist another person, directly or indirectly, whether or not for compensation, in a transaction involving the state:

- (a) In which the state officer or state employee has at any time participated; or
- (b) If the transaction involving the state is or has been under the official responsibility of the state officer or state employee within a period of two years preceding such assistance.

(2) No state officer or state employee may share in compensation received by another for assistance that the officer or employee is prohibited from providing under subsection (1) or (3) of this section.

(3) A business entity of which a state officer or state employee is a partner, managing officer, or employee shall not assist another person in a transaction involving the state if the state officer or state employee is prohibited from doing so by subsection (1) of this section.

(4) This chapter does not prevent a state officer or state employee from assisting, in a transaction involving the state:

(a) The state officer's or state employee's parent, spouse, or child, or a child thereof for whom the officer or employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, if the state officer or state employee did not participate in the transaction; or

(b) Another state employee involved in disciplinary or other personnel administration proceedings.

[1994 c 154 § 104.]

RCW 42.52.050 Confidential information--Improperly concealed records.

(1) No state officer or state employee may accept employment or engage in any business or professional activity that the officer or employee might reasonably expect would require or induce him or her to make an unauthorized disclosure of confidential information acquired by the official or employee by reason of the official's or employee's official position.

(2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

(4) No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter 42.17 RCW, was under a personal obligation to release the record, and failed to do so. This subsection does not apply where the decision to withhold the record was made in good faith.

[1996 c 213 § 4; 1994 c 154 § 105.]

RCW 42.52.060 Testimony of state officers and state employees.

This chapter does not prevent a state officer or state employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt.

[1994 c 154 § 106.]

RCW 42.52.070 Special privileges.

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

[1994 c 154 § 107.]

RCW 42.52.080 Employment after public service.

(1) No former state officer or state employee may, within a period of one year from the date of termination of state employment, accept employment or receive compensation from an employer if:

(a) The officer or employee, during the two years immediately preceding termination of state employment, was engaged in the negotiation or administration on behalf of the state or agency of one or more contracts with that employer and was in a position to make discretionary decisions affecting the outcome of such negotiation or the nature of such administration;

(b) Such a contract or contracts have a total value of more than ten thousand dollars; and

(c) The duties of the employment with the employer or the activities for which the compensation would be received include fulfilling or implementing, in whole or in part, the provisions of such a contract or contracts or include the supervision or control of actions taken to fulfill or implement, in whole or in part, the provisions of such a contract or contracts. This subsection shall not be construed to prohibit a state officer or state employee from accepting employment with a state employee organization.

(2) No person who has served as a state officer or state employee may, within a period of two years following the termination of state employment, have a direct or indirect beneficial interest in a contract or grant that was expressly authorized or funded by specific legislative or executive action in which the former state officer or state employee participated.

(3) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the officer or employee knows or has reason to believe that the offer of employment or compensation was intended, in whole or in part, directly or indirectly, to influence the officer or employee or as compensation or reward for the performance or nonperformance of a duty by the officer or employee during the course of state employment.

(4) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the circumstances would lead a reasonable person to believe the offer has been made, or compensation given, for the purpose of influencing the performance or nonperformance of duties by the officer or employee during the course of state employment.

(5) No former state officer or state employee may at any time subsequent to his or her state employment assist another person, whether or not for compensation, in any transaction involving the state in which the former state officer or state employee at any time participated during state employment. This subsection shall not be construed to prohibit any employee or officer of a state employee organization from rendering assistance to state officers or state employees in the course of employee organization business.

(6) As used in this section, "employer" means a person as defined in RCW 42.52.010 or any other entity or business that the person owns or in which the person has a controlling interest. For purposes of subsection (1) of this section, the term "employer" does not include a successor organization to the rural development council under chapter 43.31 RCW.

[1999 c 299 § 3; 1994 c 154 § 108.]

RCW 42.52.090 Limited assistance by former state officers and employees.

This chapter shall not be construed to prevent a former state officer or state employee from rendering assistance to others if the assistance is provided without compensation in any form and is limited to one or more of the following:

(1) Providing the names, addresses, and telephone numbers of state agencies or state employees;

(2) Providing free transportation to another for the purpose of conducting business with a

state agency;

(3) Assisting a natural person or nonprofit corporation in obtaining or completing application forms or other forms required by a state agency for the conduct of a state business; or

(4) Providing assistance to the poor and infirm.

[1994 c 154 § 109.]

RCW 42.52.100 Conditions on appearance before state agencies or doing business with the state--Hearing--Judicial review.

(1) The head of an agency, upon finding that any former state officer or state employee of such agency or any other person has violated any provision of this chapter or rules adopted under it, may, in addition to any other powers the head of such agency may have, bar or impose reasonable conditions upon:

(a) The appearance before such agency of such former state officer or state employee or other person; and

(b) The conduct of, or negotiation or competition for, business with such agency by such former state officer or state employee or other person, such period of time as may reasonably be necessary or appropriate to effectuate the purposes of this chapter.

(2) Findings of violations referred to in subsection (1)(b) of this section shall be made on record after notice and hearing, conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW. Such findings and orders are subject to judicial review.

(3) This section does not apply to the legislative or judicial branches of government.

[1994 c 154 § 110; 1969 ex.s. c 234 § 27. Formerly RCW 42.18.270.]

RCW 42.52.110 Compensation for official duties or nonperformance.

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington; or (2) in the case of officers or employees of institutions of higher education or of the Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency.

[1996 c 213 § 5; 1994 c 154 § 111.]

RCW 42.52.120 Compensation for outside activities.

(1) No state officer or state employee may receive any thing of economic value under any contract or grant outside of his or her official duties. The prohibition in this subsection does not apply where the state officer or state employee has complied with RCW 42.52.030(2) or each of

the following conditions are met:

- (a) The contract or grant is bona fide and actually performed;
- (b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision;
- (c) The performance of the contract or grant is not prohibited by RCW 42.52.040 or by applicable laws or rules governing outside employment for the officer or employee;
- (d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW 42.52.150(4) from receiving a gift;
- (e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity;
- (f) The contract or grant would not require unauthorized disclosure of confidential information.

(2) In addition to satisfying the requirements of subsection (1) of this section, a state officer or state employee may have a beneficial interest in a grant or contract or a series of substantially identical contracts or grants with a state agency only if:

- (a) The contract or grant is awarded or issued as a result of an open and competitive bidding process in which more than one bid or grant application was received; or
- (b) The contract or grant is awarded or issued as a result of an open and competitive bidding or selection process in which the officer's or employee's bid or proposal was the only bid or proposal received and the officer or employee has been advised by the appropriate ethics board, before execution of the contract or grant, that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties; or
- (c) The process for awarding the contract or issuing the grant is not open and competitive, but the officer or employee has been advised by the appropriate ethics board that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties.

(3) A state officer or state employee awarded a contract or issued a grant in compliance with subsection (2) of this section shall file the contract or grant with the appropriate ethics board within thirty days after the date of execution; however, if proprietary formulae, designs, drawings, or research are included in the contract or grant, the proprietary formulae, designs, drawings, or research may be deleted from the contract or grant filed with the appropriate ethics board.

(4) This section does not prevent a state officer or state employee from receiving compensation contributed from the treasury of the United States, another state, county, or municipality if the compensation is received pursuant to arrangements entered into between such state, county, municipality, or the United States and the officer's or employee's agency. This section does not prohibit a state officer or state employee from serving or performing any duties under an employment contract with a governmental entity.

(5) As used in this section, "officer" and "employee" do not include officers and employees who, in accordance with the terms of their employment or appointment, are serving without compensation from the state of Washington or are receiving from the state only

reimbursement of expenses incurred or a predetermined allowance for such expenses.

[1997 c 318 § 1; 1996 c 213 § 6; 1994 c 154 § 112.]

RCW 42.52.130 Honoraria.

(1) No state officer or state employee may receive honoraria unless specifically authorized by the agency where they serve as state officer or state employee.

(2) An agency may not permit honoraria under the following circumstances:

(a) The person offering the honorarium is seeking or is reasonably expected to seek contractual relations with or a grant from the employer of the state officer or state employee, and the officer or employee is in a position to participate in the terms or the award of the contract or grant;

(b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or

(c) The person offering the honorarium (i) is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by the state officer's or state employee's agency; and (ii) the officer or employee may participate in the enactment or adoption.

[1994 c 154 § 113.]

RCW 42.52.140 Gifts.

No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

[1994 c 154 § 114.]

RCW 42.52.150 Limitations on gifts.

(1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

- (a) Unsolicited flowers, plants, and floral arrangements;
- (b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- (c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
- (e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- (f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;
- (g) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and
- (h) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

- (a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- (b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
- (d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- (e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;
- (f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and
- (g) Those items excluded from the definition of gift in RCW 42.52.010 except:
 - (i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an

official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17 RCW.

[1998 c 7 § 2; 1994 c 154 § 115.]

RCW 42.52.160 Use of persons, money, or property for private gain.

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

(3) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties.

[1996 c 213 § 7; 1994 c 154 § 116; 1987 c 426 § 3. Formerly RCW 42.18.217.]

RCW 42.52.170 Giving, paying, loaning, etc., any thing of economic value to state employee.

No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to any other person any thing of economic value believing or having reason to believe that there exist circumstances making the receipt thereof a violation of RCW 42.52.040, 42.52.110, 42.52.120, 42.52.140, or 42.52.150.

[1994 c 154 § 117; 1987 c 426 § 5; 1969 ex.s. c 234 § 23. Formerly RCW 42.18.230.]

RCW 42.52.180 Use of public resources for political campaigns.

(1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and

equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c) Activities that are part of the normal and regular conduct of the office or agency; and

(d) De minimis use of public facilities by state-wide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of RCW 42.17.130.

[1995 c 397 § 30; 1994 c 154 § 118.]

Notes:

Effective date--Captions--Severability--1995 c 397: See RCW 42.17.960 through 42.17.962.

RCW 42.52.185 Restrictions on mailings by legislators.

(1) During the twelve-month period beginning on December 1st of the year before a general election for a state legislator's election to office and continuing through November 30th immediately after the general election, the legislator may not mail, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as follows:

(a) The legislator may mail two mailings of newsletters to constituents. All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address. One such mailing may be mailed no later than thirty days after the start of a regular legislative session, except that a legislator appointed during a regular legislative session to fill a vacant seat may have up to thirty days from the date of appointment to send out the first mailing. The other mailing may be mailed no later than sixty days after the end of a regular legislative session.

(b) The legislator may mail an individual letter to (i) an individual constituent who has

contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; (ii) an individual constituent who holds a governmental office with jurisdiction over the subject matter of the letter; or (iii) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person, including, but not limited to: (A) An international or national award such as the Nobel prize or the Pulitzer prize; (B) a state award such as Washington scholar; (C) an Eagle Scout award; and (D) a Medal of Honor.

(2) For purposes of subsection (1) of this section, "legislator" means a legislator who is a "candidate," as defined by RCW 42.17.020, for any public office.

(3) A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.52.180.

(4) The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings. Those costs include, but are not limited to, production costs, printing costs, and postage costs. The limits imposed under this subsection apply only to the total expenditures on mailings per member and not to any categorical cost within the total.

(5) For purposes of this section, persons residing outside the legislative district represented by the legislator are not considered to be constituents, but students, military personnel, or others temporarily employed outside of the district who normally reside in the district are considered to be constituents.

[1997 c 320 § 1; 1995 c 397 § 5; 1993 c 2 § 25 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.132.]

RCW 42.52.190 Investments.

(1) Except for permissible investments as defined in this section, no state officer or state employee of any agency responsible for the investment of funds, who acts in a decision-making, advisory, or policy-influencing capacity with respect to investments, may have a direct or indirect interest in any property, security, equity, or debt instrument of a person, without prior written approval of the agency.

(2) Agencies responsible for the investment of funds shall adopt policies governing approval of investments and establishing criteria to be considered in the approval process. Criteria shall include the relationship between the proposed investment and investments held or under consideration by the state, the size and timing of the proposed investment, access by the state officer or state employee to nonpublic information relative to the proposed investment, and the availability of the investment in the public market. Agencies responsible for the investment of funds also shall adopt policies consistent with this chapter governing use by their officers and employees of financial information acquired by virtue of their state positions. A violation of such policies adopted to implement this subsection shall constitute a violation of this chapter.

(3) As used in this section, "permissible investments" means any mutual fund, deposit account, certificate of deposit, or money market fund maintained with a bank, broker, or other financial institution, a security publicly traded in an organized market if the interest in the security at acquisition is ten thousand dollars or less, or an interest in real estate, except if the

real estate interest is in or with a party in whom the agency holds an investment.

[1994 c 154 § 119.]

RCW 42.52.200 Agency rules.

(1) Each agency may adopt rules consistent with law, for use within the agency to protect against violations of this chapter.

(2) Each agency proposing to adopt rules under this section shall forward the rules to the appropriate ethics board before they may take effect. The board may submit comments to the agency regarding the proposed rules.

[1994 c 154 § 120.]

RCW 42.52.310 Legislative ethics board.

(1) The legislative ethics board is created, composed of nine members, selected as follows:

(a) Two senators, one from each of the two largest caucuses, appointed by the president of the senate;

(b) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(c) Five citizen members:

(i) One citizen member chosen by the governor from a list of three individuals submitted by each of the four legislative caucuses; and

(ii) One citizen member selected by three of the four other citizen members of the legislative ethics board.

(2) Except for initial members and members completing partial terms, nonlegislative members shall serve a single five-year term.

(3) No more than three of the public members may be identified with the same political party.

(4) Terms of initial nonlegislative board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed for a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Legislative members shall serve two-year terms, from January 31st of an odd-numbered year until January 31st of the next odd-numbered year.

(7) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(8) The citizen members shall annually select a chair from among themselves.

[1994 c 154 § 201.]

RCW 42.52.320 Authority of legislative ethics board.

(1) The legislative ethics board shall enforce this chapter and rules adopted under it with respect to members and employees of the legislature.

(2) The legislative ethics board shall:

(a) Develop educational materials and training with regard to legislative ethics for legislators and legislative employees;

(b) Issue advisory opinions;

(c) Adopt rules or policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW 42.52.180 and where otherwise authorized under chapter 154, Laws of 1994;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend suspension or removal to the appropriate legislative entity, or recommend prosecution to the appropriate authority; and

(g) Establish criteria regarding the levels of civil penalties appropriate for different types of violations of this chapter and rules adopted under it.

(3) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(4) Subject to RCW 42.52.540, the board has jurisdiction over any alleged violation that occurred before January 1, 1995, and that was within the jurisdiction of any of the boards established under *chapter 44.60 RCW. The board's jurisdiction with respect to any such alleged violation shall be based on the statutes and rules in effect at [the] time of the violation.

[1994 c 154 § 202.]

Notes:

***Reviser's note:** Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

RCW 42.52.330 Interpretation.

By constitutional design, the legislature consists of citizen-legislators who bring to bear on the legislative process their individual experience and expertise. The provisions of this chapter shall be interpreted in light of this constitutional principle.

[1994 c 154 § 203.]

RCW 42.52.340 Transfer of jurisdiction.

On January 1, 1995, any complaints or other matters under investigation or consideration

by the boards of legislative ethics in the house of representatives and the senate operating pursuant to *chapter 44.60 RCW shall be transferred to the legislative ethics board created by RCW 42.52.310. All files, including but not limited to minutes of meetings, investigative files, records of proceedings, exhibits, and expense records, shall be transferred to the legislative ethics board created in RCW 42.52.310 pursuant to their direction and the legislative ethics board created in RCW 42.52.310 shall assume full jurisdiction over all pending complaints, investigations, and proceedings.

[1994 c 154 § 204.]

Notes:

***Reviser's note:** Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

RCW 42.52.350 Executive ethics board.

(1) The executive ethics board is created, composed of five members, appointed by the governor as follows:

(a) One member shall be a classified service employee as defined in chapter 41.06 RCW;
(b) One member shall be a state officer or state employee in an exempt position;
(c) One member shall be a citizen selected from a list of three names submitted by the attorney general;

(d) One member shall be a citizen selected from a list of three names submitted by the state auditor; and

(e) One member shall be a citizen selected at large by the governor.

(2) Except for initial members and members completing partial terms, members shall serve a single five-year term.

(3) No more than three members may be identified with the same political party.

(4) Terms of initial board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed to a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(7) The members shall annually select a chair from among themselves.

(8) Staff shall be provided by the office of the attorney general.

[1994 c 154 § 205.]

RCW 42.52.360 Authority of executive ethics board.

(1) The executive ethics board shall enforce this chapter and rules adopted under it with respect to state-wide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

- (2) The executive ethics board shall:
 - (a) Develop educational materials and training;
 - (b) Adopt rules and policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW 42.52.180 and where otherwise authorized under chapter 154, Laws of 1994;
 - (c) Issue advisory opinions;
 - (d) Investigate, hear, and determine complaints by any person or on its own motion;
 - (e) Impose sanctions including reprimands and monetary penalties;
 - (f) Recommend to the appropriate authorities suspension, removal from position, prosecution, or other appropriate remedy; and
 - (g) Establish criteria regarding the levels of civil penalties appropriate for violations of this chapter and rules adopted under it.
- (3) The board may:
 - (a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;
 - (b) Administer oaths and affirmations;
 - (c) Examine witnesses; and
 - (d) Receive evidence.
- (4) The executive ethics board may review and approve agency policies as provided for in this chapter.
- (5) This section does not apply to state officers and state employees of the judicial branch.

[1994 c 154 § 206.]

RCW 42.52.370 Authority of commission on judicial conduct.

The commission on judicial conduct shall enforce this chapter and rules adopted under it with respect to state officers and employees of the judicial branch and may do so according to procedures prescribed in Article IV, section 31 of the state Constitution. In addition to the sanctions authorized in Article IV, section 31 of the state Constitution, the commission may impose sanctions authorized by this chapter.

[1994 c 154 § 207.]

RCW 42.52.380 Political activities of board members.

(1) No member of the executive ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter 42.17 RCW other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any state candidate or state ballot measure; or (d) lobby or control, direct, or assist a lobbyist except that such member may appear

before any committee of the legislature on matters pertaining to this chapter.

(2) No citizen member of the legislative ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter 42.17 RCW, other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any legislative candidate, any legislative caucus campaign committee that supports or opposes legislative candidates, or any political action committee that supports or opposes legislative candidates; or (d) engage in lobbying in the legislative branch under circumstances not exempt, under RCW 42.17.160, from lobbyist registration and reporting.

(3) No citizen member of the legislative ethics board may hold or campaign for a seat in the state house of representatives or the state senate within two years of serving on the board if the citizen member opposes an incumbent who has been the respondent in a complaint before the board.

[1997 c 11 § 1; 1994 c 154 § 208.]

RCW 42.52.390 Hearing and subpoena authority.

Except as otherwise provided by law, the ethics boards may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the ethics board. The ethics board may make rules as to the issuance of subpoenas by individual members, as to service of complaints, decisions, orders, recommendations, and other process or papers of the ethics board.

[1994 c 154 § 209.]

RCW 42.52.400 Enforcement of subpoena authority.

In case of refusal to obey a subpoena issued to a person, the superior court of a county within the jurisdiction of which the investigation, proceeding, or hearing under this chapter is carried on or within the jurisdiction of which the person refusing to obey is found or resides or transacts business, upon application by the appropriate ethics board shall have jurisdiction to issue to the person an order requiring the person to appear before the ethics board or its member to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as contempt.

[1994 c 154 § 210.]

RCW 42.52.410 Filing complaint.

(1) A person may, personally or by his or her attorney, make, sign, and file with the appropriate ethics board a complaint on a form provided by the appropriate ethics board. The

complaint shall state the name of the person alleged to have violated this chapter or rules adopted under it and the particulars thereof, and contain such other information as may be required by the appropriate ethics board.

(2) If it has reason to believe that any person has been engaged or is engaging in a violation of this chapter or rules adopted under it, an ethics board may issue a complaint.

[1994 c 154 § 211.]

RCW 42.52.420 Investigation.

(1) After the filing of any complaint, except as provided in RCW 42.52.450, the staff of the appropriate ethics board shall investigate the complaint. The investigation shall be limited to the allegations contained in the complaint.

(2) The results of the investigation shall be reduced to writing and the staff shall either make a determination that the complaint should be dismissed pursuant to RCW 42.52.425, or recommend to the board that there is or that there is not reasonable cause to believe that a violation of this chapter or rules adopted under it has been or is being committed.

(3) The board's determination on reasonable cause shall be provided to the complainant and to the person named in such complaint.

[2000 c 211 § 1; 1994 c 154 § 212.]

RCW 42.52.425 Dismissal of complaint.

(1) Based on the investigation conducted under RCW 42.52.420, and subject to rules issued by each board, the staff of the appropriate ethics board may issue an order of dismissal based on any of the following findings:

- (a) Any violation that may have occurred is not within the jurisdiction of the board;
- (b) The complaint is obviously unfounded or frivolous; or
- (c) Any violation that may have occurred does not constitute a material violation because it was inadvertent and minor, or has been cured, and, after consideration of all of the circumstances, further proceedings would not serve the purposes of this chapter.

(2) Written notice of the determination under subsection (1) of this section shall be provided to the complainant, respondent, and the board. The written notice to the complainant shall include a statement of the complainant's right to appeal to the board under subsection (3) of this section.

(3) In the event that a complaint is dismissed under this section, the complainant may request that the board review the action. Following review, the board shall:

- (a) Affirm the staff dismissal;
- (b) Direct the staff to conduct further investigation; or
- (c) Issue a determination that there is reasonable cause to believe that a violation has been or is being committed.

(4) The board's decision under subsection (3) of this section shall be reduced to writing and provided to the complainant and the respondent.

[2000 c 211 § 2.]

RCW 42.52.430 Public hearing--Findings.

(1) If the ethics board determines there is reasonable cause under RCW 42.52.420 that a violation of this chapter or rules adopted under it occurred, a public hearing on the merits of the complaint shall be held.

(2) The ethics board shall designate the location of the hearing. The case in support of the complaint shall be presented at the hearing by staff of the ethics board.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine witnesses.

(4) Testimony taken at the hearing shall be under oath and recorded.

(5) If, based upon a preponderance of the evidence, the ethics board finds that the respondent has violated this chapter or rules adopted under it, the board shall file an order stating findings of fact and enforcement action as authorized under this chapter.

(6) If, upon all the evidence, the ethics board finds that the respondent has not engaged in an alleged violation of this chapter or rules adopted under it, the ethics board shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(7) If the board makes a determination that there is not reasonable cause to believe that a violation has been or is being committed or has made a finding under subsection (6) of this section, the attorney general shall represent the officer or employee in any action subsequently commenced based on the alleged facts in the complaint.

[1994 c 154 § 213.]

RCW 42.52.440 Review of order.

Except as otherwise provided by law, reconsideration or judicial review of an ethics board's order that a violation of this chapter or rules adopted under it has occurred shall be governed by the provisions of chapter 34.05 RCW applicable to review of adjudicative proceedings.

[1994 c 154 § 214.]

RCW 42.52.450 Complaint against legislator or state-wide elected official.

(1) If a complaint alleges a violation of RCW 42.52.180 by a legislator or state-wide elected official other than the attorney general, the attorney general shall conduct the investigation under RCW 42.52.420 and recommend action to the appropriate ethics board.

(2) If a complaint alleges a violation of RCW 42.52.180 by the attorney general, the state auditor shall conduct the investigation under RCW 42.52.420 and recommend action to the appropriate ethics board.

[1994 c 154 § 215.]

RCW 42.52.460 Citizen actions.

Any person who has notified the appropriate ethics board and the attorney general in writing that there is reason to believe that RCW 42.52.180 is being or has been violated may, in the name of the state, bring a citizen action for any of the actions authorized under this chapter. A citizen action may be brought only if the appropriate ethics board or the attorney general have failed to commence an action under this chapter within forty-five days after notice from the person, the person has thereafter notified the appropriate ethics board and the attorney general that the person will commence a citizen's action within ten days upon their failure to commence an action, and the appropriate ethics board and the attorney general have in fact failed to bring an action within ten days of receipt of the second notice.

If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but the person shall be entitled to be reimbursed by the state of Washington for costs and attorneys' fees incurred. If a citizen's action that the court finds was brought without reasonable cause is dismissed, the court may order the person commencing the action to pay all costs of trial and reasonable attorneys' fees incurred by the defendant.

Upon commencement of a citizen action under this section, at the request of a state officer or state employee who is a defendant, the office of the attorney general shall represent the defendant if the attorney general finds that the defendant's conduct complied with this chapter and was within the scope of employment.

[1994 c 154 § 216.]

RCW 42.52.470 Referral for enforcement.

As appropriate, an ethics board may refer a complaint:

(1) To an agency for initial investigation and proposed resolution which shall be referred back to the appropriate ethics board for action; or

(2) To the attorney general's office or prosecutor for appropriate action.

[1994 c 154 § 217.]

RCW 42.52.480 Action by boards.

(1) Except as otherwise provided by law, an ethics board may order payment of the following amounts if it finds a violation of this chapter or rules adopted under it after a hearing under RCW 42.52.370 or other applicable law:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or

rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) Damages under this section may be enforced in the same manner as a judgment in a civil case.

[1994 c 154 § 218.]

RCW 42.52.490 Action by attorney general.

(1) Upon a written determination by the attorney general that the action of an ethics board was clearly erroneous or if requested by an ethics board, the attorney general may bring a civil action in the superior court of the county in which the violation is alleged to have occurred against a state officer, state employee, former state officer, former state employee, or other person who has violated or knowingly assisted another person in violating any of the provisions of this chapter or the rules adopted under it. In such action the attorney general may recover the following amounts on behalf of the state of Washington:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or the rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) In any civil action brought by the attorney general upon the basis that the attorney general has determined that the board's action was clearly erroneous, the court shall not proceed with the action unless the attorney general has first shown, and the court has found, that the action of the board was clearly erroneous.

[1994 c 154 § 219.]

RCW 42.52.500 Optional hearings by administrative law judge.

If an ethics board finds that there is reasonable cause to believe that a violation has occurred, the board shall consider the possibility of the alleged violator having to pay a total amount of penalty and costs of more than five hundred dollars. Based on such consideration, the board may give the person who is the subject of the complaint the option to have an administrative law judge conduct the hearing and rule on procedural and evidentiary matters. The board may also, on its own initiative, provide for retaining an administrative law judge. An ethics board may not require total payment of more than five hundred dollars in penalty and costs in any case where an administrative law judge is not used and the board did not give such option to the person who is the subject of the complaint.

[1994 c 154 § 220.]

RCW 42.52.510 Rescission of state action.

(1) The attorney general may, on request of the governor or the appropriate agency, and in addition to other available rights of rescission, bring an action in the superior court of Thurston county to cancel or rescind state action taken by a state officer or state employee, without liability to the state of Washington, contractual or otherwise, if the governor or ethics board has reason to believe that: (a) A violation of this chapter or rules adopted under it has substantially influenced the state action, and (b) the interest of the state requires the cancellation or rescission. The governor may suspend state action pending the determination of the merits of the controversy under this section. The court may permit persons affected by the governor's actions to post an adequate bond pending such resolution to ensure compliance by the defendant with the final judgment, decree, or other order of the court.

(2) This section does not limit other available remedies.

[1994 c 154 § 221.]

RCW 42.52.520 Disciplinary action.

(1) A violation of this chapter or rules adopted under it is grounds for disciplinary action.

(2) The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally; for those state officers and state employees not specifically exempted in chapter 41.06 RCW, the rules set forth in chapter 41.06 RCW shall apply. Any action against the state officer or state employee shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of state officers and state employees of the same category and grade.

[1994 c 154 § 222; 1969 ex.s. c 234 § 26. Formerly RCW 42.18.260.]

RCW 42.52.530 Additional investigative authority.

In addition to other authority under this chapter, the attorney general may investigate persons not under the jurisdiction of an ethics board whom the attorney general has reason to believe were involved in transactions in violation of this chapter or rules adopted under it.

[1994 c 154 § 223.]

RCW 42.52.540 Limitations period.

Any action taken under this chapter must be commenced within five years from the date of the violation. However, if it is shown that the violation was not discovered because of concealment by the person charged, then the action must be commenced within two years from the date the violation was discovered or reasonably should have been discovered: (1) By any

person with direct or indirect supervisory responsibilities over the person who allegedly committed the violation; or (2) if no person has direct or indirect supervisory authority over the person who committed the violation, by the appropriate ethics board.

[1994 c 154 § 224.]

RCW 42.52.550 Compensation of ethics boards.

The citizen members of the legislative ethics board and the members of the executive ethics board shall be compensated as provided in RCW 43.03.250 and reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislator members of the legislative ethics board shall be reimbursed as provided in RCW 44.04.120.

[1994 c 154 § 227.]

RCW 42.52.800 Capitol furnishings preservation committee--Exemption.

When soliciting charitable gifts, grants, or donations solely for the limited purposes of RCW 27.48.040, members of the capitol furnishings preservation committee are exempt from the laws of this chapter.

[1999 c 343 § 4.]

Notes:

Findings--Purpose--1999 c 343: See note following RCW 27.48.040.

RCW 42.52.900 Legislative declaration.

Government derives its powers from the people. Ethics in government are the foundation on which the structure of government rests. State officials and employees of government hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling the responsibilities to which they are elected and appointed. Paramount in that trust is the principle that public office, whether elected or appointed, may not be used for personal gain or private advantage.

The citizens of the state expect all state officials and employees to perform their public responsibilities in accordance with the highest ethical and moral standards and to conduct the business of the state only in a manner that advances the public's interest. State officials and employees are subject to the sanctions of law and scrutiny of the media; ultimately, however, they are accountable to the people and must consider this public accountability as a particular obligation of the public service. Only when affairs of government are conducted, at all levels, with openness as provided by law and an unswerving commitment to the public good does government work as it should.

The obligations of government rest equally on the state's citizenry. The effectiveness of government depends, fundamentally, on the confidence citizens can have in the judgments and decisions of their elected representatives. Citizens, therefore, should honor and respect the principles and the spirit of representative democracy, recognizing that both elected and

appointed officials, together with state employees, seek to carry out their public duties with professional skill and dedication to the public interest. Such service merits public recognition and support.

All who have the privilege of working for the people of Washington state can have but one aim: To give the highest public service to its citizens.

[1994 c 154 § 1.]

RCW 42.52.901 Liberal construction.

This chapter shall be construed liberally to effectuate its purposes and policy and to supplement existing laws as may relate to the same subject.

[1994 c 154 § 301.]

RCW 42.52.902 Parts and captions not law--1994 c 154.

Parts and captions used in this act do not constitute any part of the law.

[1994 c 154 § 302.]

RCW 42.52.903 Serving on board, committee, or commission not prevented.

Nothing in this chapter shall be interpreted to prevent a member of a board, committee, advisory commission, or other body required or permitted by statute to be appointed from any identifiable group or interest, from serving on such body in accordance with the intent of the legislature in establishing such body.

[1969 ex.s. c 234 § 33. Formerly RCW 42.18.330.]

RCW 42.52.904 Effective date--1994 c 154.

Sections 101 through 121, 203, 204, 207 through 224, and 301 through 317 of this act shall take effect January 1, 1995.

[1994 c 154 § 319.]

RCW 42.52.905 Severability--1994 c 154.

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

[1994 c 154 § 320.]

Title 43 RCW

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- 43.03 Salaries and expenses.**
- 43.04 Use of state seal.**
- 43.05 Technical assistance programs.**
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NOTES:

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Discrimination, human rights commission: Chapter 49.60 RCW.

Education, board of: Chapter 28A.305 RCW.

Employment security department: Chapter 50.08 RCW.

Energy facility site evaluation council: RCW 80.50.030.

Fish and wildlife commission: Title 77 RCW.

Fish and wildlife department: Chapter 77.04 RCW.

Horse racing commission: Chapter 67.16 RCW.

Infractions: Chapter 7.84 RCW.

Insurance commissioner: RCW 48.02.010.

Liquor control board: Chapter 66.08 RCW.

Personnel, department of: RCW 41.06.030.

Public bodies may retain collection agencies to collect public debts--Fees: RCW 19.16.500.

Public employment relations commission: Chapter 41.56 RCW.

Radiation control agency: RCW 70.98.050 through 70.98.200.

Retirement systems, department of: Chapter 41.50 RCW.

Transportation, department of: Chapter 47.01 RCW.

Utilities and transportation commission: Chapter 80.01 RCW.

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Chapter 43.01 RCW

STATE OFFICERS--GENERAL PROVISIONS

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Boards and commissions, termination: RCW 43.41.220.
Bribery: State Constitution Art. 2 § 30; chapters 9.18, 9A.68 RCW.
Campaign financing, disclosure: Chapter 42.17 RCW.
Civil service law: Chapter 41.06 RCW.
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Compensation not to be changed during term: State Constitution Art. 2 § 25, Art. 3 § 25, Art. 28 § 1.
Continuity of government during emergency periods: State Constitution Art. 2 § 42; chapter 42.14 RCW.
Debts owed to state, interest rate: RCW 43.17.240.
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Ethics provisions: Chapter 42.52 RCW.
Expense accounts, falsifying: RCW 9A.60.050.
Expenses and per diem: RCW 43.03.050.
False personation of public officer: RCW 42.20.030.
Free transportation prohibited: State Constitution Art. 2 § 39, Art. 12 § 20.
Grand jury inquiry as to misconduct: RCW 10.27.100.
Hospitalization and medical aid for employees and dependents: RCW 41.04.180, 41.04.190.
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Information to be furnished to governor in writing: State Constitution Art. 3 § 5.
Interchange of personnel between federal and state agencies: RCW 41.04.140 through 41.04.170.
Interfering with law enforcement officer: RCW 9A.76.020.
Intrusion into public office without authority: RCW 42.20.030.
Jury duty, exemption from: RCW 2.36.080.
Limitations of actions: Chapter 4.16 RCW.
Meetings, open to public: Chapter 42.30 RCW, RCW 42.32.030.
Mileage allowance: RCW 43.03.060.
Military leaves of absence: RCW 38.40.060.
Misappropriation of funds or property: RCW 40.16.020, 42.20.070, 42.20.090.
Misconduct of public officers: Chapter 42.20 RCW.
Misfeasance in office: RCW 42.20.100.
Neglect of duty: RCW 42.20.100.
Office hours, state officers: RCW 42.04.060.
Passes, acceptance and use prohibited: State Constitution Art. 2 § 39, Art. 12 § 20.
Performing duties without authority: RCW 42.20.030.
Postage, periodicals, purchase by governmental agencies, payment: RCW 42.24.035.
Privileged communications: RCW 5.60.060.
Purchasing, acceptance of benefits or gifts by state officers prohibited: RCW 42.20.020, 43.19.1937.
Qualifications: State Constitution Art. 3 § 25; RCW 42.04.020.
Quo warranto proceedings: Chapter 7.56 RCW.
Recall of elective officers: State Constitution Art. 1 § 33.
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Records to be kept at seat of government: State Constitution Art. 3 § 24.
Refusing to pay over money received: RCW 42.20.070.

Residence requirement during term: State Constitution Art. 3 § 24.
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Retirement system, state employees: Chapter 41.40 RCW.
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Tort claims against state: Chapter 4.92 RCW.
Usurpation of office, quo warranto proceedings: Chapter 7.56 RCW.
Venue of actions against: RCW 4.12.020.
Wage deductions for charitable contributions: RCW 41.04.035, 41.04.036.

RCW 43.01.010 Terms of office.

The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall hold office for the term of four years, and until their successors are elected and qualified; and the term shall commence on the Wednesday after the second Monday of January following their election.

[1965 c 8 § 43.01.010. Prior: 1891 c 82 § 1; RRS § 10980.]

Notes:

Term of person elected to fill vacancy: RCW 42.12.030.
Terms of office: State Constitution Art. 3 § 3.
Vacancies in office: Chapter 42.12 RCW.

RCW 43.01.015 Governor, lieutenant governor--Terms limited.

(1) No person is eligible to appear on the ballot or file a declaration of candidacy for governor who, by the end of the then current term of office will have served, or but for resignation would have served, as governor during eight of the previous fourteen years.

(2) No person is eligible to appear on the ballot or file a declaration of candidacy for lieutenant governor who, by the end of the then current term of office will have served, or but for resignation would have served, as lieutenant governor during eight of the previous fourteen years.

[1993 c 1 § 2 (Initiative Measure No. 573, approved November 3, 1992).]

Notes:

Preamble--1993 c 1 (Initiative Measure No. 573): "The people of the state of Washington find that:
(1) The people will best be served by citizen legislators who are subject to a reasonable degree of rotation in office;
(2) Entrenched incumbents have become indifferent to the conditions and concerns of the people;
(3) Entrenched incumbents have an inordinate advantage in elections because of their control of campaign finance laws and gerrymandering of electoral districts;

(4) Entrenched incumbency has discouraged qualified citizens from seeking public office;

(5) Entrenched incumbents have become preoccupied with their own reelection and devote more effort to campaigning than to making legislative decisions for the benefit of the people;

(6) Entrenched incumbents have become closely aligned with special interest groups who provide contributions and support for their reelection campaigns, give entrenched incumbents special favors, and lobby office holders for special interest legislation to the detriment of the people of this state, and may create corruption or the appearance of corruption of the legislative system;

(7) The people of Washington have a compelling interest in preventing the self-perpetuating monopoly of elective office by a dynastic ruling class.

The people of the state of Washington therefore adopt this act to limit ballot access of candidates for state and federal elections." [1993 c 1 § 1 (Initiative Measure No. 573, approved November 3, 1992).]

Severability--1993 c 1 (Initiative Measure No. 573): "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 1 § 10 (Initiative Measure No. 573, approved November 3, 1992).]

RCW 43.01.020 Oath of office.

The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation in substance as follows: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the state of Washington, and that I will faithfully discharge the duties of the office of (name of office) to the best of my ability.

The oath or affirmation shall be administered by one of the justices of the supreme court at the capitol. A certificate shall be affixed thereto by the person administering the oath, and the oath or affirmation so certified shall be filed in the office of the secretary of state before the officer shall be qualified to discharge any official duties: PROVIDED, That the oath of the secretary of state shall be filed in the office of the state auditor.

[1965 c 8 § 43.01.020. Prior: 1909 c 43 § 1; RRS § 10981.]

Notes:

Attorney general, oath of office: RCW 43.10.010.

Commissioner of public lands, oaths of employees: RCW 79.01.056, 79.01.068.

Court commissioners, oath of office: RCW 2.24.020.

Election officials, oaths required: RCW 29.45.080 through 29.45.110.

Engineers and land surveyors' board of registration, oath required: RCW 18.43.030.

Horse racing commission, oath of office: RCW 67.16.012.

Judges of superior court, oath of office: State Constitution Art. 4 § 28; RCW 2.08.080, 2.08.180.

Judges of supreme court, oath of office: State Constitution Art. 4 § 28; RCW 2.04.080.

Liquor control board, oath of office: RCW 66.08.014.

Militia, oath of office: RCW 38.12.150, 38.12.160.

Oaths, mode of administering: State Constitution Art. 1 § 6.

Perjury, oath defined: RCW 9A.72.010.

State administrative officers, oath required: RCW 43.17.030.

State auditor, oath of office: RCW 43.09.010.

State treasurer, oath of office: RCW 43.08.020.

Subversive activities, oath required of public officers and employees: RCW 9.81.070.

University of Washington, board of regents, oath required: RCW 28B.10.520.

Utilities and transportation commission: RCW 80.01.020.

Washington State University, board of regents: RCW 28B.10.520.

RCW 43.01.035 Reports--Periods to be covered.

All biennial reports to the legislature and the governor shall cover the period comprising the first full fiscal year of the then current biennium and the last full fiscal year of the biennium immediately preceding. All annual reports to the governor shall cover the full fiscal year immediately preceding the date of said report.

[1965 c 8 § 43.01.035. Prior: 1953 c 184 § 3.]

RCW 43.01.040 Vacations--Computation and accrual--Transfer--Statement of necessity required for extension of unused leave.

Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under their contract of employment with the state government to not less than one working day of vacation leave with full pay for each month of employment if said employment is continuous for six months.

Each such subordinate officer and employee shall be entitled under such contract of employment to not less than one additional working day of vacation with full pay each year for satisfactorily completing the first two, three and five continuous years of employment respectively.

Such part time officers or employees of the state government who are employed on a regular schedule of duration of not less than one year shall be entitled under their contract of employment to that fractional part of the vacation leave that the total number of hours of such employment bears to the total number of hours of full time employment.

Each subordinate officer and employee of the several offices, departments and institutions of the state government shall be entitled under his contract of employment with the state government to accrue unused vacation leave not to exceed thirty working days. Officers and employees transferring within the several offices, departments and institutions of the state government shall be entitled to transfer such accrued vacation leave to each succeeding state office, department or institution. All vacation leave shall be taken at the time convenient to the employing office, department or institution: PROVIDED, That if a subordinate officer's or employee's request for vacation leave is deferred by reason of the convenience of the employing office, department or institution, and a statement of the necessity therefor is filed by such employing office, department or institution with the appropriate personnel board or other state agency or officer, then the aforesaid maximum thirty working days of accrued unused vacation leave shall be extended for each month said leave is so deferred.

[1984 c 184 § 19; 1982 1st ex.s. c 51 § 2; 1965 ex.s. c 13 § 1; 1965 c 8 § 43.01.040. Prior: 1955 c 140 § 1; 1921 c 7 § 133; RRS § 10891.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

Savings--1982 1st ex.s. c 51: "This act shall not have the effect of terminating or modifying any rights acquired under a contract in existence prior to the effective date of this act." [1982 1st ex.s. c 51 § 4.]

Effective date--1982 1st ex.s. c 51: "This act shall take effect July 1, 1982." [1982 1st ex.s. c 51 § 5.]

Severability--1982 1st ex.s. c 51: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 51 § 6.]

Military leaves of absence: RCW 38.40.060.

RCW 43.01.041 Accrued vacation leave--Payment upon termination of employment.

Officers and employees referred to in RCW 43.01.040 whose employment is terminated by their death, reduction in force, resignation, dismissal, or retirement, and who have accrued vacation leave as specified in RCW 43.01.040 or 43.01.044, shall be paid therefor under their contract of employment, or their estate if they are deceased, or if the employee in case of voluntary resignation has provided adequate notice of termination. Annual leave accumulated under RCW 43.01.044 is not to be included in the computation of retirement benefits.

Should the legislature revoke any benefits or rights provided under chapter 292, Laws of 1985, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right.

[1985 c 292 § 1; 1984 c 184 § 20; 1982 1st ex.s. c 51 § 3; 1965 c 8 § 43.01.041. Prior: 1955 c 140 § 2.]

Notes:

Severability--1984 c 184: See note following RCW 41.50.150.

Savings--Effective date--Severability--1982 1st ex.s. c 51: See notes following RCW 43.01.040.

RCW 43.01.042 Vacations--State institutions of higher learning.

State institutions of higher learning may prescribe such rules and regulations as they may determine governing vacation leave for academic and professional personnel.

[1965 c 8 § 43.01.042. Prior: 1955 c 140 § 3.]

RCW 43.01.043 Vacations--Rules and regulations.

The several offices, departments and institutions of the state government may prescribe supplemental rules and regulations that are not inconsistent with the provisions of RCW 43.01.040 through 43.01.043 with respect to vacation leave of subordinate officers and employees thereof.

[1965 c 8 § 43.01.043. Prior: 1955 c 140 § 4.]

RCW 43.01.044 Vacations--Accumulation of leave in excess of thirty days authorized without statement of necessity--Requirements of statement of necessity.

As an alternative, in addition to the provisions of RCW 43.01.040 authorizing the accumulation of vacation leave in excess of thirty days with the filing of a statement of necessity, vacation leave in excess of thirty days may also be accumulated as provided in this section but without the filing of a statement of necessity. The accumulation of leave under this alternative method shall be governed by the following provisions:

(1) Each subordinate officer and employee of the several offices, departments, and institutions of state government may accumulate the vacation leave days between the time thirty days is accrued and his or her anniversary date of state employment.

(2) All vacation days accumulated under this section shall be used by the anniversary date and at a time convenient to the employing office, department, or institution. If an officer or employee does not use the excess leave by the anniversary date, then such leave shall be automatically extinguished and considered to have never existed.

(3) This section shall not result in any increase in a retirement allowance under any public retirement system in this state.

(4) Should the legislature revoke any benefits or rights provided under this section, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right.

(5) Vacation leave credit acquired and accumulated under this section shall never, regardless of circumstances, be deferred by the employing office, department or institution by filing a statement of necessity under the provisions of RCW 43.01.040.

(6) Notwithstanding any other provision of this chapter, on or after July 24, 1983, a statement of necessity for excess leave, shall as a minimum, include the following: (a) the specific number of days of excess leave; and (b) the date on which it was authorized. A copy of any such authorization shall be sent to the department of retirement systems.

[1983 c 283 § 1.]

RCW 43.01.045 Vacations--Provisions not applicable to officers and employees of state convention and trade center.

The provisions of RCW 43.01.040 through 43.01.044 shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW.

[1984 c 210 § 4.]

Notes:

Savings--Severability--1984 c 210: See notes following RCW 67.40.020.

RCW 43.01.050 Daily remittance of moneys to treasury--Undistributed receipts account--Use.

Each state officer or other person, other than county treasurer, who is authorized by law to collect or receive moneys which are required by statute to be deposited in the state treasury shall transmit to the state treasurer each day, all such moneys collected by him on the preceding day: PROVIDED, That the state treasurer may in his discretion grant exceptions where such

daily transfers would not be administratively practical or feasible. In the event that remittances are not accompanied by a statement designating source and fund, the state treasurer shall deposit these moneys in an account hereby created in the state treasury to be known as the undistributed receipts account. These moneys shall be retained in the account until such time as the transmitting agency provides a statement in duplicate of the source from which each item of money was derived and the fund into which it is to be transmitted. The director of financial management in accordance with RCW 43.88.160 shall promulgate regulations designed to assure orderly and efficient administration of this account. In the event moneys are deposited in this account that constitute overpayments, refunds may be made by the remitting agency without virtue of a legislative appropriation.

[1985 c 57 § 26; 1981 2nd ex.s. c 4 § 5; 1979 c 151 § 80; 1967 c 212 § 1; 1965 c 8 § 43.01.050. Prior: 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part.]

Notes:

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--1981 2nd ex.s. c 4: See note following RCW 43.85.130.

Commissioner of public lands and department of natural resources, deposit of funds: RCW 43.85.130.
State depositaries: Chapter 43.85 RCW.

RCW 43.01.060 Daily remittance of moneys to treasury--Treasurer's duty on default.

The state treasurer shall inform the governor of any failure on the part of any officer to comply with the provisions of RCW 43.01.050.

[1965 c 8 § 43.01.060. Prior: 1907 c 96 § 2; RRS § 5502.]

RCW 43.01.070 Daily remittance of moneys to treasury--Liability of officers for noncompliance.

If any officer fails to comply with the provisions of RCW 43.01.050, he shall be liable to the state upon his official bond in a sum equal to ten percent annual interest on the funds for such time as he retained them.

[1965 c 8 § 43.01.070. Prior: 1907 c 96 § 3; RRS § 5503.]

RCW 43.01.072 Refund of fees or other payments collected by state.

Whenever any law which provides for the collection of fees or other payments by a state agency does not authorize the refund of erroneous or excessive payments thereof, refunds may be made or authorized by the state agency which collected the fees or payments of all such amounts received by the state agency in consequence of error, either of fact or of law as to: (1) The proper amount of such fee or payments; (2) The necessity of making or securing a permit, filing, examination or inspection; (3) The sufficiency of the credentials of an applicant; (4) The eligibility of an applicant for any other reason; (5) The necessity for the payment.

[1965 c 8 § 43.01.072. Prior: 1955 c 224 § 1.]

Notes:

Refunds of fees or other payments, budget and accounting system: RCW 43.88.170.

RCW 43.01.073 Refund of fees or other payments collected by state--Voucher.

Any state agency desiring to authorize such a refund shall file with the state treasurer a voucher naming the payee and giving full particulars as to the reason for the refund and the fund in the treasury to which it was credited.

[1965 c 8 § 43.01.073. Prior: 1955 c 224 § 2.]

RCW 43.01.074 Refund of fees or other payments collected by state--Warrant.

Payment of such refunds shall be by warrant issued by the state treasurer against the fund in the state treasury to which the erroneous or excessive payment was credited or from any other appropriation made for such refund.

[1965 c 8 § 43.01.074. Prior: 1955 c 224 § 3.]

Notes:

Appropriation, when not required for refunds: RCW 43.88.180.

RCW 43.01.075 Refund of fees or other payments collected by state--Limitation where amount is two dollars or less.

No such refund shall be authorized by a state agency where the amount is two dollars or less unless demand for the refund is made within six months from the date the erroneous or excessive payment was made.

[1965 c 8 § 43.01.075. Prior: 1955 c 224 § 4.]

RCW 43.01.090 Departments to share occupancy costs--Capital projects surcharge.

The director of general administration may assess a charge or rent against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportionate share of costs for occupancy of buildings, structures, or facilities including but not limited to all costs of acquiring, constructing, operating, and maintaining such buildings, structures, or facilities and the repair, remodeling, or furnishing thereof and for the rendering of any service or the furnishing or providing of any supplies, equipment, or materials.

The director of general administration may recover the full costs including appropriate overhead charges of the foregoing by periodic billings as determined by the director including but not limited to transfers upon accounts and advancements into the general administration services account. Charges related to the rendering of real estate services under RCW 43.82.010 and to the operation of nonassigned public spaces in Thurston county shall be allocated

separately from other charges assessed under this section. Rates shall be established by the director of general administration after consultation with the director of financial management. The director of general administration may allot, provide, or furnish any of such facilities, structures, services, equipment, supplies, or materials to any other public service type occupant or user at such rates or charges as are equitable and reasonably reflect the actual costs of the services provided: PROVIDED, HOWEVER, That the legislature, its duly constituted committees, interim committees and other committees shall be exempted from the provisions of this section.

Upon receipt of such bill, each entity, occupant, or user shall cause a warrant or check in the amount thereof to be drawn in favor of the department of general administration which shall be deposited in the state treasury to the credit of the general administration services account unless the director of financial management has authorized another method for payment of costs.

Beginning July 1, 1995, the director of general administration shall assess a capital projects surcharge upon each agency or other user occupying a facility owned and managed by the department of general administration in Thurston county. The capital projects surcharge does not apply to agencies or users that agree to pay all future repairs, improvements, and renovations to the buildings they occupy and a proportional share, as determined by the office of financial management, of all other campus repairs, installations, improvements, and renovations that provide a benefit to the buildings they occupy or that have an agreement with the department of general administration that contains a charge for a similar purpose, including but not limited to RCW 43.01.091, in an amount greater than the capital projects surcharge. The director, after consultation with the director of financial management, shall adopt differential capital project surcharge rates to reflect the differences in facility type and quality. The initial payment structure for this surcharge shall be one dollar per square foot per year. The surcharge shall increase over time to an amount that when combined with the facilities and service charge equals the market rate for similar types of lease space in the area or equals five dollars per square foot per year, whichever is less. The capital projects surcharge shall be in addition to other charges assessed under this section. Proceeds from the capital projects surcharge shall be deposited into the Thurston county capital facilities account created in RCW 43.19.501.

[1998 c 105 § 5; 1994 c 219 § 16; 1991 sp.s. c 31 § 10; 1979 c 151 § 81; 1973 1st ex.s. c 82 § 1; 1971 ex.s. c 159 § 1; 1965 c 8 § 43.01.090. Prior: (i) 1951 c 131 § 1; 1941 c 228 § 1; Rem. Supp. 1941 § 10964-30. (ii) 1951 c 131 § 1; 1941 c 228 § 2; Rem. Supp. 1941 § 10964-31.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

Findings--Purpose--1994 c 219: "The legislature finds that there is inequitable distribution among state programs of capital costs associated with maintaining and rehabilitating state facilities. The legislature finds that there are insufficient available resources to support even minor capital improvements other than debt financing. The legislature further finds that little attention is focused on efficient facility management because in many cases capital costs are not factored into the ongoing process of allocating state resources. The purpose of sections 16 through 18, chapter 219, Laws of 1994 is to create a mechanism to distribute capital costs among the agencies and programs occupying facilities owned and managed by the department of general administration in Thurston county that will foster increased accountability for facility decisions and more efficient use of the facilities." [1994 c 219 § 15.]

Finding--1994 c 219: See note following RCW 43.88.030.

Severability--1991 sp.s. c 31: See RCW 43.99I.900.

Effective date--1973 1st ex.s. c 82: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1973." [1973 1st ex.s. c 82 § 2.]

Agricultural commodity commissions exempt: RCW 15.04.200.

General administration services account: RCW 43.19.500.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

RCW 43.01.091 Departments to share debt service costs.

It is hereby declared to be the policy of the state of Washington that each agency or other occupant of newly constructed or substantially renovated facilities owned and operated by the department of general administration in Thurston county shall proportionally share the debt service costs associated with the original construction or substantial renovation of the facility. Beginning July 1, 1995, each state agency or other occupant of a facility constructed or substantially renovated after July 1, 1992, and owned and operated by the department of general administration in Thurston county, shall be assessed a charge to pay the principal and interest payments on any bonds or other financial contract issued to finance the construction or renovation or an equivalent charge for similar projects financed by cash sources. In recognition that full payment of debt service costs may be higher than market rates for similar types of facilities or higher than existing agreements for similar charges entered into prior to June 9, 1994, the initial charge may be less than the full cost of principal and interest payments. The charge shall be assessed to all occupants of the facility on a proportional basis based on the amount of occupied space or any unique construction requirements. The office of financial management, in consultation with the department of general administration, shall develop procedures to implement this section and report to the legislative fiscal committees, by October 1994, their recommendations for implementing this section. The office of financial management shall separately identify in the budget document all payments and the documentation for determining the payments required by this section for each agency and fund source during the current and the two past and future fiscal biennia. The charge authorized in this section is subject to annual audit by the state auditor.

[1994 c 219 § 19.]

Notes:

Finding--1994 c 219: See note following RCW 43.88.030.

Budget document: RCW 43.88.030.

General administration services: RCW 43.19.500.

RCW 43.01.100 Application forms--Employment--Licenses--Mention of race or religion prohibited.

The inclusion of any question relative to an applicant's race or religion in any application blank or form for employment or license required to be filled in and submitted by an applicant to any department, board, commission, officer, agent, or employee of this state or the disclosure on

any license of the race or religion of the licensee is hereby prohibited.

[1965 c 8 § 43.01.100. Prior: 1955 c 87 § 1.]

Notes:

Discrimination--Human rights commission: Chapter 49.60 RCW.

Subversive activities, public officials and employees: Chapter 9.81 RCW.

RCW 43.01.110 Penalty for violation of RCW 43.01.100.

Any person who shall violate RCW 43.01.100 shall be guilty of a misdemeanor.

[1965 c 8 § 43.01.110. Prior: 1955 c 87 § 2.]

RCW 43.01.120 Accidental death and dismemberment coverage during aircraft flights for state officers, employees, and legislators.

The departments of state government are authorized to procure at state expense accidental death and dismemberment coverage not to exceed one hundred thousand dollars per person for the benefit of state employees and state elected officials, including legislators, while they are, in the course of their employment, passengers on or crew members of any nonscheduled aircraft flight.

[1967 ex.s. c 6 § 1; 1965 ex.s. c 68 § 1.]

RCW 43.01.125 Duty to identify employees whose performance warrants termination from employment.

It is the responsibility of each agency head to institute management procedures designed to identify any agency employee, either supervisory or nonsupervisory, whose performance is so inadequate as to warrant termination from state employment. In addition, it is the responsibility of each agency head to remove from a supervisory position any supervisor within the agency who has tolerated the continued employment of any employee under his or her supervision whose performance has warranted termination from state employment.

[1985 c 461 § 15.]

Notes:

Severability--1985 c 461: See note following RCW 41.06.020.

Adoption of rules to remove supervisors tolerating deficient employees: RCW 41.06.196.

RCW 43.01.150 Power to employ or appoint personnel not to include authority to provide state owned or leased motor vehicle.

Notwithstanding any other provision of law, whenever any state agency, institution of higher education, or other appointing authority is empowered to employ or appoint administrators or other personnel and to fix their compensation, such power, in the absence of a

specific contrary statutory authorization to the agency, institution of higher education, or appointing authority, shall not extend to the power to provide a state owned or leased motor vehicle for any use other than official state business.

[1975 1st ex.s. c 33 § 1.]

Notes:

Providing motor vehicle transportation services for public employees: RCW 43.19.560 through 43.19.635.

RCW 43.01.160 State publications to be in gender-neutral terms--Exception--Effect of noncompliance.

(1) All rules and directory or advisory publications issued, adopted, or amended by state officers or agencies, as defined by RCW 41.06.020, after July 1, 1983, shall be written in gender-neutral terms unless a specification of gender is intended.

(2) No rule or publication is invalid because it does not comply with this section.

[1983 c 20 § 2.]

Notes:

Intent--1983 c 20: "It is the intent of the legislature to have the state's statutes, rules, and official communications expressed in gender-neutral terms." [1983 c 20 § 1.]

Statutes, memorials, and resolutions: RCW 44.04.210.

RCW 43.01.200 Facilitating recovery from Mt. St. Helens eruption--Legislative findings--Purpose.

(1) The legislature finds that:

(a) The May 1980 eruption of Mount St. Helens has caused serious economic and physical damage to the land surrounding the mountain;

(b) There are continuing siltation problems which could severely affect the Toutle, Cowlitz, Coweeman, and Columbia rivers areas;

(c) There is an immediate need for sites for dredging, dredge spoils, flood control works, sediment retention, and bank protection and funds for dredging, dredge sites, dredge spoils sites, flood control works, sediment retention sites, and bank protection and to continue the rehabilitation of the areas affected by the natural disaster; and

(d) Failure to dredge and dike along the rivers and failure to cooperate with the federal government in sediment retention would directly affect the lives and property of the forty-five thousand residents in the Cowlitz and Toutle River valleys with severe negative impacts on local, state, and national transportation systems, public utilities, public and private property, and the Columbia river which is one of the major navigation channels for world-wide commerce.

(2) The intent of RCW 36.01.150, 43.01.210, *43.21A.500, 43.21C.500, 75.20.300, 89.16.500, and 90.58.500, their 1983 amendments, and RCW 43.01.215 is to authorize and direct maximum cooperative effort to meet the problems noted in subsection (1) of this section.

[1985 c 307 § 1; 1983 1st ex.s. c 1 § 1; 1982 c 7 § 1.]

Notes:

***Reviser's note:** RCW 43.21A.500, 43.21C.500, 75.20.300, 89.16.500, and 90.58.500 expired June 30, 1995.

Severability--1983 1st ex.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 1 § 10.]

Severability--1982 c 7: See note following RCW 36.01.150.

RCW 43.01.210 Facilitating recovery from Mt. St. Helens eruption--Scope of state agency action.

State agencies shall take action as follows to facilitate recovery from the devastation of the eruption of Mt. St. Helens:

(1) The department of transportation may secure any lands or interest in lands by purchase, exchange, lease, eminent domain, or donation for dredge sites, dredge spoils sites, flood control works, sediment retention works, or bank protection;

(2) The commissioner of public lands may by rule declare any public lands found to be damaged by the eruption of Mt. St. Helens, directly or indirectly, as surplus to the needs of the state and may dispose of such lands pursuant to Title 79 RCW to public or private entities for development, park and recreation uses, open space, or fish and wildlife habitat;

(3) All state agencies shall cooperate with local governments, the United States army corps of engineers, and other agencies of the federal government in planning for dredge site selection and dredge spoils removal, and in all other phases of recovery operations;

(4) The department of transportation shall work with the counties concerned on site selection and site disposition in cooperation with the army corps of engineers; and

(5) State agencies may assist the army corps of engineers in the dredging and dredge spoils deposit operations.

[1985 c 307 § 2; 1983 1st ex.s. c 1 § 2; 1982 c 7 § 2.]

Notes:

Severability--1983 1st ex.s. c 1: See note following RCW 43.01.200.

Severability--1982 c 7: See note following RCW 36.01.150.

Facilitating recovery from Mt. St. Helens eruption--Scope of local government action: RCW 36.01.150.

RCW 43.01.215 Facilitating recovery from Mt. St. Helens eruption--Precedence of court proceedings under RCW 43.01.210--Finality of order under RCW 8.04.070--Appeal.

(1) Court proceedings necessary to acquire property or property rights for purposes of RCW 43.01.210 take precedence over all other causes, including those expedited under the provisions of RCW 47.52.060, in all courts to the end that the provision of lands for dredge sites, dredge spoils sites, flood control works, or bank protection may be expedited.

(2) An order entered under RCW 8.04.070 relating to the acquisition of land under RCW 43.01.210 is final unless review of the order is taken to the supreme court within five days after

entry of the order. Such an appeal shall be certified by the trial court to the supreme court. Upon certification, the supreme court shall assign the appeal for hearing at the earliest possible date, and it shall expedite its review and decision in every way possible.

[1983 1st ex.s. c 1 § 8.]

Notes:

Severability--1983 1st ex.s. c 1: See note following RCW 43.01.200.

RCW 43.01.220 Commute trip reduction--Parking revenue--Definitions.

The definitions in this section apply throughout this chapter.

(1) "Guaranteed ride home" means an assured ride home for commuters participating in a commute trip reduction program who are not able to use their normal commute mode because of personal emergencies.

(2) "Pledged" means parking revenue designated through any means, including moneys received from the natural resource building, which is used for the debt service payment of bonds issued for parking facilities.

[1993 c 394 § 2.]

Notes:

Finding--Purpose--1993 c 394: "The legislature finds that reducing the number of commute trips to work is an effective way of reducing automobile-related air pollution, traffic congestion, and energy use. The legislature intends that state agencies shall assume a leadership role in implementing programs to reduce vehicle miles traveled and single-occupant vehicle commuting, under RCW 70.94.521 through 70.94.551.

The legislature has established and directed an interagency task force to consider mechanisms for funding state agency commute trip reduction programs; and to consider and recommend policies for employee incentives for commuting by other than single-occupant vehicles, and policies for the use of state-owned vehicles.

It is the purpose of this act to provide state agencies with the authority to provide employee incentives, including subsidies for use of high occupancy vehicles to meet commute trip reduction goals, and to remove existing statutory barriers for state agencies to use public funds, including parking revenue, to operate, maintain, lease, or construct parking facilities at state-owned and leased facilities, to reduce parking subsidies, and to support commute trip reduction programs." [1993 c 394 § 1.]

RCW 43.01.225 Commute trip reduction--Parking revenue--State vehicle parking account.

There is hereby established an account in the state treasury to be known as the "state vehicle parking account." All parking rental income resulting from parking fees established by the department of general administration under RCW 46.08.172 at state-owned or leased property shall be deposited in the "state vehicle parking account." Revenue deposited in the "state vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities;

(2) Support the lease costs and/or capital investment costs of vehicle parking and parking

facilities; and

(3) Support agency commute trip reduction programs under RCW 70.94.521 through 70.94.551.

[1995 c 215 § 2; 1993 c 394 § 5.]

Notes:

Finding--Purpose--1993 c 394: See note following RCW 43.01.220.

RCW 43.01.230 Commute trip reduction--Use of public funds.

State agencies may, under the internal revenue code rules, use public funds to financially assist agency-approved incentives for alternative commute modes, including but not limited to carpools, vanpools, purchase of transit and ferry passes, and guaranteed ride home programs, if the financial assistance is an element of the agency's commute trip reduction program as required under RCW 70.94.521 through 70.94.551. This section does not permit any payment for the use of state-owned vehicles for commuter ride sharing.

[1995 c 215 § 1; 1993 c 394 § 6.]

Notes:

Finding--Purpose--1993 c 394: See note following RCW 43.01.220.

RCW 43.01.235 Commute trip reduction--Higher education institutions--Exemption.

All state higher education institutions are exempt from RCW 43.01.225.

[1993 c 394 § 7.]

Notes:

Finding--Purpose--1993 c 394: See note following RCW 43.01.220.

RCW 43.01.236 Commute trip reduction--Institutions of higher education--Exemption.

All institutions of higher education as defined under RCW 28B.10.016 are exempt from the requirements under RCW 43.01.240.

[1998 c 344 § 8; 1997 c 273 § 3; 1995 c 215 § 5.]

Notes:

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

RCW 43.01.240 State agency parking account--Parking rental fees--Employee parking, limitations.

(1) There is hereby established an account in the state treasury to be known as the state agency parking account. All parking income collected from the fees imposed by state agencies

on parking spaces at state-owned or leased facilities, including the capitol campus, shall be deposited in the state agency parking account. Only the office of financial management may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. No agency may receive an allotment greater than the amount of revenue deposited into the state agency parking account.

(2) An agency may, as an element of the agency's commute trip reduction program to achieve the goals set forth in RCW 70.94.527, impose parking rental fees at state-owned and leased properties. These fees will be deposited in the state agency parking account. Each agency shall establish a committee to advise the agency director on parking rental fees, taking into account the market rate of comparable, privately owned rental parking in each region. The agency shall solicit representation of the employee population including, but not limited to, management, administrative staff, production workers, and state employee bargaining units. Funds shall be used by agencies to: (a) Support the agencies' commute trip reduction program under RCW 70.94.521 through 70.94.551; (b) support the agencies' parking program; or (c) support the lease or ownership costs for the agencies' parking facilities.

(3) In order to reduce the state's subsidization of employee parking, after July 1997 agencies shall not enter into leases for employee parking in excess of building code requirements, except as authorized by the director of general administration. In situations where there are fewer parking spaces than employees at a worksite, parking must be allocated equitably, with no special preference given to managers.

[1998 c 245 § 46; 1995 c 215 § 3.]

Chapter 43.03 RCW SALARIES AND EXPENSES

Sections

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43.03.011	Salaries of state elected officials of the executive branch.
43.03.012	Salaries of judges.
43.03.013	Salaries of members of the legislature.
43.03.015	Emoluments of office for appointees to office of state legislator.
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- 43.03.220 Compensation of members of part-time boards and commissions--Class one groups.
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- 43.03.300 Salaries of elected state officials--Legislative declaration--Purpose.
- 43.03.305 Washington citizens' commission on salaries for elected officials--Generally.
- 43.03.310 Duties of citizens' commission--Travel expenses--Chair--Schedule of salaries--Publication--Hearings.

Notes:

Compensation for unofficial services permitted: RCW 42.04.070.

Compensation not to be changed during term: State Constitution Art. 2 § 25, Art. 3 § 25, Art. 28 § 1.

Free transportation prohibited: State Constitution Art. 2 § 39, Art. 12 § 20.

Salaries of state officers, payable semimonthly: RCW 42.16.010.

RCW 43.03.010 Salaries of elective state officers.

The annual salaries of the following named state elected officials shall be prescribed by the Washington citizens' commission on salaries for elected officials: Governor; lieutenant governor: PROVIDED, That in arriving at the annual salary of the lieutenant governor the commission shall prescribe a fixed amount plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state; state treasurer; state auditor; attorney general; superintendent of public instruction; commissioner of public lands; and state insurance commissioner. Members of the legislature shall receive for their service per annum the amount prescribed by the Washington citizens' commission on salaries for elected officials; and in addition, reimbursement for mileage for travel to and from legislative sessions as provided in RCW 43.03.060.

[1989 c 10 § 8. Prior: 1986 c 161 § 1; 1986 c 155 § 8; 1983 1st ex.s. c 29 § 3; 1979 ex.s. c 255 § 1; 1977 ex.s. c 318 § 1; 1975-'76 2nd ex.s. c 113 § 1; 1975 1st ex.s. c 263 § 1; 1974 ex.s. c 149 § 2 (Initiative Measure No. 282, approved November 6, 1973); 1967 ex.s. c 100 § 1; 1965 ex.s. c 127 § 4; 1965 c 8 § 43.03.010; prior: 1965 c 1 § 2;

1961 c 5 § 1; 1959 c 316 § 1; 1949 c 48 § 1; Rem. Supp. 1949 § 10965-1; prior: 1947 c 79 § .02.04; 1945 c 116 § 1; 1939 c 226 § 1; 1925 ex.s. c 163 § 1; 1925 ex.s. c 90 § 1; 1919 c 124 §§ 1, 2; 1907 c 94 § 1.]

Notes:

Effective date--1986 c 161 § 1: "Section 1 of this act shall take effect on January 1, 1987." [1986 c 161 § 3.]

Severability--1986 c 161: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 161 § 5.]

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Effective date--1979 ex.s. c 255: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1979." [1979 ex.s. c 255 § 11.]

Effective date--1977 ex.s. c 318: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977." [1977 ex.s. c 318 § 7.]

Severability--1975 1st ex.s. c 263: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 263 § 7.]

Effective date--1975 1st ex.s. c 263: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 263 § 8.]

Severability--1974 ex.s. c 149 (Initiative Measure No. 282): "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 149 § 7 (Initiative Measure No. 282).]

Construction--1965 ex.s. c 127: "The salary increases provided for herein shall take effect at the earliest time allowable by the Constitution of the state of Washington, including Article II, section 13, Article II, section 25, Article IV, section 13, and Article XXVIII: PROVIDED, That it is the intent of the legislature that nothing in this act shall render a member of the legislature or of the judiciary ineligible to file for and be elected to the legislature or the judiciary respectively." [1965 ex.s. c 127 § 5.]

Salaries of elected officials: State Constitution Art. 28 § 1.

Washington citizens' commission on salaries for elected officials: RCW 43.03.305.

RCW 43.03.011 Salaries of state elected officials of the executive branch.

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) Effective September 1, 2000:

(a) Governor.	\$ 135,960
(b) Lieutenant governor.	\$ 71,070
(c) Secretary of state.	\$ 78,177
(d) Treasurer.	\$ 95,275
(e) Auditor.	\$ 95,275
(f) Attorney general.	\$ 123,600
(g) Superintendent of public instruction.	\$ 97,226
(h) Commissioner of public lands.	\$ 97,226

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(i) Insurance commissioner.	\$ 88,580
(2) Effective September 1, 2001:	
(a) Governor.	\$ 139,087
(b) Lieutenant governor.	\$ 72,705
(c) Secretary of state.	\$ 89,001
(d) Treasurer.	\$ 97,466
(e) Auditor.	\$ 97,466
(f) Attorney general.	\$ 126,443
(g) Superintendent of public instruction.	\$ 99,462
(h) Commissioner of public lands.	\$ 99,462
(i) Insurance commissioner.	\$ 90,617
(3) Effective September 1, 2002:	
(a) Governor.	\$ 142,286
(b) Lieutenant governor.	\$ 74,377
(c) Secretary of state.	\$ 91,048
(d) Treasurer.	\$ 99,708
(e) Auditor.	\$ 99,708
(f) Attorney general.	\$ 129,351
(g) Superintendent of public instruction.	\$ 101,750
(h) Commissioner of public lands.	\$ 101,750
(i) Insurance commissioner.	\$ 92,702

(4) The lieutenant governor shall receive the fixed amount of his salary plus 1/260th of the difference between his salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor.

[2001 1st sp.s. c 3 § 1; 1999 sp.s. c 3 § 1; 1997 c 458 § 1; 1995 2nd sp.s. c 1 § 1; 1993 sp.s. c 26 § 1; 1991 sp.s. c 1 § 1; 1989 2nd ex.s. c 4 § 1; 1987 1st ex.s. c 1 § 1, part.]

RCW 43.03.012 Salaries of judges.

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

(1) Effective September 1, 2000:	
(a) Justices of the supreme court.....	\$ 123,600
(b) Judges of the court of appeals.....	\$ 117,420
(c) Judges of the superior court.....	\$ 111,549
(d) Full-time judges of the district court.....	\$ 105,972
(2) Effective September 1, 2001:	
(a) Justices of the supreme court.....	\$ 131,558
(b) Judges of the court of appeals.....	\$ 125,236
(c) Judges of the superior court.....	\$ 119,230

- (d) Full-time judges of the district court..... \$ 113,524
- (3) Effective September 1, 2002:
 - (a) Justices of the supreme court.....\$ 134,584
 - (b) Judges of the court of appeals.....\$ 128,116
 - (c) Judges of the superior court.....\$ 121,972
 - (d) Full-time judges of the district court..... \$ 116,135

(4) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge.

[2001 1st sp.s. c 3 § 2; 1999 sp.s. c 3 § 2; 1997 c 458 § 2; 1995 2nd sp.s. c 1 § 2; 1993 sp.s. c 26 § 2; 1991 sp.s. c 1 § 2; 1989 2nd ex.s. c 4 § 2; 1987 1st ex.s. c 1 § 1, part.]

RCW 43.03.013 Salaries of members of the legislature.

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

- (1) Effective September 1, 2000:
 - (a) Legislators. \$ 32,064
 - (b) Speaker of the house. \$ 40,064
 - (c) Senate majority leader. \$ 36,064
 - (d) Senate minority leader. \$ 36,064
 - (e) House minority leader. \$ 36,064
- (2) Effective September 1, 2001:
 - (a) Legislators. \$ 32,801
 - (b) Speaker of the house. \$ 40,801
 - (c) Senate majority leader. \$ 40,801
 - (d) House minority leader. \$ 36,801
 - (e) Senate minority leader. \$ 36,801
- (3) Effective September 1, 2002:
 - (a) Legislators. \$ 33,556
 - (b) Speaker of the house. \$ 41,556
 - (c) Senate majority leader. \$ 41,556
 - (d) House minority leader. \$ 37,556
 - (e) Senate minority leader. \$ 37,556

[2001 1st sp.s. c 3 § 3; 1999 sp.s. c 3 § 3; 1997 c 458 § 3; 1995 2nd sp.s. c 1 § 3; 1993 sp.s. c 26 § 3; 1991 sp.s. c 1 § 3; 1989 2nd ex.s. c 4 § 3; 1987 1st ex.s. c 1 § 1, part.]

RCW 43.03.015 Emoluments of office for appointees to office of state legislator.

Any person appointed to fill a vacancy that may occur in either the senate or house of representatives of the state legislature, prior to his qualification at the next succeeding regular or special session of the legislature shall be entitled to the same emoluments of office as the duly elected member whom he succeeded.

[1967 ex.s. c 100 § 2.]

Notes:

Eligibility of member of legislature to appointment or election to office of official whose salary was increased during legislator's term: RCW 3.58.010.

RCW 43.03.020 Expenses of lieutenant governor acting as governor.

Whenever by reason of the absence from the state or the disability of the governor, the lieutenant governor is called upon temporarily to perform the duties of the office of governor, he shall be paid upon his personal voucher therefor the sum of ten dollars per day for expenses.

[1965 c 8 § 43.03.020. Prior: 1919 c 118 § 1; RRS § 10979.]

RCW 43.03.027 Salaries of public officials--State policy enunciated.

It is hereby declared to be the public policy of this state to base the salaries of public officials on realistic standards in order that such officials may be paid according to the true value of their services and the best qualified citizens may be attracted to public service. It is the purpose of RCW 43.03.027, 43.03.028, 43.03.040, *43.03.045 and 43.03.047 to effectuate this policy by utilizing the expert knowledge of citizens having access to pertinent facts concerning proper salaries for public officials, thus removing and dispelling any thought of political consideration in fixing the appropriateness of the amount of such salaries.

[1970 ex.s. c 43 § 1.]

Notes:

***Reviser's note:** RCW 43.03.045 and 43.03.047 were repealed by 1986 c 155 § 14, effective January 1, 1987. See note following RCW 43.03.300.

Severability--1970 ex.s. c 43: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected." [1970 ex.s. c 43 § 7.]

RCW 43.03.028 State committee on agency officials' salaries--Members--Duties--Reports.

(1) There is hereby created a state committee on agency officials' salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the chairperson of the council of presidents of the state's four-year institutions of higher education; the chairperson of the Washington personnel resources board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.

(2) The committee shall study the duties and salaries of the directors of the several

departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the eastern Washington historical society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the department of personnel; the state library; the traffic safety commission; the horse racing commission; the advisory council on vocational education; the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian Pacific American affairs; the state board for volunteer fire fighters and reserve officers; the transportation improvement board; the public employment relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

The committee shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

(3) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060.

[2001 c 302 § 2; 1995 c 67 § 1. Prior: 1993 c 281 § 45; 1993 c 101 § 14; 1991 c 3 § 294; 1988 c 167 § 9; prior: 1987 c 504 § 15; 1987 c 249 § 7; 1986 c 155 § 9; 1982 c 163 § 21; 1980 c 87 § 20; prior: 1977 ex.s. c 127 § 1; 1977 c 75 § 36; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028; prior: 1961 c 307 § 1; 1955 c 340 § 1.]

NOTES:

Effective date--1993 c 281: See note following RCW 41.06.022.

Findings--1993 c 101: See note following RCW 27.34.010.

Severability--Effective date--1993 c 101: See RCW 27.34.915 and 27.34.916.

Savings--Severability--1988 c 167: See notes following RCW 47.26.121.

Severability--Effective date--1987 c 504: See RCW 43.105.901 and 43.105.902.

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

Severability--1970 ex.s. c 43: See note following RCW 43.03.027.

RCW 43.03.030 Increase or reduction of appointees' compensation.

(1) Wherever the compensation of any appointive state officer or employee is fixed by statute, it may be hereafter increased or decreased in the manner provided by law for the fixing of compensation of other appointive state officers or employees; but this subsection shall not apply to the heads of state departments.

(2) Wherever the compensation of any state officer appointed by the governor, or of any employee in any office or department under the control of any such officer, is fixed by statute, such compensation may hereafter, from time to time, be changed by the governor, and he shall have power to fix such compensation at any amount not to exceed the amount fixed by statute.

[1965 c 8 § 43.03.030. Prior: (i) 1921 c 49 § 1; RRS § 10896. (ii) 1933 c 47 § 1; RRS § 10976-1.]

RCW 43.03.040 Salaries of certain directors and chief executive officers.

The directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028(2) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, in an amount not to exceed the recommendations of the committee on agency officials' salaries. Beginning July 1, 1993, through June 30, 1995, the salary paid to such directors and members of boards and commissions shall not exceed the amount paid as of April 1, 1993.

[1993 sp.s. c 24 § 914; 1986 c 155 § 12; 1977 ex.s. c 127 § 2; 1970 ex.s. c 43 § 3; 1965 c 8 § 43.03.040. Prior: 1961 c 307 § 2; 1955 c 340 § 2; 1949 c 111 § 1; 1937 c 224 § 1; Rem. Supp. 1949 § 10776-1.]

Notes:

Severability--Effective dates--1993 sp.s. c 24: See notes following RCW 28A.165.070.

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Severability--1970 ex.s. c 43: See note following RCW 43.03.027.

RCW 43.03.050 Subsistence, lodging and refreshment, and per diem allowance for officials, employees, and members of boards, commissions, or committees.

(1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed the rates set by the federal government for federal employees.

(2) Those persons appointed to serve without compensation on any state board, commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of financial management.

(3) The director of financial management may prescribe reasonable allowances to cover reasonable expenses for meals, coffee, and light refreshment served to elective and appointive officials and state employees regardless of travel status at a meeting where: (a) The purpose of the meeting is to conduct official state business or to provide formal training to state employees or state officials; (b) the meals, coffee, or light refreshment are an integral part of the meeting or training session; (c) the meeting or training session takes place away from the employee's or official's regular workplace; and (d) the agency head or authorized designee approves payments

in advance for the meals, coffee, or light refreshment. In order to prevent abuse, the director may regulate such allowances and prescribe additional conditions for claiming the allowances.

(4) Upon approval of the agency head or authorized designee, an agency may serve coffee or light refreshments at a meeting where: (a) The purpose of the meeting is to conduct state business or to provide formal training that benefits the state; and (b) the coffee or light refreshment is an integral part of the meeting or training session. The director of financial management shall adopt requirements necessary to prohibit abuse of the authority authorized in this subsection.

(5) The schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than usual costs shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

[1990 c 30 § 1; 1983 1st ex.s. c 29 § 1; 1979 c 151 § 83; 1977 ex.s. c 312 § 1; 1975-'76 2nd ex.s. c 34 § 94; 1970 ex.s. c 34 § 1; 1965 ex.s. c 77 § 1; 1965 c 8 § 43.03.050. Prior: 1961 c 220 § 1; 1959 c 194 § 1; 1953 c 259 § 1; 1949 c 17 § 1; 1943 c 86 § 1; Rem. Supp. 1949 § 10981-1.]

Notes:

Effective date--Construction--1977 ex.s. c 312: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately except that any new schedule of allowances under either RCW 43.03.050 and 43.03.060 as now or hereafter amended shall not be effective until July 1, 1977 or later." [1977 ex.s. c 312 § 5.]

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.03.060 Mileage allowance.

(1) Whenever it becomes necessary for elective or appointive officials or employees of the state to travel away from their designated posts of duty while engaged on official business, and it is found to be more advantageous or economical to the state that travel be by a privately-owned vehicle rather than a common carrier or a state-owned or operated vehicle, a mileage rate established by the director of financial management shall be allowed. The mileage rate established by the director shall not exceed any rate set by the United States treasury department above which the substantiation requirements specified in Treasury Department Regulations section 1.274-5T(a)(1), as now law or hereafter amended, will apply.

(2) The director of financial management may prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed. The reimbursement or other payment for transportation expenses of any employee or appointive official of the state shall be based on the method deemed most advantageous or economical to the state.

(3) The mileage rate established by the director of financial management pursuant to this section and any subsequent changes thereto shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

[1990 c 30 § 2; 1983 1st ex.s. c 29 § 2; 1979 c 151 § 84; 1977 ex.s. c 312 § 2; 1975-'76 2nd ex.s. c 34 § 95; 1974 ex.s. c 157 § 1; 1967 ex.s. c 16 § 4; 1965 c 8 § 43.03.060. Prior: 1949 c 17 § 2; 1943 c 86 § 2; Rem. Supp. 1949 §

10981-2.]

Notes:

Effective date--Construction--1977 ex.s. c 312: See note following RCW 43.03.050.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.03.062 State convention and trade center employees--Travel expenses.

Notwithstanding any provision of this chapter, employees of the corporation formed under RCW 67.40.020 shall be reimbursed for actual and reasonable travel and subsistence expenses incurred out of state for the purpose of marketing the convention center as may be requested or performed by the chief executive officer of the corporation subject to approval of the office of financial management. Reimbursement under this section may not be for promotional hosting expenditures.

[1985 c 233 § 4.]

RCW 43.03.065 Subsistence and lodging expenses--Direct payment to suppliers authorized.

The allowances prescribed pursuant to RCW 43.03.050 as now or hereafter amended may be paid as reimbursements to individuals for subsistence and lodging expenses during official travel. Alternatively, amounts not exceeding those allowances may be paid directly to appropriate suppliers of subsistence and lodging, when more economical and advantageous to the state, under general rules and regulations adopted by the director of financial management with the advice of the state auditor. Payments to suppliers for subsistence and lodging expenses of individuals in travel status shall not result in a cost to the state in excess of what would be payable by way of reimbursements to the individuals involved.

[1979 c 151 § 85; 1977 ex.s. c 312 § 4.]

Notes:

Effective date--Construction--1977 ex.s. c 312: See note following RCW 43.03.050.

RCW 43.03.110 Moving expenses of employees.

Whenever it is reasonably necessary to the successful performance of the required duty of a state office, commission, department or institution to transfer a deputy or other employee from one station to another within the state, thereby necessitating a change of such deputy's or employee's domicile, it shall be lawful for such office, commission, department or institution to move such deputy's or employee's household goods and effects to the new station at the expense of the state, or to defray the actual cost of such removal by common carrier, or otherwise, at the expense of the state, in which latter event reimbursement to the deputy or employee shall be upon voucher submitted by him and approved by the department head.

[1967 ex.s. c 16 § 1; 1965 c 8 § 43.03.110. Prior: 1943 c 128 § 1; Rem. Supp. 1943 § 9948-1.]

RCW 43.03.120 Moving expenses of new employees.

Any state office, commission, department or institution may also pay the moving expenses of a new employee, necessitated by his acceptance of state employment, pursuant to mutual agreement with such employee in advance of his employment: PROVIDED, That if such employee is in the classified service as defined in chapter 41.06 RCW, that said employee has been duly certified from an eligible register. No such offer or agreement for such payment shall be made to a prospective member of the classified service, prior to such certification, except through appropriate public announcement by the department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW. Payment for all expenses authorized by RCW 43.03.060, 43.03.110 through 43.03.210 including moving expenses of new employees, exempt or classified, and others, shall be subject to reasonable regulations promulgated by the director of financial management, including regulations defining allowable moving costs: PROVIDED, That, if the new employee terminates or causes termination of his employment with the state within one year of the date of employment, the state shall be entitled to reimbursement for the moving costs which have been paid and may withhold such sum as necessary therefor from any amounts due the employee.

[1979 c 151 § 86; 1967 ex.s. c 16 § 2.]

RCW 43.03.125 Relocation compensation for domiciliary moves.

An agency may, within existing resources, authorize lump sum relocation compensation when it determines it is necessary to successfully recruit and retain qualified candidates who will have to make a domiciliary move in order to accept the position. It is lawful for a state office, commission, department, or institution to, within existing resources, authorize lump sum relocation compensation as authorized by rule under chapter 41.06 RCW and in accordance with the provisions of chapter 43.88 RCW. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation.

[1999 c 297 § 2.]

Notes:

Findings--1999 c 297: "The legislature finds that recruiting and retaining a highly qualified work force is essential to deliver high quality public programs. One factor that impairs recruitment or transfer of public employees is the housing cost differential between the rural and urban areas of the state. This housing cost differential can cause state employees to decline promotional or transfer opportunities if the costs associated with such moves are not compensated.

Therefore, the legislature finds that it is in the interest of the citizens of the state of Washington to authorize an employing agency to offer assistance to state employees to relocate from one part of the state to another. This assistance is referred to as relocation compensation and is commonplace with private and federal government employers." [1999 c 297 § 1.]

RCW 43.03.130 Travel expenses of prospective employees.

Any state office, commission, department or institution may agree to pay the travel expenses of a prospective employee as an inducement for such applicant to travel to a designated place to be interviewed by and for the convenience of such agency: PROVIDED, That if such employment is to be in the classified service, such offer may be made only on the express authorization of the state department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW, to applicants reporting for a merit system examination or to applicants from an eligible register reporting for a pre-employment interview. Travel expenses authorized for prospective employees called for interviews shall be payable at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. When an applicant is called to be interviewed by or on behalf of more than one agency, the authorized travel expenses may be paid directly by the authorizing personnel department or agency, subject to reimbursement from the interviewing agencies on a pro rata basis.

In the case of both classified and exempt positions, such travel expenses will be paid only for applicants being considered for the positions of director, deputy director, assistant director, or supervisor of state departments, boards or commissions; or equivalent or higher positions; or engineers, or other personnel having both executive and professional status. In the case of the state investment board, such travel expenses may also be paid for applicants being considered for investment officer positions. In the case of four-year institutions of higher education, such travel expenses will be paid only for applicants being considered for academic positions above the rank of instructor or professional or administrative employees in supervisory positions. In the case of community and technical colleges, such travel expenses may be paid for applicants being considered for full-time faculty positions or administrative employees in supervisory positions.

[2000 c 153 § 1; 1993 c 93 § 1; 1975-'76 2nd ex.s. c 34 § 96; 1967 ex.s. c 16 § 3.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.03.150 Advance payment of travel expenses--Authorized.

Whenever it becomes necessary for an elective or appointive official or employee of the state to travel and to incur expenses for which reimbursement may be made, it shall be the policy of the state to make reasonable allowances to such officers and employees in advance of expenditure, on request of such officer or employee, under appropriate rules and regulations prescribed by the director of financial management.

[1979 c 151 § 87; 1967 ex.s. c 16 § 6.]

RCW 43.03.160 Advance payment of travel expenses--"Department" defined.

"Department", as used herein, shall mean every department, office, agency or institution of state government.

[1967 ex.s. c 16 § 7.]

RCW 43.03.170 Advance payment of travel expenses--Advance warrants--Issuance--Limitations.

The head of any state department may issue an advance warrant on the request of any officer or employee for the purpose of defraying his anticipated reimbursable expenses while traveling on business of such state department away from his designated post of duty, except expenses in connection with the use of a personal automobile. The amount of such advance shall not exceed the amount of such reasonably anticipated expenses of the officer or employee to be necessarily incurred in the course of such business of the state for a period of not to exceed ninety days. Department heads shall establish written policies prescribing a reasonable amount for which such warrants may be written.

[1979 ex.s. c 71 § 1; 1967 ex.s. c 16 § 8.]

RCW 43.03.180 Advance payment of travel expenses--Itemized travel expense voucher to be submitted--Repayment of unexpended portion of advance--Default.

On or before the tenth day following each month in which such advance was furnished to the officer or employee, he shall submit to the head of his department a fully itemized travel expense voucher fully justifying the expenditure of such advance or whatever part thereof has been expended, for legally reimbursable items on behalf of the state. Any unexpended portion of such advance shall be returned to the agency at the close of the authorized travel period. Payment shall accompany such itemized voucher at the close of the travel period; and may be made by check or similar instrument payable to the department. Any default in accounting for or repaying an advance shall render the full amount which is unpaid immediately due and payable with interest at the rate of ten percent per annum from the date of default until paid.

[1967 ex.s. c 16 § 9.]

RCW 43.03.190 Advance payment of travel expenses--Lien against and right to withhold funds payable until proper accounting or repaying of advance made.

To protect the state from any losses on account of advances made as provided in RCW 43.03.150 through 43.03.210, the state shall have a prior lien against and a right to withhold any and all funds payable or to become payable by the state to such officer or employee to whom such advance has been given as provided in RCW 43.03.150 through 43.03.210, up to the amount of such advance and interest at the rate of ten percent per annum, until such time as repayment or justification has been made.

[1979 ex.s. c 71 § 2; 1967 ex.s. c 16 § 10.]

RCW 43.03.200 Advance payment of travel expenses--Advances construed.

An advance made under RCW 43.03.150 through 43.03.210 shall be considered as having been made to such officer or employee to be expended by him as an agent of the state for

state purposes only, and specifically to defray necessary costs while performing his official duties. No such advance shall be considered for any purpose as a loan to such officer or employee, and any unauthorized expenditure of such funds shall be considered a misappropriation of state funds by a custodian of such funds.

[1967 ex.s. c 16 § 11.]

RCW 43.03.210 Advance payment of travel expenses--Director of financial management to prescribe rules and regulations to carry out RCW 43.03.150 through 43.03.210.

The director of financial management may prescribe rules and regulations to assist in carrying out the purposes of RCW 43.03.150 through 43.03.210 including regulation of travel by officers and employees and the conditions under which per diem and mileage shall be paid, so as to improve efficiency and conserve funds and to insure proper use and accountability of travel advances strictly in the public interest and for public purposes only.

[1979 c 151 § 88; 1967 ex.s. c 16 § 12.]

RCW 43.03.220 Compensation of members of part-time boards and commissions--Class one groups.

(1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group.

(2) Absent any other provision of law to the contrary, no money beyond the customary reimbursement or allowance for expenses may be paid by or through the state to members of class one groups for attendance at meetings of such groups.

[1984 c 287 § 2.]

Notes:

Legislative findings--1984 c 287: "The legislature finds that members of part-time boards, commissions, councils, committees, and other similar groups established by the executive, legislative, or judicial branches of state government make a valuable contribution to the public welfare. This time and talent so generously donated to the state is gratefully acknowledged.

The legislature further finds that membership on certain part-time groups involves responsibility for major policy decisions and represents a significant demand on the time and resources of members. The demands and responsibilities are well beyond reasonable expectations of an individual's gratuitous contribution to the public welfare. It is therefore appropriate to provide compensation to members of specific qualifying groups and further to provide three levels of compensation based on the responsibilities of the group and the time required to perform the group's statutory duties." [1984 c 287 § 1.]

Section headings--1984 c 287: "Section headings and captions used in RCW 43.03.220 through 43.03.250 do not constitute any part of the law." [1984 c 287 § 114.]

Severability--1984 c 287: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not

affected." [1984 c 287 § 115.]

Effective date--1984 c 287: "This act shall take effect on July 1, 1985." [1984 c 287 § 116.]

RCW 43.03.230 Compensation of members of part-time boards and commissions--Class two groups.

(1) Any agricultural commodity board or commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class two group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

[2001 c 315 § 11; 1984 c 287 § 3.]

NOTES:

Legislative findings--Section headings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

RCW 43.03.240 Compensation of members of part-time boards and commissions--Class three groups.

(1) Any part-time, statutory board, commission, council, committee, or other similar group which has rule-making authority, performs quasi judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class three group is eligible to receive compensation in an amount not to exceed fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

[1984 c 287 § 4.]

Notes:

Legislative findings--Section headings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

RCW 43.03.250 Compensation of members of part-time boards and commissions--Class four groups.

(1) A part-time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

(2) Each member of a class four group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

[1984 c 287 § 5.]

Notes:

Legislative findings--Section headings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

RCW 43.03.265 Compensation of members of part-time boards and commissions--Class five groups.

(1) Any part-time commission that has rule-making authority, performs quasi-judicial functions, has responsibility for the policy direction of a health profession credentialing program, and performs regulatory and licensing functions with respect to a health care profession licensed under Title 18 RCW shall be identified as a class five group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class five group is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation

from such government for working that day.

(3) Compensation may be paid a member under this section only if it is necessarily incurred in the course of authorized business consistent with the responsibilities of the commission established by law.

[1999 c 366 § 1.]

RCW 43.03.300 Salaries of elected state officials--Legislative declaration--Purpose.

The legislature hereby declares it to be the policy of this state to base salaries of elected state officials on realistic standards in order that such officials may be paid according to the duties of their offices and so that citizens of the highest quality may be attracted to public service. It is the purpose of RCW 43.03.300 through 43.03.310 to effectuate this policy by creating a citizens' commission to establish proper salaries for such officials, thus removing political considerations in fixing the appropriateness of the amount of such salaries.

[1986 c 155 § 1.]

Notes:

Contingent effective date--1986 c 155: "This act shall take effect on January 1, 1987, if the proposed amendment to Article XXVIII of the state Constitution establishing an exclusive process for changes in the salaries of members of the legislature and other elected state officials is validly submitted and is approved and ratified by the voters at a general election held in November, 1986. If such proposed amendment is not so submitted and approved and ratified, this act shall be null and void in its entirety." [1986 c 155 § 16.] 1986 House Joint Resolution No. 49 was approved at the November 1986 general election. See Article XXVIII, section 1 and Amendment 78 of the state Constitution.

Severability--1986 c 155: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 155 § 15.]

RCW 43.03.305 Washington citizens' commission on salaries for elected officials--Generally.

There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of sixteen members appointed by the governor as provided in this section.

(1) Nine of the sixteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission under subsection (3) of this section. One member shall be selected from each congressional district. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(2) The remaining seven of the sixteen commission members, all residents of this state,

shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of representatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall appoint these persons to the commission. Except as provided in subsection (6) of this section, the names of persons selected for appointment to the commission shall be forwarded to the governor not later than February 15, 1987, and not later than the fifteenth day of February every four years through 1999. The terms of the members selected in 1999 shall terminate July 1, 2002, and the names of persons selected for appointment to the commission shall be forwarded to the governor not later than July 1, 2002. Of the sixteen names forwarded to the governor in 2002, the governor shall by lot select four of the persons selected under subsection (1) of this section and four of the persons selected under subsection (2) of this section to serve two-year terms, with the rest of the members serving four-year terms. Thereafter, except as provided in subsection (6) of this section, all members shall serve four-year terms and the names of eight persons selected for appointment to the commission shall be forwarded to the governor not later than the first day of July every two years.

(4) No person may be appointed to more than two terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

The unexcused absence of any person who is a member of the commission from two consecutive meetings of the commission shall constitute the relinquishment of that person's membership on the commission. Such a relinquishment creates a vacancy in that person's position on the commission. A member's absence may be excused by the chair of the commission upon the member's written request if the chair believes there is just cause for the absence. Such a request must be received by the chair before the meeting for which the absence is to be excused. A member's absence from a meeting of the commission may also be excused during the meeting for which the member is absent by the affirmative vote of a majority of the members of the commission present at the meeting.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of chapter 42.17 RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse, siblings, children, or dependent relative of the official, employee, or lobbyist whether or not living in the household of the official, employee, or lobbyist.

(6) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided.

[1999 c 102 § 1; 1995 c 3 § 1; 1993 c 281 § 46; 1986 c 155 § 2.]

Notes:

Effective date--1995 c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [February 10, 1995]." [1995 c 3 § 3.]

Effective date--1993 c 281: See note following RCW 41.06.022.

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

RCW 43.03.310 Duties of citizens' commission--Travel expenses--Chair--Schedule of salaries--Publication--Hearings.

(1) The citizens' commission on salaries for elected officials shall study the relationship of salaries to the duties of members of the legislature, all elected officials of the executive branch of state government, and all judges of the supreme court, court of appeals, superior courts, and district courts, and shall fix the salary for each respective position.

(2) Except as provided otherwise in RCW 43.03.305 and this section, the commission shall be solely responsible for its own organization, operation, and action and shall enjoy the fullest cooperation of all state officials, departments, and agencies.

(3) Members of the commission shall receive no compensation for their services, but shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(4) The members of the commission shall elect a chair from among their number. The commission shall set a schedule of salaries by an affirmative vote of not less than nine members of the commission.

(5) The commission shall file its initial schedule of salaries for the elected officials with the secretary of state no later than the first Monday in June, 1987, and shall file a schedule biennially thereafter. Each such schedule shall be filed in legislative bill form, shall be assigned a chapter number and published with the session laws of the legislature, and shall be codified by the statute law committee. The signature of the chair of the commission shall be affixed to each schedule submitted to the secretary of state. The chair shall certify that the schedule has been adopted in accordance with the provisions of state law and with the rules, if any, of the commission. Such schedules shall become effective ninety days after the filing thereof, except as provided in Article XXVIII, section 1 of the state Constitution. State laws regarding referendum petitions shall apply to such schedules to the extent consistent with Article XXVIII, section 1 of the state Constitution.

(6) Before the filing of any salary schedule, the commission shall first develop a proposed salary schedule and then hold no fewer than four regular meetings as defined by chapter 42.30 RCW to take public testimony on the proposed schedule within the four months

immediately preceding the filing. At the last public hearing that is held as a regular meeting on the proposed schedule, the commission shall adopt the salary schedule as originally proposed or as amended at that meeting that will be filed with the secretary of state.

(7) All meetings, actions, hearings, and business of the commission shall be subject in full to the open public meetings act, chapter 42.30 RCW.

(8) Salaries of the officials referred to in subsection (1) of this section that are in effect on January 12, 1987, shall continue until modified by the commission under this section.

[1998 c 164 § 1; 1995 c 3 § 2; 1986 c 155 § 3.]

Notes:

Effective date--1995 c 3: See note following RCW 43.03.305.

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Chapter 43.04 RCW USE OF STATE SEAL

Sections

43.04.010	Legislative findings.
43.04.020	Definitions.
43.04.030	Use of state seal--Official purposes.
43.04.040	Use of state seal--Commemorative and souvenir items--Historical, educational, and civil purposes--Application--Fee--Licensing agreements--Rules.
43.04.050	Use of state seal--Prohibitions--Imitations.
43.04.060	Endorsements prohibited.
43.04.070	Civil penalties--Injunctions.
43.04.080	Investigations--Enforcement.
43.04.090	Criminal penalty.
43.04.100	Deposit of fees, penalties, and damages--Use.
43.04.900	Severability--1988 c 120.

RCW 43.04.010 Legislative findings.

The legislature finds that the seal of the state of Washington is a symbol of the authority and sovereignty of the state and is a valuable asset of its people. It is the intent of the legislature to ensure that appropriate uses are made of the state seal and to assist the secretary of state in the performance of the secretary's constitutional duty as custodian of the seal.

[1988 c 120 § 1.]

RCW 43.04.020 Definitions.

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

(1) "State seal" means the seal of the state as described in Article XVIII, section 1 of the state Constitution and in RCW 1.20.080.

(2) "Secretary" means the secretary of state and any designee of the secretary of state.

[1988 c 120 § 2.]

RCW 43.04.030 Use of state seal--Official purposes.

Except as otherwise provided in this chapter, the state seal shall be used for official purposes only.

[1988 c 120 § 3.]

RCW 43.04.040 Use of state seal--Commemorative and souvenir items--Historical, educational, and civil purposes--Application--Fee--Licensing agreements--Rules.

(1) The secretary of state may authorize the use of the state seal on commemorative and souvenir items, and for historical, educational, and civic purposes. Such authorization shall be in writing.

(2) Application for such authorization shall be in writing and shall be accompanied by a filing fee, the amount of which shall be determined by the secretary of state. The secretary shall set the fee at a level adequate to cover the administrative costs of processing the applications.

(3) If the secretary determines that a permitted use of the seal could financially benefit the state, the secretary may condition authorization upon a licensing agreement to secure those benefits for the state.

(4) The secretary of state shall adopt rules under chapter 34.05 RCW to govern the use of the seal in a manner consistent with this chapter. Any rule governing the use of the seal shall be designed to prevent inappropriate or misleading use of the seal and to assure tasteful and high-quality reproduction of the seal. The rules shall also prescribe the circumstances when a licensing arrangement shall be required and the method for determining licensing fees.

[1988 c 120 § 4.]

RCW 43.04.050 Use of state seal--Prohibitions--Imitations.

(1) Except as otherwise provided in RCW 43.04.040, the state seal shall not be used on or in connection with any advertising or promotion for any product, business, organization, service, or article whether offered for sale for profit or offered without charge.

(2) The state seal shall never be used in a political campaign to assist or defeat any candidate for elective office.

(3) It is a violation of this chapter to use any symbol that imitates the seal or that is deceptively similar in appearance to the seal, in any manner that would be an improper use of the official seal itself.

(4) Nothing in this chapter shall prohibit the reproduction of the state seal for illustrative

purposes by the news media if the reproduction by the news media is incidental to the publication or the broadcast. Nothing in this chapter shall prohibit a characterization of the state seal from being used in political cartoons.

[1988 c 120 § 5.]

RCW 43.04.060 Endorsements prohibited.

No use of the state seal may operate or be construed to operate in any way as an endorsement of any business, organization, product, service, or article.

[1988 c 120 § 6.]

RCW 43.04.070 Civil penalties--Injunctions.

Any person who violates RCW 43.04.050 (1) or (3) by using the state seal or an imitative or deceptively similar seal on or in connection with any product, business, organization, service, or article shall be liable for damages in a suit brought by the attorney general. The damages shall be equal to the gross monetary amount gained by the misuse of the state seal or the use of the imitative or deceptively similar seal, plus attorney's fees and other costs of the state in bringing the suit. The "gross monetary amount" is the total of the gross receipts that can be reasonably attributed to the misuse of the seal or the use of an imitative or deceptively similar seal. In addition to the damages, the violator is subject to a civil penalty imposed by the court in an amount not to exceed five thousand dollars. In imposing this penalty, the court shall consider the need to deter further violations of this chapter.

The attorney general may seek and shall be granted such injunctive relief as is appropriate to stop or prevent violations of this chapter.

[1988 c 120 § 7.]

RCW 43.04.080 Investigations--Enforcement.

The secretary of state shall conduct investigations for violations of this chapter and may request enforcement by the attorney general.

[1988 c 120 § 8.]

RCW 43.04.090 Criminal penalty.

Any person who wilfully violates this chapter is guilty of a misdemeanor.

[1988 c 120 § 9.]

RCW 43.04.100 Deposit of fees, penalties, and damages--Use.

All fees, penalties, and damages received under this chapter shall be paid to the secretary

of state and with the exception of the filing fee authorized in RCW 43.04.040(2) shall be deposited by the secretary into the capitol building construction account in the state treasury, for use in the historical restoration and completion of the legislative building.

[1988 c 120 § 10.]

RCW 43.04.900 Severability--1988 c 120.

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

[1988 c 120 § 13.]

**Chapter 43.05 RCW
TECHNICAL ASSISTANCE PROGRAMS**

Sections

43.05.005	Findings.
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43.05.902	Resolution of conflict with federal requirements--Notification.
43.05.903	Part headings not law--1995 c 403.
43.05.904	Severability--1995 c 403.
43.05.905	Findings--Short title--Intent--1995 c 403.

RCW 43.05.005 Findings.

The legislature finds that, due to the volume and complexity of laws and rules it is appropriate for regulatory agencies to adopt programs and policies that encourage voluntary

compliance by those affected by specific rules. The legislature recognizes that a cooperative partnership between agencies and regulated parties that emphasizes education and assistance before the imposition of penalties will achieve greater compliance with laws and rules and that most individuals and businesses who are subject to regulation will attempt to comply with the law, particularly if they are given sufficient information. In this context, enforcement should assure that the majority of a regulated community that complies with the law are not placed at a competitive disadvantage and that a continuing failure to comply that is within the control of a party who has received technical assistance is considered by an agency when it determines the amount of any civil penalty that is issued.

[1995 c 403 § 601.]

RCW 43.05.010 Definitions.

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

(1) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law or rules. The term does not include any criminal penalty, damage assessments, wages, premiums, or taxes owed, or interest or late fees on any existing obligation.

(2) "Regulatory agency" means an agency as defined in RCW 34.05.010 that has the authority to issue civil penalties. The term does not include the state patrol or any institution of higher education as defined in RCW 28B.10.016.

(3) "Technical assistance" includes:

(a) Information on the laws, rules, and compliance methods and technologies applicable to the regulatory agency's programs;

(b) Information on methods to avoid compliance problems;

(c) Assistance in applying for permits; and

(d) Information on the mission, goals, and objectives of the program.

(4) "Technical assistance documents" means documents prepared to provide information specified in subsection (3) of this section entitled a technical assistance document by the agency head or its designee. Technical assistance documents do not include notices of correction, violation, or enforcement action. Technical assistance documents do not impose mandatory obligations or serve as the basis for a citation.

[1999 c 236 § 1; 1995 c 403 § 602.]

RCW 43.05.020 Agency programs--List of technical assistance providers.

All regulatory agencies shall develop programs to encourage voluntary compliance by providing technical assistance consistent with statutory requirements. The programs shall include but are not limited to technical assistance visits, printed information, information and assistance by telephone, training meetings, and other appropriate methods to provide technical assistance. In addition, all regulatory agencies shall provide upon request a list of organizations, including

private companies, that provide technical assistance. This list shall be compiled by the agencies from information submitted by the organizations and shall not constitute an endorsement by an agency of any organization.

[1995 c 403 § 603.]

RCW 43.05.030 Technical assistance visit--Notice of violation.

(1) For the purposes of this chapter, a technical assistance visit is a visit by a regulatory agency to a facility, business, or other location that:

(a) Has been requested or is voluntarily accepted; and

(b) Is declared by the regulatory agency at the beginning of the visit to be a technical assistance visit.

(2) A technical assistance visit also includes a consultative visit pursuant to RCW 49.17.250.

(3) During a technical assistance visit, or within a reasonable time thereafter, a regulatory agency shall inform the owner or operator of the facility of any violations of law or agency rules identified by the agency as follows:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the agency requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the agency or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency.

[1996 c 206 § 2; 1995 c 403 § 604.]

Notes:

Findings--1996 c 206: "The legislature finds that many individuals and small businesses who are required to comply with laws and agency rules often do not have access to the Revised Code of Washington, the Washington Administrative Code, the United States Code, or the Code of Federal Regulations. In this case, those informed of violations do not know whether, or to what extent, the cited law or agency rule actually applies to their situation. In order to facilitate greater understanding of the law and agency rules, the legislature finds that those who make the effort to obtain technical assistance from a regulatory agency, and those who are issued a notice of correction, should be given the text of the specific section or subsection of the law or agency rule they are alleged to have violated." [1996 c 206 § 1.]

RCW 43.05.040 Time to correct violations--Revisit--Issuance of penalties.

(1) The owner and operator shall be given a reasonable period of time to correct violations identified during a technical assistance visit before any civil penalty provided for by law is imposed for those violations. A regulatory agency may revisit a facility, business, or other location after a technical assistance visit and a reasonable period of time has passed to correct violations identified by the agency in writing and issue civil penalties as provided for by law for

any uncorrected violations.

(2) During a visit under subsection (1) of this section, the regulatory agency may not issue civil penalties for violations not previously identified in a technical assistance visit, unless the violations are of the type for which the agency may issue a citation: (a) During a technical assistance visit under RCW 43.05.050; or (b) under RCW 43.05.090.

[2001 c 190 § 1; 1995 c 403 § 605.]

RCW 43.05.050 Issuance of penalty during technical assistance visit.

A regulatory agency that observes a violation during a technical assistance visit may issue a civil penalty as provided for by law if: (1) The individual or business has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) the issue involves sales taxes due to the state and the individual or business is not remitting previously collected sales taxes to the state; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.

[1995 c 403 § 606.]

RCW 43.05.060 Department of ecology--Notice of correction.

(1) If in the course of any site inspection or visit that is not a technical assistance visit, the department of ecology becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.070, the department may issue a notice of correction to the responsible party that shall include:

- (a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;
- (b) A statement of what is required to achieve compliance;
- (c) The date by which the department requires compliance to be achieved;
- (d) Notice of the means to contact any technical assistance services provided by the department or others; and
- (e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice.

[1996 c 206 § 3; 1995 c 403 § 607.]

Notes:

Findings--1996 c 206: See note following RCW 43.05.030.

RCW 43.05.070 Department of ecology--Penalty.

The department of ecology may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.

[1995 c 403 § 608.]

RCW 43.05.080 Application of RCW 43.05.060 and 43.05.070--Limited.

The provisions of RCW 43.05.060 and 43.05.070 affecting civil penalties issued by the department of ecology shall not apply to civil penalties for negligent discharge of oil as authorized under RCW 90.56.330 or to civil penalties as authorized under RCW 90.03.600 for unlawful use of water in violation of RCW 90.03.250 or 90.44.050.

[1995 c 403 § 609.]

RCW 43.05.090 Department of labor and industries--Consultative visit, report--Compliance inspection, citation.

(1) Following a consultative visit pursuant to RCW 49.17.250, the department of labor and industries shall issue a report to the employer that the employer shall make available to its employees. The report shall contain:

- (a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;
 - (b) A statement of what is required to achieve compliance;
 - (c) The date by which the department requires compliance to be achieved;
 - (d) Notice of means to contact technical assistance services provided by the department;
- and
- (e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) Following a compliance inspection pursuant to RCW 49.17.120, the department of labor and industries shall issue a citation for violations of industrial safety and health standards. The citation shall not assess a penalty if the violations:

- (a) Are determined not to be of a serious nature;
- (b) Have not been previously cited;

- (c) Are not willful; and
- (d) Do not have a mandatory penalty under chapter 49.17 RCW.

[1996 c 206 § 4; 1995 c 403 § 610.]

Notes:

Findings--1996 c 206: See note following RCW 43.05.030.

RCW 43.05.100 Departments of agriculture, fish and wildlife, health, licensing, natural resources--Notice of correction.

(1) If in the course of any inspection or visit that is not a technical assistance visit, the department of agriculture, fish and wildlife, health, licensing, or natural resources becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.110, the department may issue a notice of correction to the responsible party that shall include:

- (a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;
- (b) A statement of what is required to achieve compliance;
- (c) The date by which the department requires compliance to be achieved;
- (d) Notice of the means to contact any technical assistance services provided by the department or others; and
- (e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice.

[1996 c 206 § 5; 1995 c 403 § 611.]

Notes:

Findings--1996 c 206: See note following RCW 43.05.030.

RCW 43.05.110 Departments of agriculture, fish and wildlife, health, licensing, natural resources--Penalty.

The department of agriculture, fish and wildlife, health, licensing, or natural resources may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; [or] (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing

physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months. In addition, the department of fish and wildlife may issue a civil penalty provided for by law without first issuing a notice of correction for a violation of any rule dealing with seasons, catch or bag limits, gear types, or geographical areas for fish or wildlife removal, reporting, or disposal.

This section does not apply to the civil penalties imposed under RCW 82.38.170(13).

[1998 c 176 § 84; 1995 c 403 § 612.]

Notes:

Rules--Findings--Effective date--1998 c 176: See RCW 82.36.800, 82.36.900, and 82.36.901.

RCW 43.05.120 Time for compliance--Extension.

The date for compliance established by the department of ecology, labor and industries, agriculture, fish and wildlife, health, licensing, or natural resources pursuant to RCW 43.05.060, 43.05.090, or 43.05.100 respectively shall provide for a reasonable time to achieve compliance. Any person receiving a notice of correction pursuant to RCW 43.05.060 or 43.05.100 or a report or citation pursuant to RCW 43.05.090 may request an extension of time to achieve compliance for good cause from the issuing department. Requests shall be submitted to the issuing department and responded to by the issuing department in writing in accordance with procedures specified by the issuing department in the notice, report, or citation.

[1995 c 403 § 613.]

RCW 43.05.130 Educational programs.

The departments of revenue and labor and industries and the employment security department shall undertake an educational program directed at those who have the most difficulty in determining their tax or premium liability. The departments may rely on information from internal data, trade associations, and businesses to determine which entities should be selected. The educational programs may include, but not be limited to, targeted informational fact sheets, self-audits, or workshops, and may be presented individually by the agency or in conjunction with other agencies.

[1995 c 403 § 614.]

RCW 43.05.140 Pilot voluntary audit program.

The department of revenue, the department of labor and industries in respect to its duties in Title 51 RCW, and the employment security department shall develop and administer a pilot voluntary audit program. Voluntary audits can be requested by businesses from any of these agencies according to guidelines established by each agency. No penalty assessments may be made against participants in such a program except when the agency determines that either a good faith effort has not been made by the taxpayer or premium payer to comply with the law or

that the taxpayer has failed to remit previously collected sales taxes to the state. The persons conducting the voluntary audit shall provide the business undergoing the voluntary audit an audit report that describes errors or omissions found and future reporting instructions. This program does not relieve a business from past or future tax or premium obligations.

[1995 c 403 § 615.]

RCW 43.05.150 Agency immunity--Enforcement authority.

Nothing in this chapter obligates a regulatory agency to conduct a technical assistance visit. The state and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from providing technical assistance, or if liability is asserted to arise from the failure of the state or officers or employees of the state to provide technical assistance. This chapter does not limit the authority of any regulatory agency to take any enforcement action, other than a civil penalty, authorized by law. This chapter shall not limit a regulatory agency's authority to issue a civil penalty as authorized by law based upon a person's failure to comply with specific terms and conditions of any permit or license issued by the agency to that person.

[1995 c 403 § 617.]

RCW 43.05.901 Conflict with federal requirements.

If a regulatory agency determines any part of this chapter to be in conflict with federal law or program requirements, in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or in conflict with the requirements for eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict. Any rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

[1995 c 403 § 619.]

RCW 43.05.902 Resolution of conflict with federal requirements--Notification.

If notified by responsible federal officials of any conflict of this chapter with federal law or program requirements or with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the regulatory agency notified of the conflict shall actively seek to resolve the conflict. If the agency determines that the conflict cannot be resolved without loss of benefits or authority to the state, the agency shall notify the governor, the president of the senate, and the speaker of the house of representatives in writing within thirty days of making that determination.

[1995 c 403 § 620.]

RCW 43.05.903 Part headings not law--1995 c 403.

Part headings as used in this act do not constitute any part of the law.

[1995 c 403 § 1101.]

RCW 43.05.904 Severability--1995 c 403.

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

[1995 c 403 § 1105.]

RCW 43.05.905 Findings--Short title--Intent--1995 c 403.

See note following RCW 34.05.328.

**Chapter 43.06 RCW
GOVERNOR**

Sections

- 43.06.010 General powers and duties.
- 43.06.015 Interstate oil compact commission--Governor may join.
- 43.06.020 Records to be kept.
- 43.06.030 Appointments to senate for confirmation--Notice.
- 43.06.040 Lieutenant governor acts in governor's absence.
- 43.06.050 Powers and duties of acting governor.
- 43.06.055 Governor-elect--Appropriation to provide office and staff.
- 43.06.060 Expense of publishing proclamations.
- 43.06.070 Removal of appointive officers.
- 43.06.080 Removal of appointive officers--Statement of reasons to be filed.
- 43.06.090 Removal of appointive officers--Filling of vacancy.
- 43.06.092 Gubernatorial appointees--Continuation of service--Appointments to fill vacancies.
- 43.06.094 Gubernatorial appointees--Removal prior to confirmation.
- 43.06.110 Economic opportunity act programs--State participation--Authority of governor.
- 43.06.115 Militarily impacted area--Declaration by governor.
- 43.06.120 Federal funds and programs--Acceptance of funds by governor authorized--Administration and disbursement.
- 43.06.130 Federal funds and programs--Payment of travel expenses of committees, councils, or other bodies.
- 43.06.150 Federal funds and programs--Participating agencies to notify director of financial management, joint legislative audit and review committee and legislative council--Progress reports.
- 43.06.200 Definitions.
- 43.06.210 Proclamations--Generally--State of emergency.
- 43.06.220 State of emergency--Powers of governor pursuant to proclamation.
- 43.06.230 State of emergency--Destroying or damaging property or causing personal injury--Penalty.
- 43.06.240 State of emergency--Disorderly conduct after emergency proclaimed--Penalty.

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43.06.250	State of emergency--Refusing to leave public way or property when ordered--Penalty.
43.06.260	State of emergency--Prosecution of persons sixteen years or over as adults.
43.06.270	State of emergency--State militia or state patrol--Use in restoring order.
43.06.335	Washington quality award council--Organization--Duties--Expiration.
43.06.350	Foreign nationals or citizens, convicted offenders--Transfers and sentences.
43.06.400	Listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue--Periodic review and submission of recommendations to legislature by governor.
43.06.410	State internship program--Governor's duties.
43.06.415	State internship program coordinator--Rules.
43.06.420	Undergraduate internship program--Executive fellows program.
43.06.425	Interns--Effect of employment experience--Rights of reversion--Fringe benefits--Sick and vacation leave.
43.06.435	Interns--Effect on full time equivalent staff position limitations.
43.06.450	Cigarette tax contracts--Intent--Finding--Limitations.
43.06.455	Cigarette tax contracts--Requirements--Use of revenue--Enforcement--Definitions.
43.06.460	Cigarette tax contracts--Eligible tribes--Tax rate.

NOTES:

Appointing power

accountancy board: RCW 18.04.035.

administrator for the courts, submission of list for appointment from: RCW 2.56.010.

architects board of registration: RCW 18.08.330.

board of registration of professional engineers and land surveyors: RCW 18.43.030.

board of tax appeals: RCW 82.03.020.

center for volunteerism and citizen service: RCW 43.150.040.

clemency and pardons board: RCW 9.94A.880.

college district boards of trustees: RCW 28B.50.100.

council for the prevention of child abuse and neglect: RCW 43.121.020.

court of appeals vacancy: State Constitution Art. 4 § 30; RCW 2.06.080.

criminal justice training commission: RCW 43.101.030.

degree-granting institutions, attorney general participation: Chapter 28B.85 RCW.

department of ecology, director of: RCW 43.21A.050.

department of social and health services, secretary of: RCW 43.20A.040.

directors of state departments and agencies: RCW 43.17.020.

electrical advisory board members: RCW 19.28.311.

energy facility site evaluation council: RCW 80.50.030.

financial management, director: RCW 43.41.060.

fish and wildlife commission: RCW 77.04.030.

higher education facilities authority: RCW 28B.07.030.

industrial insurance appeals board: RCW 51.52.010.

information services board: RCW 43.105.032.

interagency committee for outdoor recreation: RCW 79A.25.110.

investment board members: RCW 43.33A.020.

judges of court of appeals, vacancy: State Constitution Art. 4 § 30; RCW 2.06.080.

judges of superior court, vacancy: State Constitution Art. 4 § 5; RCW 2.08.120.

vacancy resulting from creation of additional judgeship: RCW 2.08.069.

justices of supreme court, vacancy: State Constitution Art. 4 § 3; RCW 2.04.100.

license examining committee: RCW 43.24.060.

militia officers: State Constitution Art. 10 § 2.

optometry board members: RCW 18.54.030.

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Pacific marine fisheries commission, appointment of representatives to: RCW 77.75.040.
pharmacy board: RCW 18.64.001.
physical therapy board committee: RCW 18.74.020.
podiatric medical board: RCW 18.22.013.
pollution control hearings board of the state: RCW 43.21B.020, 43.21B.030.
private vocational schools, attorney general participation: Chapter 28C.10 RCW.
public printer: RCW 43.78.010.
railroad policemen: RCW 81.60.010.
real estate commission: RCW 18.85.071.
regents of educational institutions: State Constitution Art. 13 § 1.
state arts commission: RCW 43.46.015.
state board for community and technical colleges: RCW 28B.50.050, 28B.50.070.
state board of health: RCW 43.20.030.
state college boards of trustees: RCW 28B.40.100.
state library commission: RCW 27.04.020.
state patrol chief: RCW 43.43.020.
statute law committee members: RCW 1.08.001.
superior court vacancy: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.
supreme court vacancy: State Constitution Art. 4 § 3; RCW 2.04.100.
traffic safety commission: RCW 43.59.030.
transportation commission members: RCW 47.01.051.
uniform legislation commission: RCW 43.56.010.
United States senator, filling vacancy in office of: RCW 29.68.070.
University of Washington board of regents: RCW 28B.20.100.
utilities and transportation commission: RCW 80.01.010.
vacancies in
appointive office filled by: State Constitution Art. 3 § 13.
court of appeals, filled by: State Constitution Art. 4 § 30; RCW 2.06.080.
legislature, duties: State Constitution Art. 2 § 15.
superior court, filled by: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.
supreme court, filled by: State Constitution Art. 4 § 3; RCW 2.04.100.
veterinary board of governors: RCW 18.92.021.
visiting judges of superior court: RCW 2.08.140.
Washington personnel resources board: RCW 41.06.110.
Washington State University board of regents: RCW 28B.30.100.
Approval of laws: State Constitution Art. 3 § 12.
Associations of municipal corporations or officers to furnish information to governor: RCW 44.04.170.
Attorney general, advice to governor: RCW 43.10.030.
Board of natural resources member: RCW 43.30.040.
Bonds, notes and other evidences of indebtedness, governor's duties: Chapter 39.42 RCW.
Clemency and pardons board, established as board in office of governor: RCW 9.94A.880.
Commander-in-chief of state militia: State Constitution Art. 3 § 8.
Commissions issued by state, signed by: State Constitution Art. 3 § 15.
Commutation of death sentence, power to commute: RCW 10.01.120.
Congress, special election to fill vacancy in office of called by: RCW 29.68.080.
Continuity of government in event of enemy attack, succession to office of governor: RCW 42.14.020.
Council for the prevention of child abuse and neglect, jurisdiction in governor: RCW 43.121.020.
Driver license compact, executive head: RCW 46.21.040.
Election certificates issued for state and congressional offices by: RCW 29.27.110.
Election of: State Constitution Art. 3 § 1.

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Execution of laws: State Constitution Art. 3 § 5.

Extradition proceedings

power and duties as to: RCW 10.34.030.

warrant issued by: RCW 10.88.260.

Fines, power to remit: State Constitution Art. 3 § 11.

Forfeitures, power to remit: State Constitution Art. 3 § 11.

Highway

construction bonds and coupons, governor to sign: Chapter 47.10 RCW.

toll facility property sale, deed executed by: RCW 47.56.255.

Impeachment: State Constitution Art. 5 §§ 1, 2.

Indians, assumption of state jurisdiction, proclamation by governor: RCW 37.12.021.

Information in writing may be required from state officers: State Constitution Art. 3 § 5.

Interstate compact on juveniles, duties: Chapter 13.24 RCW.

Judges' retirement applications, doctors' examination report, approval and filing of: RCW 2.12.020.

Judicial officers

extension of leave of absence of: State Constitution Art. 4 § 8.

superior court, assignment to another county by: State Constitution Art. 4 §§ 5, 7.

Labor and industries, department, biennial report to governor: RCW 43.22.330.

Legal holidays

designation of: RCW 1.16.050.

proclamation process, applicability to courts: RCW 2.28.100.

Legislature

extra session, may convene: State Constitution Art. 3 § 7.

messages to: State Constitution Art. 3 § 6.

vacancies, filled by: State Constitution Art. 2 § 15.

Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.

Marketing agreements or orders, annual audit of financial affairs under, governor to receive reports of: RCW 15.65.490.

Messages to legislature: State Constitution Art. 3 § 6.

Militia and military affairs

commander-in-chief of militia: State Constitution Art. 3 § 8; RCW 38.08.020.

compacts with other states for guarding boundaries: RCW 38.08.100.

eminent domain for military purposes: RCW 8.04.170, 8.04.180.

martial law, proclamation by, when: RCW 38.08.030.

officers, commissioned by: State Constitution Art. 10 § 2.

personal staff: RCW 38.08.070.

rules promulgated by: RCW 38.08.090.

strength, composition, training, etc., prescribed by: RCW 38.04.040.

Motor vehicle administration, annual report of director of licensing to go to: RCW 46.01.290.

OASI, agreement of state for participation of state and political subdivision employees, duties concerning: Chapter 41.48 RCW.

Oath of office: RCW 43.01.020.

Official bonds, approval of: RCW 42.08.100.

Pardons

power to grant: RCW 10.01.120.

report to legislature of: State Constitution Art. 3 §§ 9, 11.

restrictions prescribed by law: State Constitution Art. 3 § 9.

Paroles, governor may revoke: RCW 9.95.160.

Protection for governor, lieutenant governor, and governor elect, duty of chief of state patrol to provide: RCW

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43.43.035.

Puget Sound ferry and toll bridge system, governor's powers and duties relating to: Chapter 47.60 RCW.

Registry of governor's acts kept by secretary of state: RCW 43.07.030.

Remission of fines and forfeitures report to legislature with reasons: State Constitution Art. 3 § 11.

Reports to governor

agricultural marketing agreements or orders, audits and financial reports: RCW 15.65.490.

agricultural marketing legislation recommendations: RCW 15.64.010.

agriculture director: RCW 43.23.130.

annual report by state officers, etc., period covered: RCW 43.01.035.

business license center: RCW 19.02.030.

department of transportation, operation and construction activities: RCW 47.01.141.

engineers and land surveyors board of registration: RCW 18.43.035.

enrollment forecasts: RCW 43.62.050.

financial management, director: RCW 43.88.160.

fish and wildlife director: RCW 77.04.120.

governor's advisory committee on agency officials' salaries: RCW 43.03.028.

horse racing commission: RCW 67.16.015.

human rights commission: RCW 49.60.100.

indeterminate sentence review board: RCW 9.95.265.

industrial insurance, violations: RCW 51.04.020.

investment activities of state investment board: RCW 43.33A.150.

judges of the supreme court to report defects or omissions in laws to: RCW 2.04.230.

labor and industries director: RCW 43.22.330, 49.12.180.

motor vehicle administration, director of licensing: RCW 46.01.290.

prosecuting attorneys, annual report: RCW 36.27.020.

state arts commission: RCW 43.46.070.

state board for community and technical colleges: RCW 28B.50.070.

state board of health: RCW 43.20.100.

state officers: State Constitution Art. 3 § 5.

state parks and recreation commission: RCW 79A.05.030.

superintendent of public instruction, biennial report: RCW 28A.300.040.

University of Washington board of regents: RCW 28B.20.130.

veterans' rehabilitation council: RCW 43.61.040.

Reprieves

power to grant: RCW 10.01.120.

report to legislature: State Constitution Art. 3 § 11.

Residence at seat of government: State Constitution Art. 3 § 24.

Resignation by state officers and members of legislature made to: RCW 42.12.020.

Salaries of public officials, governor's duties: RCW 43.03.028 and 43.03.040.

Salary of governor, amount of: State Constitution Art. 28 § 1; RCW 43.03.010.

Sale of unneeded toll facility property, governor to execute deed: RCW 47.56.255.

School apportionment demands estimate certified to: RCW 28A.300.170.

Secretary of transportation, governor to fix salary of: RCW 47.01.031.

Security and protection for governor, lieutenant governor, and governor elect, duty of state patrol to provide: RCW 43.43.035.

State building authority member: Chapter 43.75 RCW.

State capitol committee member: RCW 43.34.010.

State finance committee member: RCW 43.33.010.

State parks, disposal of land not needed for park purposes, conveyance instruments executed by: RCW 79A.05.175.

State participation within student exchange compact programs--Board to advise governor: RCW 28B.80.170.

Succession to governorship: State Constitution Art. 3 § 10.

Superior court judge, assignment to another county: State Constitution Art. 4 §§ 5, 7.

Supreme executive power vested in: State Constitution Art. 3 § 2.

Term of office: State Constitution Art. 3 § 2; RCW 43.01.010.

Toll bridge bonds, governor to countersign: RCW 47.56.140.

Toll bridges, improvement of existing bridge and construction of new bridge as single project, governor's powers and duties relating to: Chapter 47.58 RCW.

Traffic safety commission and programs, powers, duties and responsibilities of governor: Chapter 43.59 RCW.

Unanticipated receipts, governor as state's agent to receive: RCW 43.79.260.

Unemployment compensation, delinquent payments in lieu of contributions of political subdivisions, governor may withhold funds for: RCW 50.24.125.

Uniform interstate family support act

extradition powers and duties: RCW 26.21.640.

governor defined for purposes of: RCW 26.21.640.

United States senate, filling vacancy in: RCW 29.68.070.

Vacancies

in court of appeals: State Constitution Art. 4 § 30; RCW 2.06.080.

in legislature, duties: State Constitution Art. 2 § 15.

in office filled by: State Constitution Art. 3 § 13.

in superior court: State Constitution Art. 4 § 5.

in supreme court: State Constitution Art. 4 § 3.

Vacancy in office of governor

election to fill: State Constitution Art. 3 § 10.

succession to: State Constitution Art. 3 § 10.

Veto

initiatives and referendums, power does not extend to: State Constitution Art. 2 § 1.

power of: State Constitution Art. 3 § 12.

Voluntary action center, establishment by governor: RCW 43.150.040.

Washington scholars' program, participation in: RCW 28A.600.100 through 28A.600.150.

Water pollution control, powers and duties pertaining to: RCW 90.48.260, 90.48.262.

RCW 43.06.010 General powers and duties.

In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

- (1) The governor shall supervise the conduct of all executive and ministerial offices;
- (2) The governor shall see that all offices are filled, including as provided in RCW 42.12.070, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;
- (3) The governor shall make the appointments and supply the vacancies mentioned in this title;
- (4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;
- (5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of the prosecutor's duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor may, after finding that there exists within this state an imminent danger of infestation of plant pests as defined in RCW 17.24.007 or plant diseases which seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, order emergency measures to prevent or abate the infestation or disease situation, which measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides;

(14) On all compacts forwarded to the governor pursuant to RCW 9.46.360(6), the governor is authorized and empowered to execute on behalf of the state compacts with federally recognized Indian tribes in the state of Washington pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III gaming, as defined in the Act, on Indian lands.

[1994 c 223 § 3; 1993 c 142 § 5; 1992 c 172 § 1; 1991 c 257 § 22; 1982 c 153 § 1; 1979 ex.s. c 53 § 4; 1977 ex.s. c 289 § 15; 1975-'76 2nd ex.s. c 108 § 25; 1969 ex.s. c 186 § 8; 1965 c 8 § 43.06.010. Prior: 1890 p 627 § 1; RRS § 10982.]

Notes:

Severability--1992 c 172: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 172 § 4.]

Severability--Effective date--1982 c 153: See notes following RCW 17.24.210.

Severability--1979 ex.s. c 53: See RCW 10.85.900.

Severability--1977 ex.s. c 289: See RCW 43.131.901.

Severability--Effective date--1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Rewards by county legislative authorities: Chapter 10.85 RCW.

RCW 43.06.015 Interstate oil compact commission--Governor may join.

The governor is authorized, on behalf of the state of Washington, to join the interstate oil compact commission as an associate member and to become an active member thereof if and when oil and gas are produced in Washington in commercial quantities and to attend meetings and participate in the activities carried on by said commission either in person or by a duly authorized representative.

[1965 c 8 § 43.06.015. Prior: 1953 c 47 § 1.]

Notes:

Interstate compact to conserve oil and gas: 65 Stat. 199 (P. L. 128, ch. 350) Aug. 28, 1951. Associate membership authorized by Art. 9 § 2 of the commission's bylaws.

RCW 43.06.020 Records to be kept.

The governor must cause to be kept the following records:

First, a register of all pardons, commutations, executive paroles, final discharges, and restorations of citizenship made by him;

Second, an account of all his disbursements of state moneys, and of all rewards offered by him for the apprehension of criminals and persons charged with crime;

Third, a register of all appointments made by him with date of commission, name of appointee and name of predecessor, if any.

[1965 c 8 § 43.06.020. Prior: 1921 c 28 § 1; 1890 p 628 § 2; RRS § 10983.]

RCW 43.06.030 Appointments to senate for confirmation--Notice.

For a gubernatorial appointment to be effective, the governor must transmit to the secretary of the senate notice of the appointment, along with pertinent information regarding the appointee, within fourteen days after making any appointment subject to senate confirmation.

[1981 c 338 § 12; 1965 c 8 § 43.06.030. Prior: 1890 p 629 § 3; RRS § 10984.]

RCW 43.06.040 Lieutenant governor acts in governor's absence.

If the governor absents himself from the state, he shall, prior to his departure, notify the lieutenant governor of his proposed absence, and during such absence the lieutenant governor shall perform all the duties of the governor.

[1965 c 8 § 43.06.040. Prior: 1890 p 629 § 6; RRS § 10985.]

Notes:

Duties of lieutenant governor: State Constitution Art. 3 § 16.

RCW 43.06.050 Powers and duties of acting governor.

Every provision of law in relation to the powers and duties of the governor, and in relation to acts and duties to be performed by others towards him, extends to the person performing for the time being the duties of governor.

[1965 c 8 § 43.06.050. Prior: 1890 p 629 § 4; RRS § 10986.]

RCW 43.06.055 Governor-elect--Appropriation to provide office and staff.

The legislature preceding the gubernatorial election shall make an appropriation which may only be expended by a newly elected governor other than the incumbent for the purpose of providing office and staff for the governor-elect preparatory to his assumption of duties as governor. The funds for the appropriation shall be made available to him not later than thirty days prior to the date when the legislature will convene.

[1969 ex.s. c 88 § 1.]

RCW 43.06.060 Expense of publishing proclamations.

When the governor is authorized or required by law to issue a proclamation, payment for publishing it shall be made out of the state treasury.

[1965 c 8 § 43.06.060. Prior: 1881 p 45 §§ 1-3; Code 1881 § 2367; RRS § 10988.]

RCW 43.06.070 Removal of appointive officers.

The governor may remove from office any state officer appointed by him not liable to impeachment, for incompetency, misconduct, or malfeasance in office.

[1965 c 8 § 43.06.070. Prior: 1893 c 101 § 1; RRS § 10988.]

RCW 43.06.080 Removal of appointive officers--Statement of reasons to be filed.

Whenever the governor is satisfied that any officer not liable to impeachment has been guilty of misconduct, or malfeasance in office, or is incompetent, he shall file with the secretary of state a statement showing his reasons, with his order of removal, and the secretary of state shall forthwith send a certified copy of such order of removal and statement of causes by registered mail to the last known post office address of the officer in question.

[1965 c 8 § 43.06.080. Prior: 1893 c 101 § 2; RRS § 10989.]

RCW 43.06.090 Removal of appointive officers--Filling of vacancy.

At the time of making any removal from office, the governor shall appoint some proper person to fill the office, who shall forthwith demand and receive from the officer removed the papers, records, and property of the state pertaining to the office, and shall perform the duties of

the office and receive the compensation thereof until his successor is appointed.

[1965 c 8 § 43.06.090. Prior: 1893 c 101 § 3; RRS § 10990.]

RCW 43.06.092 Gubernatorial appointees--Continuation of service--Appointments to fill vacancies.

(1) Any gubernatorial appointee subject to senate confirmation shall continue to serve unless rejected by a vote of the senate. An appointee who is rejected by a vote of the senate shall not be reappointed to the same position for a period of one year from termination of service.

(2) Any person appointed by the governor to fill the unexpired term of an appointment subject to senate confirmation must also be confirmed by the senate.

[1981 c 338 § 2.]

RCW 43.06.094 Gubernatorial appointees--Removal prior to confirmation.

Gubernatorial appointees subject to senate confirmation, other than those who serve at the governor's pleasure, may not be removed from office without cause by the governor prior to confirmation except upon consent of the senate as provided for by the rules of the senate.

[1981 c 338 § 1.]

RCW 43.06.110 Economic opportunity act programs--State participation--Authority of governor.

The governor, or his designee, is hereby authorized and empowered to undertake such programs as will, in the judgment of the governor, or his designee, enable families and individuals of all ages, in rural and urban areas, in need of the skills, knowledge, motivations, and opportunities to become economically self-sufficient to obtain and secure such skills, knowledge, motivations, and opportunities. Such programs may be engaged in as solely state operations, or in conjunction or cooperation with any appropriate agency of the federal government, any branch or agency of the government of this state, any city or town, county, municipal corporation, metropolitan municipal corporation or other political subdivision of the state, or any private corporation. Where compliance with the provisions of federal law or rules or regulations promulgated thereunder is a necessary condition to the receipt of federal funds by the state, the governor or his designee, is hereby authorized to comply with such laws, rules or regulations to the extent necessary for the state to cooperate most fully with the federal government in furtherance of the programs herein authorized.

[1971 ex.s. c 177 § 2; 1965 c 14 § 2.]

Notes:

County participation in Economic Opportunity Act programs: RCW 36.32.410.

RCW 43.06.115 Militarily impacted area--Declaration by governor.

(1) The governor may, by executive order, after consultation with or notification of the executive-legislative committee on economic development created by *chapter . . . (Senate Bill No. 5300), Laws of 1993, declare a community to be a "military impacted area." A "military impacted area" means a community or communities, as identified in the executive order, that experience serious social and economic hardships because of a change in defense spending by the federal government in that community or communities.

(2) If the governor executes an order under subsection (1) of this section, the governor shall establish a response team to coordinate state efforts to assist the military impacted community. The response team may include, but not be limited to, one member from each of the following agencies: (a) The department of community, trade, and economic development; (b) the department of social and health services; (c) the employment security department; (d) the state board for community and technical colleges; (e) the higher education coordinating board; and (f) the department of transportation. The governor may appoint a response team coordinator. The governor shall seek to actively involve the impacted community or communities in planning and implementing a response to the crisis. The governor may seek input or assistance from the community diversification advisory committee, and the governor may establish task forces in the community or communities to assist in the coordination and delivery of services to the local community. The state and community response shall consider economic development, human service, and training needs of the community or communities impacted.

[1998 c 245 § 47; 1996 c 186 § 505; 1995 c 399 § 61; 1993 c 421 § 2.]

Notes:

***Reviser's note:** Senate Bill No. 5300 was vetoed by the governor.

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Finding--Intent--1993 c 421: "The legislature finds that military base expansions, closures, and defense procurement contract cancellations may have extreme economic impacts on communities and firms. The legislature began to address this concern in 1990 by establishing the community diversification program in the department of community development. While this program has helped military dependent communities begin the long road to diversification, base expansions or closures or major procurement contract reductions in the near future will find these communities unable to respond adequately, endangering the health, safety, and welfare of the community. The legislature intends to target emergency state assistance to military dependent communities significantly impacted by defense spending. The emergency state assistance and the long-term strategy should be driven by the impacted community and consistent with the state plan for diversification required under RCW 43.63A.450(4)." [1993 c 421 § 1.]

RCW 43.06.120 Federal funds and programs--Acceptance of funds by governor authorized--Administration and disbursement.

The governor is authorized to accept on behalf of the state of Washington funds provided by any act of congress for the benefit of the state or its political subdivisions. He is further authorized to administer and disburse such funds, or to designate an agency to administer and disburse them, until the legislature otherwise directs.

[1967 ex.s. c 41 § 1.]

RCW 43.06.130 Federal funds and programs--Payment of travel expenses of committees, councils, or other bodies.

Members of advisory committees, councils, or other bodies established to meet requirements of acts of congress may be paid travel expenses incurred pursuant to RCW 43.03.050 and 43.03.060 as now existing or hereafter amended from such funds as may be available by legislative appropriation or as may otherwise be available as provided by law.

[1975-'76 2nd ex.s. c 34 § 97; 1973 2nd ex.s. c 17 § 1; 1967 ex.s. c 41 § 2.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.06.150 Federal funds and programs--Participating agencies to notify director of financial management, joint legislative audit and review committee and legislative council--Progress reports.

See RCW 43.88.205.

RCW 43.06.200 Definitions.

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in RCW 43.06.010, and 43.06.200 through 43.06.270 each as now or hereafter amended shall have the following meaning:

"State of emergency" means an emergency proclaimed as such by the governor pursuant to RCW 43.06.010 as now or hereafter amended.

"Governor" means the governor of this state or, in case of his removal, death, resignation or inability to discharge the powers and duties of his office, then the person who may exercise the powers of governor pursuant to the Constitution and laws of this state relating to succession in office.

"Criminal offense" means any prohibited act for which any criminal penalty is imposed by law and includes any misdemeanor, gross misdemeanor, or felony.

[1977 ex.s. c 328 § 11; 1975-'76 2nd ex.s. c 108 § 26; 1969 ex.s. c 186 § 1.]

Notes:

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

Severability--Effective date--1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Provisions cumulative--1969 ex.s. c 186: "The provisions of this act shall be cumulative to and shall not operate to repeal any other laws, or local ordinances, except those specifically mentioned in this act." [1969 ex.s. c 186 § 10.]

Severability--1969 ex.s. c 186: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 186 § 11.]

Energy supply emergencies: Chapter 43.21G RCW.

RCW 43.06.210 Proclamations--Generally--State of emergency.

The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended. The state of emergency shall cease to exist upon the issuance of a proclamation of the governor declaring its termination: PROVIDED, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected.

[1977 ex.s. c 328 § 12; 1975-'76 2nd ex.s. c 108 § 27; 1969 ex.s. c 186 § 2.]

Notes:

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

Severability--Effective date--1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Energy supply emergencies: Chapter 43.21G RCW.

RCW 43.06.220 State of emergency--Powers of governor pursuant to proclamation.

The governor after proclaiming a state of emergency and prior to terminating such, may, in the area described by the proclamation issue an order prohibiting:

- (1) Any person being on the public streets, or in the public parks, or at any other public place during the hours declared by the governor to be a period of curfew;
- (2) Any number of persons, as designated by the governor, from assembling or gathering on the public streets, parks, or other open areas of this state, either public or private;
- (3) The manufacture, transfer, use, possession or transportation of a molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;
- (4) The transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;
- (5) The possession of firearms or any other deadly weapon by a person (other than a law enforcement officer) in a place other than that person's place of residence or business;
- (6) The sale, purchase or dispensing of alcoholic beverages;
- (7) The sale, purchase or dispensing of other commodities or goods, as he reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;
- (8) The use of certain streets, highways or public ways by the public; and
- (9) Such other activities as he reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace.

In imposing the restrictions provided for by RCW 43.06.010, and 43.06.200 through

43.06.270, the governor may impose them for such times, upon such conditions, with such exceptions and in such areas of this state he from time to time deems necessary.

Any person wilfully violating any provision of an order issued by the governor under this section shall be guilty of a gross misdemeanor.

[1969 ex.s. c 186 § 3.]

RCW 43.06.230 State of emergency--Destroying or damaging property or causing personal injury--Penalty.

After the proclamation of a state of emergency as provided in RCW 43.06.010, any person who maliciously destroys or damages any real or personal property or maliciously injures another shall be guilty of a felony and upon conviction thereof shall be imprisoned in a state correctional facility for not less than two years nor more than ten years.

[1992 c 7 § 39; 1969 ex.s. c 186 § 4.]

RCW 43.06.240 State of emergency--Disorderly conduct after emergency proclaimed--Penalty.

After the proclamation of a state of emergency pursuant to RCW 43.06.010, every person who:

(1) Wilfully causes public inconvenience, annoyance, or alarm, or recklessly creates a risk thereof, by:

(a) engaging in fighting or in violent, tumultuous, or threatening behavior; or

(b) making an unreasonable noise or an offensively coarse utterance, gesture, or display, or addressing abusive language to any person present; or

(c) dispersing any lawful procession or meeting of persons, not being a peace officer of this state and without lawful authority; or

(d) creating a hazardous or physically offensive condition which serves no legitimate purpose; or

(2) Engages with at least one other person in a course of conduct as defined in subsection (1) of this section which is likely to cause substantial harm or serious inconvenience, annoyance, or alarm, and refuses or knowingly fails to obey an order to disperse made by a peace officer shall be guilty of disorderly conduct and be punished by imprisonment in the county jail for not more than one year or fined not more than one thousand dollars or by both fine and imprisonment.

[1969 ex.s. c 186 § 5.]

RCW 43.06.250 State of emergency--Refusing to leave public way or property when ordered--Penalty.

Any person upon any public way or any public property, within the area described in the

state of emergency, who is directed by a public official to leave the public way or public property and refuses to do so shall be guilty of a misdemeanor.

[1969 ex.s. c 186 § 6.]

RCW 43.06.260 State of emergency--Prosecution of persons sixteen years or over as adults.

After the proclamation of a state of emergency as provided in RCW 43.06.010 any person sixteen years of age or over who violates any provision of RCW 43.06.010, and 43.06.200 through 43.06.270 shall be prosecuted as an adult.

[1969 ex.s. c 186 § 7.]

RCW 43.06.270 State of emergency--State militia or state patrol--Use in restoring order.

The governor may in his discretion order the state militia pursuant to chapter 38.08 RCW or the state patrol to assist local officials to restore order in the area described in the proclamation of a state of emergency.

[1969 ex.s. c 186 § 9.]

RCW 43.06.335 Washington quality award council--Organization--Duties--Expiration.

(1) The Washington quality award council shall be organized as a private, nonprofit corporation, in accordance with chapter 24.03 RCW and this section.

(2) The council shall oversee the governor's Washington state quality award program. The purpose of the program is to improve the overall competitiveness of the state's economy by stimulating Washington state industries, business, and organizations to bring about measurable success through setting standards of organizational excellence, encouraging organizational self-assessment, identifying successful organizations as role models, and providing a valuable mechanism for promoting and strengthening a commitment to continuous quality improvement in all sectors of the state's economy. The governor shall annually present the award to organizations that improve the quality of their products and services and are noteworthy examples of high-performing work organizations, as determined by the council in consultation with the governor or appointed representative.

(3) The governor shall appoint a representative to serve on the board of directors of the council.

(4) The council shall establish a board of examiners, a recognition committee, and such other committees or subgroups as it deems appropriate to carry out its responsibilities.

(5) The council may conduct such public information, research, education, and assistance programs as it deems appropriate to further quality improvement in organizations operating in the state of Washington.

- (6) The council shall:
 - (a) Approve and announce award recipients;
 - (b) Approve guidelines to examine applicant organizations;
 - (c) Approve appointment of board of examiners; and
 - (d) Arrange appropriate annual awards and recognition for recipients.
- (7) The council shall cease to exist on July 1, 2004, unless otherwise extended by law.

[2000 c 216 § 1; 1998 c 245 § 86; 1997 c 329 § 1; 1994 c 306 § 1. Formerly RCW 43.07.290, 43.330.140.]

RCW 43.06.350 Foreign nationals or citizens, convicted offenders--Transfers and sentences.

Whenever any convicted offender, who is a citizen or national of a foreign country and is under the jurisdiction of the department of corrections, requests transfer to the foreign country of which he or she is a citizen or national, under a treaty on the transfer of offenders entered into between the United States and a foreign country, the governor or the governor's designee:

- (1) May grant the approval of the state to such transfer as provided in the treaty; and
- (2) Shall have, notwithstanding any provision of chapter 9.95 or 72.68 RCW, the plenary authority to fix the duration of the offender's sentence, if not otherwise fixed, whenever a fixed sentence is a condition precedent to transfer.

[1983 c 255 § 9.]

Notes:

Severability--1983 c 255: See RCW 72.74.900.

RCW 43.06.400 Listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue--Periodic review and submission of recommendations to legislature by governor.

Beginning in January 1984, and in January of every fourth year thereafter, the department of revenue shall submit to the legislature prior to the regular session a listing of the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax exemptions. The listing shall include an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population which benefit from the tax exemption, and whether or not the tax exemption conflicts with another state program. The listing shall include but not be limited to the following revenue sources:

- (1) Real and personal property tax exemptions under Title 84 RCW;
- (2) Business and occupation tax exemptions, deductions, and credits under chapter 82.04 RCW;
- (3) Retail sales and use tax exemptions under chapters 82.08, 82.12, and 82.14 RCW;
- (4) Public utility tax exemptions and deductions under chapter 82.16 RCW;
- (5) Food fish and shellfish tax exemptions under chapter 82.27 RCW;

- (6) Leasehold excise tax exemptions under chapter 82.29A RCW;
- (7) Motor vehicle and special fuel tax exemptions and refunds under chapters 82.36 and 82.38 RCW;
- (8) Aircraft fuel tax exemptions under chapter 82.42 RCW;
- (9) Motor vehicle excise tax exclusions under chapter 82.44 RCW; and
- (10) Insurance premiums tax exemptions under chapter 48.14 RCW.

The department of revenue shall prepare the listing required by this section with the assistance of any other agencies or departments as may be required.

The department of revenue shall present the listing to the ways and means committees of each house in public hearings.

Beginning in January 1984, and every four years thereafter the governor is requested to review the report from the department of revenue and may submit recommendations to the legislature with respect to the repeal or modification of any tax exemption. The ways and means committees of each house and the appropriate standing committee of each house shall hold public hearings and take appropriate action on the recommendations submitted by the governor.

As used in this section, "tax exemption" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate.

[1999 c 372 § 5; 1987 c 472 § 16; 1983 2nd ex.s. c 3 § 60.]

NOTES:

Severability--1987 c 472: See RCW 79.71.900.

Construction--Severability--Effective dates--1983 2nd ex.s. c 3: See notes following RCW 82.04.255.
Review and termination of tax preferences: Chapter 43.136 RCW.

RCW 43.06.410 State internship program--Governor's duties.

There is established within the office of the governor the Washington state internship program to assist students and state employees in gaining valuable experience and knowledge in various areas of state government. In administering the program, the governor shall:

- (1) Consult with the secretary of state, the director of personnel, the commissioner of the employment security department, and representatives of labor;
- (2) Encourage and assist agencies in developing intern positions;
- (3) Develop and coordinate a selection process for placing individuals in intern positions. This selection process shall give due regard to the responsibilities of the state to provide equal employment opportunities;
- (4) Develop and coordinate a training component of the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;
- (5) Work with institutions of higher education in developing the program, soliciting qualified applicants, and selecting participants; and
- (6) Develop guidelines for compensation of the participants.

[1993 c 281 § 47; 1985 c 442 § 1.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Construction--1985 c 442: "Nothing in this act shall be construed to limit the authority of state agencies to continue or establish other internship programs or positions." [1985 c 442 § 10.]

Severability--1985 c 442: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 442 § 11.]

RCW 43.06.415 State internship program coordinator--Rules.

(1) The governor may appoint a coordinator to assist in administering the program created by RCW 43.06.410.

(2) The governor shall adopt such rules as are necessary to administer RCW 43.06.410.

[1985 c 442 § 2.]

Notes:

Construction--Severability--1985 c 442: See notes following RCW 43.06.410.

RCW 43.06.420 Undergraduate internship program--Executive fellows program.

The state internship program shall consist of two individual internship programs as follows:

(1) An undergraduate internship program consisting of three-month to six-month positions for students working toward an undergraduate degree. In addition, a public sector employee, whether working toward a degree or not, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency.

(2) An executive fellows program consisting of one-year to two-year placements for students who have successfully completed at least one year of graduate level work and have demonstrated a substantial interest in public sector management. Positions in this program shall be as assistants or analysts at the midmanagement level or higher. In addition, a public sector employee, whether working toward an advanced degree or not, or who has not successfully completed one year of graduate-level work as required by this subsection, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency. Participants in the executive fellows program who were not public employees prior to accepting a position in the program shall receive insurance and retirement credit commensurate with other employees of the employing agency.

[1985 c 442 § 3.]

Notes:

Construction--Severability--1985 c 442: See notes following RCW 43.06.410.

RCW 43.06.425 Interns--Effect of employment experience--Rights of reversion--Fringe benefits--Sick and vacation leave.

The Washington personnel resources board shall adopt rules to provide that:

(1) Successful completion of an internship under RCW 43.06.420 shall be considered as employment experience at the level at which the intern was placed;

(2) Persons leaving classified or exempt positions in state government in order to take an internship under RCW 43.06.420: (a) Have the right of reversion to the previous position at any time during the internship or upon completion of the internship; and (b) shall continue to receive all fringe benefits as if they had never left their classified or exempt positions;

(3) Participants in the undergraduate internship program who were not public employees prior to accepting a position in the program receive sick leave allowances commensurate with other state employees;

(4) Participants in the executive fellows program who were not public employees prior to accepting a position in the program receive sick and vacation leave allowances commensurate with other state employees.

[1993 c 281 § 48; 1985 c 442 § 4.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.

Construction--Severability--1985 c 442: See notes following RCW 43.06.410.

State internship program--Positions exempt from chapter 41.06 RCW: RCW 41.06.088.

RCW 43.06.435 Interns--Effect on full time equivalent staff position limitations.

An agency shall not be deemed to exceed any limitation on full time equivalent staff positions on the basis of intern positions established under RCW 43.06.420.

[1985 c 442 § 6.]

Notes:

Construction--Severability--1985 c 442: See notes following RCW 43.06.410.

RCW 43.06.450 Cigarette tax contracts--Intent--Finding--Limitations.

The legislature intends to further the government-to-government relationship between the state of Washington and Indians in the state of Washington by authorizing the governor to enter into contracts concerning the sale of cigarettes. The legislature finds that these cigarette tax contracts will provide a means to promote economic development, provide needed revenues for tribal governments and Indian persons, and enhance enforcement of the state's cigarette tax law, ultimately saving the state money and reducing conflict. In addition, it is the intent of the legislature that the negotiations and the ensuing contracts shall have no impact on the state's share of the proceeds under the master settlement agreement entered into on November 23, 1998, by the state. Chapter 235, Laws of 2001 does not constitute a grant of taxing authority to any Indian tribe nor does it provide precedent for the taxation of non-Indians on fee land.

[2001 c 235 § 1.]

RCW 43.06.455 Cigarette tax contracts--Requirements--Use of

revenue--Enforcement--Definitions.

(1) The governor may enter into cigarette tax contracts concerning the sale of cigarettes. All cigarette tax contracts shall meet the requirements for cigarette tax contracts under this section. Except for cigarette tax contracts under RCW 43.06.460, the rates, revenue sharing, and exemption terms of a cigarette tax contract are not effective unless authorized in a bill enacted by the legislature.

(2) Cigarette tax contracts shall be in regard to retail sales in which Indian retailers make delivery and physical transfer of possession of the cigarettes from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, contracts shall provide that retailers shall not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(3) A cigarette tax contract with a tribe shall provide for a tribal cigarette tax in lieu of all state cigarette taxes and state and local sales and use taxes on sales of cigarettes in Indian country by Indian retailers. The tribe may allow an exemption for sales to tribal members.

(4) Cigarette tax contracts shall provide that all cigarettes possessed or sold by a retailer shall bear a cigarette stamp obtained by wholesalers from a bank or other suitable stamp vendor and applied to the cigarettes. The procedures to be used by the tribe in obtaining tax stamps must include a means to assure that the tribal tax will be paid by the wholesaler obtaining such cigarettes. Tribal stamps must have serial numbers or some other discrete identification so that each stamp can be traced to its source.

(5) Cigarette tax contracts shall provide that retailers shall purchase cigarettes only from:

(a) Wholesalers or manufacturers licensed to do business in the state of Washington;

(b) Out-of-state wholesalers or manufacturers who, although not licensed to do business in the state of Washington, agree to comply with the terms of the cigarette tax contract, are certified to the state as having so agreed, and who do in fact so comply. However, the state may in its sole discretion exercise its administrative and enforcement powers over such wholesalers or manufacturers to the extent permitted by law;

(c) A tribal wholesaler that purchases only from a wholesaler or manufacturer described in (a), (b), or (d) of this subsection; and

(d) A tribal manufacturer.

(6) Cigarette tax contracts shall be for renewable periods of no more than eight years. A renewal may not include a renewal of the phase-in period.

(7) Cigarette tax contracts shall include provisions for compliance, such as transport and notice requirements, inspection procedures, stamping requirements, recordkeeping, and audit requirements.

(8) Tax revenue retained by a tribe must be used for essential government services. Use of tax revenue for subsidization of cigarette and food retailers is prohibited.

(9) The cigarette tax contract may include provisions to resolve disputes using a nonjudicial process, such as mediation.

(10) The governor may delegate the power to negotiate cigarette tax contracts to the department of revenue. The department of revenue shall consult with the liquor control board during the negotiations.

(11) Information received by the state or open to state review under the terms of a contract is subject to the provisions of RCW 82.32.330.

(12) It is the intent of the legislature that the liquor control board and the department of revenue continue the division of duties and shared authority under chapter 82.24 RCW and therefore the liquor control board is responsible for enforcement activities that come under the terms of chapter 82.24 RCW.

(13) Each cigarette tax contract shall include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the contract should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the contract so allow. A contract shall provide for termination of the contract if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period. In addition, the contract shall include provisions delineating the respective roles and responsibilities of the tribe, the department of revenue, and the liquor control board.

(14) For purposes of this section and RCW 43.06.460, 82.08.0316, 82.12.0316, and 82.24.295:

(a) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development;

(b) "Indian retailer" or "retailer" means (i) a retailer wholly owned and operated by an Indian tribe, (ii) a business wholly owned and operated by a tribal member and licensed by the tribe, or (iii) a business owned and operated by the Indian person or persons in whose name the land is held in trust; and

(c) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

[2001 c 235 § 2.]

RCW 43.06.460 Cigarette tax contracts--Eligible tribes--Tax rate.

(1) The governor is authorized to enter into cigarette tax contracts with the Squaxin Island Tribe, the Nisqually Tribe, Tulalip Tribes, the Muckleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Yakama Nation, the Suquamish Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, and the Upper Skagit Tribe. Each contract adopted under this section shall provide that the tribal cigarette tax rate be one hundred percent of the state cigarette and state and local sales and use taxes within three years of enacting the tribal tax and shall be set no lower than eighty percent of the state cigarette and state and local sales and use taxes during the three-year phase-in period. The three-year phase-in period shall be shortened by three months each quarter the number of cartons of nontribal manufactured cigarettes is at least ten percent or more than the quarterly average number of cartons of nontribal manufactured cigarettes from the six-month period preceding the imposition of the tribal tax under the contract. Sales at a retailer operation

not in existence as of the date a tribal tax under this section is imposed are subject to the full rate of the tribal tax under the contract. The tribal cigarette tax is in lieu of the state cigarette and state and local sales and use taxes, as provided in RCW 43.06.455(3).

(2) A cigarette tax contract under this section is subject to RCW 43.06.455.

[2001 2nd sp.s. c 21 § 1; 2001 c 235 § 3.]

Chapter 43.06A RCW OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN

Sections

43.06A.010	Office created--Purpose.
43.06A.020	Ombudsman--Appointment, term of office.
43.06A.030	Duties.
43.06A.050	Confidentiality.
43.06A.060	Admissibility of evidence--Testimony regarding official duties.
43.06A.070	Release of identifying information.
43.06A.080	Inapplicability of privilege in RCW 43.06A.060.
43.06A.085	Liability for good faith performance--Privileged communications.
43.06A.090	Report of conduct warranting criminal or disciplinary proceedings.
43.06A.100	Communication with children in custody of department of social and health services--Access to information in possession or control of department or state institutions.
43.06A.900	Construction.

RCW 43.06A.010 Office created--Purpose.

There is hereby created an office of the family and children's ombudsman within the office of the governor for the purpose of promoting public awareness and understanding of family and children services, identifying system issues and responses for the governor and the legislature to act upon, and monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children's services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences. The ombudsman shall report directly to the governor and shall exercise his or her powers and duties independently of the secretary.

[1996 c 131 § 2.]

Notes:

Effective date--1996 c 131 §§ 1-3: See note following RCW 44.04.220.

RCW 43.06A.020 Ombudsman--Appointment, term of office.

(1) Subject to confirmation by the senate, the governor shall appoint an ombudsman who shall be a person of recognized judgment, independence, objectivity, and integrity, and shall be qualified by training or experience, or both, in family and children's services law and policy. Prior to the appointment, the governor shall consult with, and may receive recommendations

from the committee, regarding the selection of the ombudsman.

(2) The person appointed ombudsman shall hold office for a term of three years and shall continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the ombudsman only for neglect of duty, misconduct, or inability to perform duties. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term.

[1998 c 288 § 7; 1996 c 131 § 3.]

Notes:

Severability--1998 c 288: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1998 c 288 § 8.]

Effective date--1998 c 288: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 2, 1998]." [1998 c 288 § 9.]

Effective date--1996 c 131 §§ 1-3: See note following RCW 44.04.220.

RCW 43.06A.030 Duties.

The ombudsman shall perform the following duties:

(1) Provide information as appropriate on the rights and responsibilities of individuals receiving family and children's services, and on the procedures for providing these services;

(2) Investigate, upon his or her own initiative or upon receipt of a complaint, an administrative act alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds; however, the ombudsman may decline to investigate any complaint as provided by rules adopted under this chapter;

(3) Monitor the procedures as established, implemented, and practiced by the department to carry out its responsibilities in delivering family and children's services with a view toward appropriate preservation of families and ensuring children's health and safety;

(4) Review periodically the facilities and procedures of state institutions serving children, and state-licensed facilities or residences;

(5) Recommend changes in the procedures for addressing the needs of families and children;

(6) Submit annually to the committee and to the governor by November 1 a report analyzing the work of the office including recommendations;

(7) Grant the committee access to all relevant records in the possession of the ombudsman unless prohibited by law; and

(8) Adopt rules necessary to implement this chapter.

[1996 c 131 § 4.]

RCW 43.06A.050 Confidentiality.

The ombudsman shall treat all matters under investigation, including the identities of service recipients, complainants, and individuals from whom information is acquired, as

confidential, except as far as disclosures may be necessary to enable the ombudsman to perform the duties of the office and to support any recommendations resulting from an investigation. Upon receipt of information that by law is confidential or privileged, the ombudsman shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. Investigative records of the office of the ombudsman are confidential and are exempt from public disclosure under chapter 42.17 RCW.

[1996 c 131 § 6.]

RCW 43.06A.060 Admissibility of evidence--Testimony regarding official duties.

Neither the ombudsman nor the ombudsman's staff may be compelled, in any judicial or administrative proceeding, to testify or to produce evidence regarding the exercise of the official duties of the ombudsman or of the ombudsman's staff. All related memoranda, work product, notes, and case files of the ombudsman's office are confidential, are not subject to discovery, judicial or administrative subpoena, or other method of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. This section shall not apply to the *legislative oversight committee.

[1998 c 288 § 1.]

Notes:

***Reviser's note:** "Legislative oversight committee" apparently refers to the "legislative children's oversight committee" created in RCW 44.04.220.

Severability--Effective date--1998 c 288: See notes following RCW 43.06A.020.

RCW 43.06A.070 Release of identifying information.

Identifying information about complainants or witnesses shall not be subject to any method of legal compulsion, nor shall such information be revealed to the *legislative oversight committee or the governor except under the following circumstances: (1) The complainant or witness waives confidentiality; (2) under a legislative subpoena when there is a legislative investigation for neglect of duty or misconduct by the ombudsman or ombudsman's office when the identifying information is necessary to the investigation of the ombudsman's acts; or (3) under an investigation or inquiry by the governor as to neglect of duty or misconduct by the ombudsman or ombudsman's office when the identifying information is necessary to the investigation of the ombudsman' [ombudsman's] acts.

For the purposes of this section, "identifying information" includes the complainant's or witness's name, location, telephone number, likeness, social security number or other identification number, or identification of immediate family members.

[1998 c 288 § 2.]

Notes:

***Reviser's note:** "Legislative oversight committee" apparently refers to the "legislative children's

oversight committee" created in RCW 44.04.220.

Severability--Effective date--1998 c 288: See notes following RCW 43.06A.020.

RCW 43.06A.080 Inapplicability of privilege in RCW 43.06A.060.

The privilege described in RCW 43.06A.060 does not apply when:

(1) The ombudsman or ombudsman's staff member has direct knowledge of an alleged crime, and the testimony, evidence, or discovery sought is relevant to that allegation;

(2) The ombudsman or a member of the ombudsman's staff has received a threat of, or becomes aware of a risk of, imminent serious harm to any person, and the testimony, evidence, or discovery sought is relevant to that threat or risk;

(3) The ombudsman has been asked to provide general information regarding the general operation of, or the general processes employed at, the ombudsman's office; or

(4) The ombudsman or ombudsman's staff member has direct knowledge of a failure by any person specified in RCW 26.44.030, including the state family and children's ombudsman or any volunteer in the ombudsman's office, to comply with RCW 26.44.030.

[1998 c 288 § 3.]

Notes:

Severability--Effective date--1998 c 288: See notes following RCW 43.06A.020.

RCW 43.06A.085 Liability for good faith performance--Privileged communications.

(1) An employee of the office of the family and children's ombudsman is not liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against an employee of the department, an employee of a contracting agency of the department, a foster parent, or a recipient of family and children's services for any communication made, or information given or disclosed, to aid the office of the family and children's ombudsman in carrying out its responsibilities, unless the communication or information is made, given, or disclosed maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by an ombudsman, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged under RCW 9.58.070 and that privilege shall serve as a defense in any action in libel or slander.

[1999 c 390 § 7.]

RCW 43.06A.090 Report of conduct warranting criminal or disciplinary proceedings.

When the ombudsman or ombudsman's staff member has reasonable cause to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the ombudsman or ombudsman's staff member shall report the matter, or cause a report to be made, to the appropriate authorities.

[1998 c 288 § 4.]

Notes:

Severability--Effective date--1998 c 288: See notes following RCW 43.06A.020.

RCW 43.06A.100 Communication with children in custody of department of social and health services--Access to information in possession or control of department or state institutions.

The department of social and health services shall:

(1) Allow the ombudsman or the ombudsman's designee to communicate privately with any child in the custody of the department for the purposes of carrying out its duties under this chapter;

(2) Permit the ombudsman or the ombudsman's designee physical access to state institutions serving children, and state licensed facilities or residences for the purpose of carrying out its duties under this chapter;

(3) Upon the ombudsman's request, grant the ombudsman or the ombudsman's designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department that the ombudsman considers necessary in an investigation; and

(4) Grant the office of the family and children's ombudsman unrestricted on-line access to the case and management information system (CAMIS) for the purpose of carrying out its duties under this chapter.

[1999 c 390 § 5.]

RCW 43.06A.900 Construction.

Nothing in this chapter shall be construed to conflict with the duty to report specified in RCW 26.44.030.

[1998 c 288 § 5.]

Notes:

Severability--Effective date--1998 c 288: See notes following RCW 43.06A.020.

**Chapter 43.07 RCW
SECRETARY OF STATE**

Sections

- 43.07.010 Official bond.
- 43.07.020 Assistant and deputy secretary of state.
- 43.07.030 General duties.
- 43.07.035 Memorandum of agreement or contract for secretary of state's services with state agencies or private entities.

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- 43.07.037 Gifts, grants, conveyances--Receipt, sale--Rules.
- 43.07.040 Custodian of state records.
- 43.07.050 Bureau of statistics--Secretary ex officio commissioner.
- 43.07.090 Bureau of statistics--Power to obtain statistics--Penalty.
- 43.07.100 Bureau of statistics--Information confidential--Penalty.
- 43.07.110 Bureau of statistics--Deputy commissioner.
- 43.07.120 Fees.
- 43.07.125 Fees--Charitable trusts--Charitable solicitations.
- 43.07.130 Secretary of state's revolving fund--Publication fees authorized, disposition.
- 43.07.140 Materials specifically authorized to be printed and distributed.
- 43.07.150 Uniform commercial code powers, duties, and functions transferred to department of licensing.
- 43.07.160 Authenticating officers--Appointment authorized--Use of facsimile signature.
- 43.07.170 Establishment of a corporate filing system using other methods authorized.
- 43.07.173 Facsimile transmissions--Acceptance and filing by the secretary of state.
- 43.07.175 Copies of certain filed documents to insurance commissioner.
- 43.07.180 Staggered corporate license renewal system authorized.
- 43.07.190 Use of a summary face sheet or cover sheet with the filing of certain documents authorized.
- 43.07.200 Business license center as secretary of state's agent for corporate renewals--Proposals for--Schedule.
- 43.07.205 Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications.
- 43.07.210 Filing false statements--Penalty.
- 43.07.220 Oral history program.
- 43.07.230 Oral history advisory committee--Members.
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- 43.07.300 Division of elections--Director.
- 43.07.310 Division of elections--Duties.
- 43.07.350 Citizens' exchange program.

NOTES:

Acquisition and disposition of highway property, powers and duties relating to: Chapter 47.12 RCW.

Attests commissions issued by state: State Constitution Art. 3 § 15.

Attorney for former residents and nonresidents for service of process arising out of motor vehicle operation in this state: RCW 46.64.040.

Bonds deposited with

state auditor: RCW 43.09.010.

state officers' bonds: RCW 43.07.030.

state treasurer: RCW 43.08.020.

Charitable trusts: Chapter 11.110 RCW.

Civil rights, issuance of copies of instruments restoring civil rights: RCW 5.44.090.

County seats, removal, notice: RCW 36.12.070.

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Election of: State Constitution Art. 3 § 1.

Elections

ballot titles, notice of contents: RCW 29.27.065.

certificates of election, issuance by: RCW 29.27.110.

chief election officer: RCW 29.04.070.

city and town elections, rules and regulations for: RCW 29.04.080.

list of primary candidates, certification to county auditors: RCW 29.27.020.

nominees for state or district offices, certified to county auditors: RCW 29.27.050.

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presidential primary: Chapter 29.19 RCW.

publication of election laws by: RCW 29.04.060.

recount procedure, rules and regulations by secretary of state: RCW 29.64.070.

returns, certifying of: RCW 43.07.030.

rules and regulations made by for state, city and town elections: RCW 29.04.080.

Filing with

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department of transportation: RCW 47.68.210.

domestic insurers: RCW 48.06.200.

engrossed bills: RCW 44.20.010.

initiatives and referendums: State Constitution Art. 2 § 1; RCW 29.79.010, 29.79.150.

mutual savings banks: RCW 32.08.061, 32.08.070.

railroad companies

branch lines into state: RCW 81.36.070.

consolidation with other companies: RCW 81.36.070.

purchase of property of other companies: RCW 81.36.070.

sale of property to other companies: RCW 81.36.070.

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standard uniforms for sheriffs: RCW 36.28.170.

statute law committee code correction orders: RCW 1.08.016.

trust companies: Chapter 30.08 RCW.

Foreign corporations, duties: Chapters 23B.01 and 23B.15 RCW.

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acceptance or rejection of petitions for filing: RCW 29.79.150.

filing of proposals and petitions with: State Constitution Art. 2 § 1; RCW 29.79.010.

numbering of initiative and referendum measures: RCW 29.79.030.

transmittal of copies to attorney general: RCW 29.79.040.

Jury source list--Master jury list--Creation--Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

Legislative journals, custodian of: RCW 43.07.040.

Local government redistricting: Chapter 29.70 RCW.

Massachusetts trusts, power to prescribe rules and regulations as to: RCW 23.90.040.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Oath of office: RCW 43.01.020.

Official bond: RCW 43.07.010.

Process deposited with

domestic corporation without officer in state upon whom process can be served: RCW 4.28.090.

foreign corporation failing to maintain agent in state: RCW 23B.14.300.

nonadmitted foreign corporations having powers as to notes secured by real estate mortgages: RCW 23B.18.040 and 23B.18.050.

nonresident or former resident motorists: RCW 46.64.040.

trademark registration actions: RCW 19.77.090.

Records, custodian of: State Constitution Art. 3 § 24; RCW 43.07.040.

Registry of governor's acts kept by: RCW 43.07.030.

Residence to be maintained at seat of government: State Constitution Art. 3 § 24.

Salary, amount of: State Constitution Art. 3 § 17, Art. 28 § 1; RCW 43.03.010.

Sale of unneeded toll facility property, secretary to attest deed and deliver: RCW 47.56.255.

Session laws

custodian of: RCW 43.07.040.

engrossed bill filed with: RCW 44.20.010.

numbering of: RCW 44.20.020.

State canvassing board member: RCW 29.62.100.

Statute law committee code correction orders filed with: RCW 1.08.016.

Succession to office of governor: State Constitution Art. 3 § 10.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Trademarks and trade names

filing fee: RCW 43.07.120.

registration of, duties: Chapter 19.77 RCW.

RCW 43.07.010 Official bond.

The secretary of state must execute an official bond to the state in the sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office, and shall receive no pay until such bond, approved by the governor, is filed with the state auditor.

[1965 c 8 § 43.07.010. Prior: 1890 p 633 § 10; RRS § 10994.]

RCW 43.07.020 Assistant and deputy secretary of state.

The secretary of state may have one assistant secretary of state and one deputy secretary of state each of whom shall be appointed by him in writing, and continue during his pleasure. The assistant secretary of state and deputy secretary of state shall have the power to perform any act or duty relating to the secretary of state's office, that the secretary of state has, and the secretary of state shall be responsible for the acts of said assistant and deputy.

[1965 c 8 § 43.07.020. Prior: 1947 c 107 § 1; 1903 c 75 § 1; 1890 p 633 § 12; RRS § 10995.]

RCW 43.07.030 General duties.

The secretary of state shall:

- (1) Keep a register of and attest the official acts of the governor;
- (2) Affix the state seal, with his attestation, to commissions, pardons, and other public instruments to which the signature of the governor is required, and also attestations and authentications of certificates and other documents properly issued by the secretary;
- (3) Record all articles of incorporation, deeds, or other papers filed in the secretary of state's office;
- (4) Receive and file all the official bonds of officers required to be filed with the secretary of state;
- (5) Take and file in the secretary of state's office receipts for all books distributed by him;
- (6) Certify to the legislature the election returns for all officers required by the Constitution to be so certified, and certify to the governor the names of all other persons who have received at any election the highest number of votes for any office the incumbent of which is to be commissioned by the governor;
- (7) Furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of

state's office;

(8) Present to the speaker of the house of representatives, at the beginning of each regular session of the legislature during an odd-numbered year, a full account of all purchases made and expenses incurred by the secretary of state on account of the state;

(9) File in his office an impression of each and every seal in use by any state officer;

[(10)] Keep a record of all fees charged or received by the secretary of state.

[1982 c 35 § 186; 1980 c 87 § 21; 1969 ex.s. c 53 § 3; 1965 c 8 § 43.07.030. Prior: 1890 p 630 § 2; RRS § 10992.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 43.07.035 Memorandum of agreement or contract for secretary of state's services with state agencies or private entities.

The secretary of state shall have the authority to enter into a memorandum of agreement or contract with any agency of state government or private entity to provide for the performance of any of the secretary of state's services or duties under the various corporation statutes of this state.

[1985 c 156 § 19; 1982 c 35 § 190.]

Notes:

Severability--Effective date--1985 c 156: See RCW 42.44.902 and 42.44.903.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 43.07.037 Gifts, grants, conveyances--Receipt, sale--Rules.

The secretary of state and the *council may accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds.

[1996 c 253 § 105.]

NOTES:

***Reviser's note:** 1996 c 253 § 101, which created the international education and exchange council, was vetoed.

Findings--Purpose--Severability--Part headings not law--1996 c 253: See notes following RCW 28B.109.010.

RCW 43.07.040 Custodian of state records.

The secretary of state is charged with the custody:

(1) Of all acts and resolutions passed by the legislature;

(2) Of the journals of the legislature;

(3) Of the seal of the state;

(4) Of all books, records, deeds, parchments, maps, and papers required to be kept on deposit in his office pursuant to law;

(5) Of the enrolled copy of the Constitution.

[1965 c 8 § 43.07.040. Prior: 1903 c 107 § 1; 1890 p 629 § 1; RRS § 10991.]

RCW 43.07.050 Bureau of statistics--Secretary ex officio commissioner.

The secretary of state shall be ex officio commissioner of statistics. He shall establish within his office, and under his immediate supervision, a bureau to be known as the bureau of statistics, agriculture and immigration.

[1965 c 8 § 43.07.050. Prior: 1895 c 85 § 1; RRS § 10933.]

RCW 43.07.090 Bureau of statistics--Power to obtain statistics--Penalty.

The commissioner shall have the power to send for persons and papers whenever in his opinion it is necessary, and he may examine witnesses under oath, being hereby qualified to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in his office. He shall have free access to all places and works of labor, and any principal, owner, operator, manager, or lessee of any mine, factory, workshop, warehouse, manufacturing or mercantile establishment, or any agent or employee of any such principal, owner, operator, manager, or lessee, who shall refuse to the commissioner or his duly authorized representative admission therein, or who shall, when requested by him, wilfully neglect or refuse to furnish him any statistics or information pertaining to his lawful duties which may be in the possession or under the control of said principal, owner, operator, lessee, manager, or agent thereof, shall be punished by a fine of not less than fifty nor more than two hundred dollars.

[1965 c 8 § 43.07.090. Prior: 1895 c 85 § 5; RRS § 10937.]

RCW 43.07.100 Bureau of statistics--Information confidential--Penalty.

No use shall be made in the report of the bureau of the names of individuals, firms, or corporations supplying the information called for by these sections, such information being deemed confidential and not for the purpose of disclosing any person's affairs; and any agent or employee of said bureau violating this provision shall upon conviction thereof be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not to exceed six months.

[1965 c 8 § 43.07.100. Prior: 1895 c 85 § 6; RRS § 10938.]

RCW 43.07.110 Bureau of statistics--Deputy commissioner.

The commissioner shall appoint a deputy commissioner, who shall act in his absence, and the deputy shall receive the sum of twelve hundred dollars per annum to be paid by the state

treasurer in the same manner as other state officers are paid; the sum allowed for deputy and other incidental expenses of the bureau shall not exceed the sum of three thousand dollars any one year. The commissioner shall have authority to employ one person to act as immigration agent, which agent shall reside in such city as said commissioner may designate, and he shall be provided with such literature and incidental accessories as in his judgment may be necessary.

[1965 c 8 § 43.07.110. Prior: 1895 c 85 § 7; RRS § 10939.]

RCW 43.07.120 Fees.

(1) The secretary of state shall establish by rule and collect the fees in this subsection:

(a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;

(b) For any certificate under seal;

(c) For filing and recording trademark;

(d) For each deed or patent of land issued by the governor;

(e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under Title 23B RCW, chapter 18.100, 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.15, 25.10, or 25.05 RCW:

(a) Any service rendered in-person at the secretary of state's office;

(b) Any expedited service;

(c) The electronic or facsimile transmittal of information from corporation records or copies of documents;

(d) The providing of information by micrographic or other reduced-format compilation;

(e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and

(f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court shall be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law.

[1998 c 103 § 1309. Prior: 1994 c 211 § 1310; 1994 c 60 § 5; 1993 c 269 § 15; 1991 c 72 § 53; 1989 c 307 § 39; 1982 c 35 § 187; 1971 c 81 § 107; 1965 c 8 § 43.07.120; prior: 1959 c 263 § 5; 1907 c 56 § 1; 1903 c 151 § 1; 1893 c 130 § 1; RRS § 10993.]

Notes:

Effective date--Severability--1994 c 211: See RCW 25.15.900 and 25.15.902.

Effective date--1993 c 269: See note following RCW 23.86.070.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 43.07.125 Fees--Charitable trusts--Charitable solicitations.

The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under chapter 11.110 or 19.09 RCW:

- (1) Any service rendered in-person at the secretary of state's office;
- (2) Any expedited service;
- (3) The electronic transmittal of documents;
- (4) The providing of information by microfiche or other reduced-format compilation;
- (5) The handling of checks or drafts for which sufficient funds are not on deposit;
- (6) The resubmission of documents previously submitted to the secretary of state where the documents have been returned to the submitter to make such documents conform to the requirements of the applicable statute;
- (7) The handling of telephone requests for information; and
- (8) Special search charges.

[1993 c 471 § 24; 1993 c 269 § 14.]

Notes:

Severability--Effective date--1993 c 471: See RCW 19.09.914 and 19.09.915.

Effective date--1993 c 269: See note following RCW 23.86.070.

RCW 43.07.130 Secretary of state's revolving fund--Publication fees authorized, disposition.

There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which shall be used by the office of the secretary of state to defray the costs of printing, reprinting, or distributing printed matter authorized by law to be issued by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 23B RCW, or chapters 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.15, or 25.10 RCW.

The secretary of state is hereby authorized to charge a fee for such publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), 23B.01.220 (1)(e), (6) and (7), 23B.18.050, 24.03.410, 24.06.455, or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund shall be placed in the secretary of state's revolving fund.

[1994 c 211 § 1311; 1991 c 72 § 54; 1989 c 307 § 40; 1982 c 35 § 188; 1973 1st ex.s. c 85 § 1; 1971 ex.s. c 122 § 1.]

Notes:

Effective date--Severability--1994 c 211: See RCW 25.15.900 and 25.15.902.

Legislative finding--1989 c 307: See note following RCW 23.86.007.

Application--1989 c 307: See RCW 23.86.900.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 43.07.140 Materials specifically authorized to be printed and distributed.

The secretary of state is hereby specifically authorized to print, reprint, and distribute the following materials:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title 23B RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of chapter 25.10 RCW;
- (6) The provisions of Title 29 RCW;
- (7) The provisions of chapter 18.100 RCW;
- (8) The provisions of chapter 19.77 RCW;
- (9) The provisions of chapter 43.07 RCW;
- (10) The provisions of the Washington state Constitution;
- (11) The provisions of chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides, descriptions, or other materials related to the public records of state or local government or to the state archives; and
- (12) Rules and informational publications related to the statutory provisions set forth above.

[1991 c 72 § 55; 1982 c 35 § 189; 1973 1st ex.s. c 85 § 2.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 43.07.150 Uniform commercial code powers, duties, and functions transferred to department of licensing.

All powers, duties, and functions vested by law in the secretary of state relating to the Uniform Commercial Code are transferred to the department of licensing.

[1979 c 158 § 92; 1977 ex.s. c 117 § 1.]

Notes:

Severability--1977 ex.s. c 117: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 117 § 13.]

Effective date--1977 ex.s. c 117: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 117 § 14.]

RCW 43.07.160 Authenticating officers--Appointment authorized--Use of facsimile

signature.

The secretary of state may appoint authenticating officers and delegate to the authenticating officers power to sign for the secretary of state any document which, to have legal effect, requires the secretary of state's signature and which is of a class which the secretary of state has authorized for signature by the authenticating officers in a writing on file in the secretary of state's office. Authenticating officers shall sign in the following manner: "., Authenticating Officer for the Secretary of State"

The secretary of state may also delegate to the authenticating officers power to use the secretary of state's facsimile signature for signing any document which, to have legal effect, requires the secretary of state's signature and is of a class with respect to which the secretary of state has authorized use of his or her facsimile signature by a writing filed in the secretary of state's office. As used in this section, "facsimile signature" includes, but is not limited to, the reproduction of any authorized signature by a copper plate, a rubber stamp, or by a photographic, photostatic, or mechanical device.

The secretary of state shall effect the appointment and delegation by placing on file in the secretary of state's office in a single document the names of all persons appointed as authenticating officers and each officer's signature, a list of the classes of documents each authenticating officer is authorized to sign for the secretary of state, a copy of the secretary of state's facsimile signature, and a list of the classes of documents which each authenticating officer may sign for the secretary of state by affixing the secretary of state's facsimile signature. The secretary of state may revoke the appointment or delegation or powers by placing on file in the secretary of state's office a new single document which expressly revokes the authenticating officers and the powers delegated to them. The secretary of state shall record and index documents filed by him or her under this section, and the documents shall be open for public inspection.

The authorized signature of an authenticating officer or an authorized facsimile signature of the secretary of state shall have the same legal effect and validity as the genuine manual signature of the secretary of state.

[1982 c 35 § 2.]

Notes:

Intent--1982 c 35: "The legislature finds that the secretary of state's office, particularly the corporations division, performs a valuable public service for the business and nonprofit corporate community, and for the state of Washington. The legislature further finds that numerous filing and other requirements of the laws relating to the secretary of state's responsibilities have not been recently updated, thereby causing problems and delays for the corporate community as well as the secretary of state's office.

To provide better service to the corporate community in this state, and to permit the secretary of state to make efficient use of state resources and improve collection of state revenues, statutory changes are necessary. It is the intent of the legislature to provide for the modernization and updating of the corporate laws and other miscellaneous filing statutes and to give the secretary of state the appropriate authority the secretary of state needs to implement the modernization and streamlining effort." [1982 c 35 § 1.]

Severability--1982 c 35: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 35 § 202.]

Effective dates--Application--1982 c 35: "(1) Except as provided under subsection (3) of this section, this act shall take effect July 1, 1982.

(2) Sections 6, 14, 47, 72, 75(2), 76(4), 80, 81, 97, 101, 120, 121(4), 124, 169, and 171(4) shall be construed and apply only to actions taken or documents filed after that date.

(3) Sections 39, 45, 46, 52, 61, 63, and 201 of this act shall take effect January 1, 1983." [1982 c 35 § 203.]

RCW 43.07.170 Establishment of a corporate filing system using other methods authorized.

If the secretary of state determines that the public interest and the purpose of the corporation filing statutes administered by the secretary of state would be best served by a filing system utilizing microfilm, microfiche, or methods of reduced-format document recording, the secretary of state may, by rule adopted under chapter 34.05 RCW, establish such a filing system. In connection therewith, the secretary of state may eliminate any requirement for a duplicate original filing copy, and may establish reasonable requirements concerning paper size, print legibility, and quality for photo-reproduction processes as may be necessary to ensure utility and readability of any reduced-format filing system.

[1982 c 35 § 191.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 43.07.173 Facsimile transmissions--Acceptance and filing by the secretary of state.

(1) The secretary of state shall accept and file in the secretary's office facsimile transmissions of any documents authorized or required to be filed pursuant to Title 23, 23B, 24, or 25 RCW or chapter 18.100 RCW. The acceptance by the secretary of state is conditional upon the document being legible and otherwise satisfying the requirements of state law or rules with respect to form and content, including those established under RCW 43.07.170. If the document must be signed, that requirement is satisfied by a facsimile copy of the signature.

(2) If a fee is required for filing the document, the secretary may reject the document for filing if the fee is not received before, or at the time of, receipt.

[1998 c 38 § 1.]

RCW 43.07.175 Copies of certain filed documents to insurance commissioner.

The secretary of state shall deliver to the office of the insurance commissioner copies of corporate documents filed with the secretary of state by health care service contractors and health maintenance organizations that have been provided for the insurance commissioner under RCW 48.44.013 and 48.46.012.

[1998 c 23 § 18.]

RCW 43.07.180 Staggered corporate license renewal system authorized.

The secretary of state may, by rule adopted under chapter 34.05 RCW, adopt and implement a system of renewals for annual corporate licenses or filings in which the renewal dates are staggered throughout the year.

To facilitate the implementation of the staggered system, the secretary of state may extend the duration of corporate licensing periods or report filing periods and may impose and collect such additional proportional fees as may be required on account of the extended periods.

[1982 c 35 § 192.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 43.07.190 Use of a summary face sheet or cover sheet with the filing of certain documents authorized.

Where the secretary of state determines that a summary face sheet or cover sheet would expedite review of any documents made under Title 23B RCW, or chapter 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.36, or 25.10 RCW, the secretary of state may require the use of a summary face sheet or cover sheet that accurately reflects the contents of the attached document. The secretary of state may, by rule adopted under chapter 34.05 RCW, specify the required contents of any summary face sheet and the type of document or documents in which the summary face sheet will be required, in addition to any other filing requirements which may be applicable.

[1991 c 72 § 56; 1989 c 307 § 41; 1982 c 35 § 193.]

Notes:

Legislative finding--1989 c 307: See note following RCW 23.86.007.

Application--1989 c 307: See RCW 23.86.900.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 43.07.200 Business license center as secretary of state's agent for corporate renewals--Proposals for--Schedule.

Not later than July 1, 1982, the secretary of state and the director of licensing shall propose to the director of financial management a contract and working agreement with accompanying fiscal notes designating the business license center as the secretary of state's agent for issuing all or a portion of the corporation renewals within the jurisdiction of the secretary of state. The secretary of state and the director of licensing shall submit the proposed contract and accompanying fiscal notes to the legislature before October 1, 1982.

The secretary of state and the director of licensing shall jointly submit to the legislature by January 10, 1983, a schedule for designating the center as the secretary of state's agent for all such corporate renewals not governed by the contract.

[1982 c 182 § 12.]

Notes:

Severability--1982 c 182: See RCW 19.02.901.

Business license center act: Chapter 19.02 RCW.

Certain business or professional activity licenses exempt: RCW 19.02.800.

Master license system--Existing licenses or permits registered under, when: RCW 19.02.810.

RCW 43.07.205 Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications.

The secretary of state may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW.

[1997 c 51 § 3.]

Notes:

Intent--1997 c 51: See note following RCW 19.02.300.

RCW 43.07.210 Filing false statements--Penalty.

Any person who files a false statement, which he or she knows to be false, in the articles of incorporation or in any other materials required to be filed with the secretary of state shall be guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

[1984 c 75 § 25.]

RCW 43.07.220 Oral history program.

The secretary of state, at the direction of the oral history advisory committee, shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state legislature, current and former state government officials and personnel, and other citizens who have participated in the political history of Washington state. The secretary of state shall contract with independent oral historians and through the history departments of the state universities to interview and record oral histories. The tapes and tape transcripts shall be indexed and made available for research and reference through the state archives. The transcripts, together with current and historical photographs, may be published for distribution to libraries and for sale to the general public.

[1991 c 237 § 1.]

Notes:

Effective date--1991 c 237: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect on July 1, 1991." [1991 c 237 § 6.]

RCW 43.07.230 Oral history advisory committee--Members.

An oral history advisory committee is created, which shall consist of the following individuals:

- (1) Four members of the house of representatives, two from each of the two largest caucuses of the house, appointed by the speaker of the house of representatives;
- (2) Four members of the senate, two from each of the two largest caucuses of the senate, appointed by the president of the senate;
- (3) The chief clerk of the house of representatives;
- (4) The secretary of the senate; and
- (5) The secretary of state.

[1991 c 237 § 2.]

Notes:

Effective date--1991 c 237: See note following RCW 43.07.220.

RCW 43.07.240 Oral history advisory committee--Duties.

The oral history advisory committee shall have the following responsibilities:

- (1) To select appropriate oral history interview subjects;
- (2) To select transcripts or portions of transcripts, and related historical material, for publication;
- (3) To advise the secretary of state on the format and length of individual interview series and on appropriate issues and subjects for related series of interviews;
- (4) To advise the secretary of state on the appropriate subjects, format, and length of interviews and on the process for conducting oral history interviews with subjects currently serving in the Washington state legislature;
- (5) To advise the secretary of state on joint programs and activities with state universities, colleges, museums, and other groups conducting oral histories; and
- (6) To advise the secretary of state on other aspects of the administration of the oral history program and on the conduct of individual interview projects.

[1991 c 237 § 3.]

Notes:

Effective date--1991 c 237: See note following RCW 43.07.220.

RCW 43.07.300 Division of elections--Director.

The secretary of state shall establish a division of elections within the office of the secretary of state and under the secretary's supervision. The division shall be under the immediate supervision of a director of elections who shall be appointed by the secretary of state and serve at the secretary's pleasure.

[1992 c 163 § 1.]

RCW 43.07.310 Division of elections--Duties.

The secretary of state, through the division of elections, is responsible for the following duties, as prescribed by Title 29 RCW:

- (1) The filing, verification of signatures, and certification of state initiative, referendum, and recall petitions;
- (2) The production and distribution of a state voters' and candidates' pamphlet;
- (3) The examination, testing, and certification of voting equipment, voting devices, and vote-tallying systems;
- (4) The administration, canvassing, and certification of the presidential primary, state primaries, and state general elections;
- (5) The administration of motor voter and other voter registration and voter outreach programs;
- (6) The training, testing, and certification of state and local elections personnel as established in RCW 29.60.030;
- (7) The training of state and local party observers required by RCW 29.60.040;
- (8) The conduct of postelection reviews as established in RCW 29.60.070; and
- (9) Other duties that may be prescribed by the legislature.

[1992 c 163 § 2.]

RCW 43.07.350 Citizens' exchange program.

The secretary of state, in consultation with the *department of trade, the department of agriculture, economic development consultants, the consular corps, and other international trade organizations, shall develop a Washington state citizens' exchange program that will initiate and promote:

- (1) Citizen exchanges between Washington state agricultural, technical, and educational groups and organizations with their counterparts in targeted foreign countries.
- (2) Expanded educational and training exchanges between Washington state individuals and organizations with similar groups in targeted foreign countries.
- (3) Programs to extend Washington state expertise to targeted foreign countries to help promote better health and technical assistance in agriculture, water resources, hydroelectric power, forestry management, education, and other areas.
- (4) Efforts where a special emphasis is placed on utilizing Washington state's rich human resources who are retired from public and private life and have the time to assist in this program.
- (5) People-to-people programs that may result in increased tourism, business relationships, and trade from targeted foreign nations to the Pacific Northwest.

[1993 c 113 § 1.]

Notes:

***Reviser's note:** The department of trade and economic development was the correct name for this department. The name of the department is now the department of community, trade, and economic development,

pursuant to 1993 c 280.

Chapter 43.08 RCW STATE TREASURER

Sections

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43.08.250	Public safety and education account--Use.
43.08.260	Public safety and education account to fund civil representation of indigent persons--When authorized--Distribution formula--Audit--Rules.
43.08.270	Joint legislative civil legal services oversight committee.
43.08.280	State-wide custody contract for local governments and institutions of higher education.

Notes:

Acquisition of highway property in advance of programmed construction, treasurer's duties relating to: Chapter 47.12 RCW.

Actions against state on warrant appearing to be redeemed: RCW 4.92.200.

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Astoria-Megler bridge project, treasurer's duties relating to: RCW 47.56.652.

Bonds, notes, and other evidences of indebtedness, treasurer's duties: Chapter 39.42 RCW.

Budget and accounting system, powers and duties: RCW 43.88.160.

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Centennial document preservation and modernization account: RCW 36.22.170.
Council for the prevention of child abuse and neglect, depository for: RCW 43.121.100.
Document preservation in counties, treasurer's duties: RCW 36.22.170 through 36.22.190.
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Eminent domain by state, warrant to pay damages and costs to court: RCW 8.04.160.
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dealers' licenses, treasurer's powers and duties relating to: Chapter 46.70 RCW.
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Obstructions on highway right of way, treasurer's duties relating to: RCW 47.32.060.
Off-road and nonhighway vehicles, treasurer's duties: RCW 46.09.030, 46.09.170.
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accounting for: RCW 43.88.160.
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disbursement by warrant or check: RCW 43.88.160.
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revolving funds, custody over: RCW 43.88.190.
Public utility districts, privilege taxes, duties in regard to: RCW 54.28.040.
Puget Sound ferry and toll bridge system, treasurer's powers and duties relating to: Chapter 47.60 RCW.
Purchase of bridges or ferries by department of transportation, treasurer's powers and duties relating to: RCW 47.56.050.
Records and accounts to be kept at seat of government: State Constitution Art. 3 § 24.
Residence must be at seat of government: State Constitution Art. 3 § 24.
Salary, amount of: State Constitution Art. 3 § 19, Art. 28 § 1; RCW 43.03.010.
Snowmobile act, treasurer's duties: Chapter 46.10 RCW.
State canvassing board member: RCW 29.62.100.
State finance committee
chairman: RCW 43.33.040.

member: RCW 43.33.010.

State trade fair fund, horse racing moneys: RCW 43.31.805.

Succession to governorship: State Constitution Art. 3 § 10.

Surplus funds, investment program: Chapter 43.86A RCW.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Toll bridges, improvement of existing bridge and construction of new bridge as single project, treasurer's powers and duties relating to: Chapter 47.58 RCW.

Vehicle wreckers' licensing, treasurer's powers and duties relating to: Chapter 46.80 RCW.

Vocational rehabilitation funds, custodian of: RCW 74.29.050.

Volunteer fire fighters' board of trustees, report, duties: RCW 41.24.070.

Warrants or checks, unlawful to issue except upon forms prescribed by director of financial management: RCW 43.88.160.

Washington State University

bonds and securities, annual report to regents: RCW 28B.30.300.

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RCW 43.08.010 General duties.

The state treasurer shall:

(1) Receive and keep all moneys of the state in the manner provided in RCW 43.88.160, as now or hereafter amended;

(2) Disburse the public moneys only upon warrants or checks drawn upon the treasurer in the manner provided by law;

(3) Account for moneys in the manner provided by law;

(4) Render accounts in the manner provided by law;

(5) Indorse on each warrant when required by law, the date of payment, the amount of the principal, and the interest due on that date;

(6) Report annually to the legislature a detailed statement of the condition of the treasury, and of its operations for the preceding fiscal year;

(7) Give information, in writing, to either house of the legislature, whenever required, upon any subject connected with the treasury, or touching any duty of his office;

(8) Account for and pay over all moneys on hand to his successor in office, and deliver all books, vouchers, and effects of office to him, who shall receipt therefor;

(9) Upon payment of any warrant, or check, take upon the back thereof the indorsement of the person to whom it is paid.

[1977 c 75 § 38; 1965 c 8 § 43.08.010. Prior: 1890 p 642 § 1; RRS § 11019; prior: 1886 p 134 § 2; 1871 p 77 § 2; 1864 p 52 § 3; 1854 p 413 § 3.]

Notes:

Budget and accounting system, powers and duties: RCW 43.88.160.

RCW 43.08.015 Cash management duties.

Within the policies and procedures established pursuant to RCW 43.41.110(13) and

43.88.160(1), the state treasurer shall take such actions as are necessary to ensure the effective cash management of public funds. This cash management shall include the authority to represent the state in all contractual relationships with financial institutions. The state treasurer may delegate cash management responsibilities to the affected agencies with the concurrence of the office of financial management.

[1993 c 500 § 3.]

Notes:

Finding--Severability--Effective date--1993 c 500: See notes following RCW 43.41.180.

RCW 43.08.020 Residence--Bond--Oath.

The state treasurer shall reside and keep his office at the seat of government. Before entering upon his duties, he shall execute and deliver to the secretary of state a bond to the state in a sum of not less than five hundred thousand dollars, to be approved by the secretary of state and one of the justices of the supreme court, conditioned to pay all moneys at such times as required by law, and for the faithful performance of all duties required of him by law. He shall take an oath of office, to be indorsed on his commission, and file a copy thereof, together with the bond, in the office of the secretary of state.

[1972 ex.s. c 12 § 1. Prior: 1971 c 81 § 108; 1971 c 14 § 1; 1965 c 8 § 43.08.020; prior: 1890 p 642 § 2; RRS § 11022; prior: 1886 p 133 § 1; 1881 p 18 § 1; 1871 p 76 § 1; 1864 p 51 § 2; 1854 p 413 § 2.]

RCW 43.08.030 Seal.

The treasurer shall keep a seal of office for the authentication of all papers, writings, and documents required to be certified by him.

[1965 c 8 § 43.08.030. Prior: 1890 p 643 § 6; RRS § 11025; prior: 1886 p 135 § 6; 1871 p 78 § 6; 1864 p 53 § 7; 1854 p 414 § 7.]

RCW 43.08.040 Administration of oaths.

The treasurer may administer all oaths required by law in matters pertaining to the duties of his office.

[1965 c 8 § 43.08.040. Prior: 1890 p 643 § 5; RRS § 11024; prior: 1886 p 135 § 5; 1871 p 78 § 5; 1864 p 53 § 6; 1854 p 414 § 6.]

RCW 43.08.050 Records and accounts--Public inspection.

All the books, papers, letters, and transactions pertaining to the office of treasurer shall be open for the inspection of a committee of the legislature to examine or settle all accounts, and to count all money; and to the inspection of the public generally during office hours; and when the successor of any treasurer is elected and qualified, the state auditor shall examine and settle all the accounts of the treasurer remaining unsettled, and give him a certified statement showing

the balance of moneys, securities, and effects for which he is accountable, which have been delivered to his successor, and report the same to the legislature.

[1965 c 8 § 43.08.050. Prior: 1890 p 643 § 3; RRS § 11023; prior: 1886 p 134 § 3; 1864 p 53 § 4; 1854 p 414 § 4.]

Notes:

Public records, budget and accounting system: RCW 43.88.200.

RCW 43.08.060 Duplicate receipts.

All persons required by law to pay any moneys into the state treasury, or to transmit any public funds to the state treasurer on state accounts, shall, at the time of making such payments or transmissions specify the amount and date of such payment, and for what particular fund or account.

For all sums of money so paid the state treasurer shall forthwith give duplicate receipts in accordance with the rules and regulations promulgated by the office of financial management as authorized by RCW 43.88.160(1).

[1979 c 151 § 89; 1977 c 16 § 1; 1965 c 8 § 43.08.060. Prior: 1890 p 643 § 4; RRS § 5504; prior: 1886 p 134 § 4; 1871 p 78 § 4; 1864 p 53 § 5; 1854 p 414 § 5.]

RCW 43.08.061 Warrants--Public printer to print--Retention of redeemed warrants.

The public printer shall print all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of one year, following their redemption, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW.

[1993 c 38 § 1; 1981 c 10 § 1; 1975 c 48 § 2.]

Notes:

Actions against state on redeemed warrants, time limitation: RCW 4.92.200.

RCW 43.08.062 Warrants--Presentation--Cancellation.

Should the payee or legal holder of any warrant drawn against the state treasury fail to present the warrant for payment within one hundred eighty days of the date of its issue or, if registered and drawing interest, within one hundred eighty days of its call, the state treasurer shall enter the same as canceled on the books of his office.

Should the payee or legal owner of such a canceled warrant thereafter present it for payment, the state treasurer may, upon proper showing by affidavit and the delivery of the warrant into his possession, issue a new warrant in lieu thereof, and the state treasurer is authorized to pay the new warrant.

[1986 c 99 § 1; 1981 c 10 § 2; 1965 c 8 § 43.08.062. Prior: 1890 p 638 § 13; RRS § 11008; prior: 1883 p 61 § 1. Formerly RCW 43.09.100.]

RCW 43.08.064 Lost or destroyed warrants, instruments, or other evidence of indebtedness--Issuing officer to issue duplicate.

In case of the loss or destruction of a state warrant for the payment of money, or any bond or other instrument or evidence of indebtedness, issued by any state officer, or agency, such officer, or such agency through its appropriate officer may issue or cause to be issued a duplicate in lieu thereof, bearing the same number, class, or designation in all respects and for the same amount as the original, except that the word duplicate shall plainly appear upon the face of the new instrument in such a manner as to clearly identify it as a duplicate instrument. The duplicate instrument so issued shall be subject in all other respects to the same provisions of law as the original instrument.

[1979 ex.s. c 71 § 3; 1975-'76 2nd ex.s. c 77 § 2; 1965 ex.s. c 61 § 1; 1965 c 8 § 43.08.064. Prior: 1890 p 639 § 15; RRS § 11010; prior: 1888 p 236 § 1. Formerly RCW 43.09.110.]

Notes:

Lost or destroyed evidence of indebtedness issued by local governments: Chapter 39.72 RCW.

RCW 43.08.066 Lost or destroyed warrants, instruments, or other evidence of indebtedness--Conditions on issuance.

Before a duplicate instrument is issued, the state treasurer or other issuing officer shall require the person making application for its issue to file in his office a written affidavit specifically alleging on oath that he is the proper owner, payee, or legal representative of such owner or payee of the original instrument, giving the date of issue, the number, amount, and for what services or claim or purpose the original instrument or series of instruments of which it is a part was issued, and that the same has been lost or destroyed, and has not been paid, or has not been received by him: PROVIDED, That in the event that an original and its duplicate instrument are both presented for payment as a result of forgery or fraud, the issuing officer shall be the state agency responsible for endeavoring to recover any losses suffered by the state.

[1979 ex.s. c 71 § 4; 1972 ex.s. c 74 § 1; 1971 ex.s. c 54 § 1; 1965 ex.s. c 61 § 2; 1965 c 8 § 43.08.066. Prior: 1890 p 639 § 16; RRS § 11011; prior: 1888 p 236 § 2. Formerly RCW 43.09.120.]

RCW 43.08.068 Lost or destroyed warrants, instruments, or other evidence of indebtedness--Records to be kept--Cancellation of originals--Notice.

The state treasurer or other issuing officer shall keep a full and complete record of all warrants, bonds or other instruments alleged to have been lost or destroyed, which were issued by such agency, and of the issue of any duplicate therefor; and upon the issuance of any duplicate, the officer shall enter upon his books the cancellation of the original instrument and immediately notify the state treasurer, the state auditor, and all trustees and paying agents authorized to redeem such instruments on behalf of the state of Washington, of such cancellation. The treasurer shall keep a similar list of all warrants, bonds or other instruments so canceled.

[1965 ex.s. c 61 § 3; 1965 c 8 § 43.08.068. Prior: 1890 p 640 § 17; RRS § 11012; prior: 1888 p 236 § 3. Formerly RCW 43.09.130.]

RCW 43.08.070 Warrants--Indorsement--Interest--Issuance of new warrants.

Upon the presentation of any state warrant to the state treasurer, if there is not sufficient money then available in the appropriate fund with which to redeem all warrants drawn against such fund which the treasurer anticipates will be presented for payment during the current business day, he may endorse on the warrant, "Not paid for want of funds," with the day and date of presentation, and the warrant shall draw legal interest from and including that date until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first; or, in the alternative, the treasurer may prepare and register a single new warrant, drawn against the appropriate fund, and exchange such new warrant for one or more warrants not paid for want of funds when presented for payment totaling a like amount but not exceeding one million dollars, which new warrant shall then draw legal interest from and including its date of issuance until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first. The legal rate or rates of interest on these warrants shall be established by the state treasurer in accordance with RCW 39.56.030.

[1981 c 10 § 3; 1971 ex.s. c 88 § 2; 1965 c 8 § 43.08.070. Prior: 1869 p 408 § 2; RRS § 5516.]

Notes:

Severability--1971 ex.s. c 88: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 88 § 6.]

RCW 43.08.080 Call of warrants.

When the state treasurer deems that there is sufficient money in a fund to pay all or part of the registered warrants of such fund, and the warrants are not presented for payment, he may advertise at least once in some newspaper published at the seat of government, stating the serial number of the warrants he is calling and prepared to pay; and if such warrants are not presented for payment within five days from and after the date of publication of the notice, the warrants shall not then draw any further interest: PROVIDED, That when said fund has a balance in excess of three percent of the preceding monthly warrant issue of said fund, or at any time that the money in the fund exceeds the warrants outstanding, the state treasurer shall similarly advertise a call for all those registered warrants which can be fully paid out of said fund in accordance with their registration sequence.

[1971 ex.s. c 88 § 3; 1965 c 8 § 43.08.080. Prior: 1890 p 644 § 8; RRS § 5517; prior: 1886 p 135 § 9; 1871 p 79 § 9.]

Notes:

Severability--1971 ex.s. c 88: See note following RCW 43.08.070.

RCW 43.08.090 Fiscal agent for state.

The state treasurer shall be ex officio the fiscal agent of the state.

[1965 c 8 § 43.08.090. Prior: 1891 c 138 § 1; RRS § 5484.]

Notes:

Fiscal agencies: Chapter 43.80 RCW.

RCW 43.08.100 Fiscal agent for state--Duties of fiscal agent.

The fiscal agent of the state shall receive all moneys due the state from any other state or from the federal government, take all necessary steps for the collection thereof, and apply the same to the funds to which they belong. He shall collect from time to time all moneys that may accrue to the state by virtue of section 13 of the enabling act, or from any other source not otherwise provided for by law.

[1965 c 8 § 43.08.100. Prior: (i) 1891 c 138 § 2; RRS § 5485. (ii) 1891 c 138 § 4; RRS § 5487.]

RCW 43.08.110 Fiscal agent for state--Fiscal agent's receipts.

The fiscal agent shall issue the necessary receipts for all moneys collected, and such receipts shall show the date when paid, the amount, from whom received, and on what account the money was collected.

One or more copies of such receipt shall be given to the persons from whom the money was received, and one copy shall be given to the director of financial management.

[1979 c 151 § 90; 1965 c 8 § 43.08.110. Prior: 1891 c 138 § 3; RRS § 5486.]

RCW 43.08.120 Assistant--Deputies--Responsibility for acts.

The state treasurer may appoint an assistant state treasurer, who shall have the power to perform any act or duty which may be performed by the state treasurer, and in case of a vacancy in the office of state treasurer, perform the duties of the office until the vacancy is filled as provided by law.

The state treasurer may appoint no more than three deputy state treasurers, who shall have the power to perform any act or duty which may be performed by the state treasurer.

The assistant state treasurer and the deputy state treasurers shall be exempt from the provisions of chapter 41.06 RCW and shall hold office at the pleasure of the state treasurer; they shall, before entering upon the duties of their office, take and subscribe, and file with the secretary of state, the oath of office provided by law for other state officers.

The state treasurer shall be responsible on his official bond for all official acts of the assistant state treasurer and the deputy state treasurers.

[1973 c 10 § 1; 1971 c 15 § 1; 1965 c 8 § 43.08.120. Prior: 1921 c 36 § 1; RRS § 11020.]

RCW 43.08.130 Wilful refusal to pay warrants--Exceptions--Recovery.

If the state treasurer wilfully refuses to pay except in accordance with the provisions of RCW 43.08.070 or by cash or check any warrant designated as payable in the state treasurer's office which is lawfully drawn upon the state treasury, or knowingly pays any warrant otherwise than as provided by law, then any person injured thereby may recover by action against the treasurer and the sureties on his official bond.

[1972 ex.s. c 145 § 2; 1965 c 8 § 43.08.130. Prior: 1890 p 644 § 7; RRS § 11026; prior: 1886 p 135 § 8; 1871 p 78 § 8; 1864 p 53 § 8; 1854 p 414 § 8.]

RCW 43.08.135 Cash or demand deposits--Duty to maintain--RCW 9A.56.060(1) not deemed violated, when.

The state treasurer shall maintain at all times cash, or demand deposits in qualified public depositories in an amount needed to meet the operational needs of state government: PROVIDED, That the state treasurer shall not be considered in violation of RCW 9A.56.060(1) if he maintains demand accounts in public depositories in an amount less than all treasury warrants issued and outstanding.

[1983 c 3 § 100; 1972 ex.s. c 145 § 3.]

RCW 43.08.140 Embezzlement--Penalty.

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

[1992 c 7 § 40; 1965 c 8 § 43.08.140. Prior: 1890 p 644 § 10; RRS § 11027; prior: 1886 p 105 § 11.]

Notes:

Misappropriation of funds: RCW 42.20.070, 42.20.090.

RCW 43.08.150 Monthly financial report on funds and accounts.

As soon as possible after the close of each calendar month, the state treasurer shall prepare a report as to the state of the general fund and every other fund under his control itemized as to:

- (1) The amount in the fund at the close of business at the end of the preceding month;
- (2) The amount of revenue deposited or transferred to the credit of each fund during the

current month;

(3) The amount of withdrawals or transfers from each fund during the current month; and

(4) The amount on hand in each fund at the close of business at the end of the current month.

One copy of each report shall be provided promptly to those requesting them so long as the supply lasts.

[1977 c 75 § 39; 1965 c 8 § 43.08.150. Prior: 1947 c 32 § 1; Rem. Supp. 1947 § 11019-1.]

Notes:

Biennial reports, periods: RCW 43.01.035.

Investment of surplus funds, rules and allocations to be published in report: RCW 43.86A.050.

Reports, budget and accounting system: RCW 43.88.160.

RCW 43.08.160 Monthly financial report--Report to be printed.

The state treasurer shall cause all such reports to be printed as other public documents are printed and the approval of no other officer of the state shall be necessary in carrying out the purposes of RCW 43.08.150.

[1965 c 8 § 43.08.160. Prior: 1947 c 32 § 2; Rem. Supp. 1947 § 11019-2.]

RCW 43.08.180 Cashing checks, drafts, and state warrants--Discretionary--Conditions--Procedure upon dishonor.

The state treasurer is hereby authorized, in the treasurer's discretion and as a service to state officers and employees, and to those known by the treasurer or the treasurer's staff, to accept in exchange for cash the checks, drafts, or Washington state warrants drawn or endorsed by these authorized persons and presented to the treasurer's office as meet each of the following conditions:

(1) The check or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution; and

(2) The person presenting the check, draft, or Washington state warrant to the treasurer must produce such identification as the treasurer may require.

In the event that any check or draft cashed for a state officer or employee by the state treasurer under this section is dishonored by the drawee financial institution when presented for payment, the treasurer is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next state salary warrant the full amount of the dishonored check or draft.

[1984 c 74 § 1; 1971 c 5 § 1.]

RCW 43.08.190 State treasurer's service fund--Creation--Purpose.

There is hereby created a fund within the state treasury to be known as the "state

treasurer's service fund". Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW *43.79.040(2)(b) or **43.84.092(2)(b). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate based on the appropriations for the treasurer's office.

[1991 sp.s. c 13 § 83; 1985 c 405 § 506; 1973 c 27 § 2.]

Notes:

Reviser's note: *(1) The reference to RCW 43.79.040(2)(b) is incorrect. RCW 43.79A.040(2)(b) was apparently intended; and was subsequently amended by 1993 sp.s. c 8 § 2 deleting subsection (2)(b).

** (2) RCW 43.84.092 was amended by 1993 c 500 § 6, changing subsection (2)(b) to subsection (4)(b).

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability--1985 c 405: See note following RCW 9.46.100.

RCW 43.08.200 State treasurer's service fund--Expenditure limitation.

All moneys deposited in the state treasurer's service fund shall be expended only pursuant to legislative appropriation and for the purposes set forth in RCW 43.08.190, 43.08.200, and *43.85.241.

[1973 c 27 § 3.]

Notes:

***Reviser's note:** RCW 43.85.241 was repealed by 1985 c 57 § 90, effective July 1, 1985.

RCW 43.08.250 Public safety and education account--Use.

The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, drug court operations, and state game programs. During the fiscal biennium ending June 30, 2003, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense and other operations of the office of public defense, the criminal litigation unit of the attorney general's office, the treatment alternatives to street crimes program, crime victims advocacy programs, justice information network telecommunication planning, treatment for supplemental security income clients, sexual assault treatment, operations of the office of administrator for the courts, security in the common schools, alternative school start-up grants, programs for disruptive students, criminal justice data

collection, Washington state patrol criminal justice activities, drug court operations, unified family courts, local court backlog assistance, financial assistance to local jurisdictions for extraordinary costs incurred in the adjudication of criminal cases, domestic violence treatment and related services, the department of corrections' costs in implementing chapter 196, Laws of 1999, reimbursement of local governments for costs associated with implementing criminal and civil justice legislation, the replacement of the department of corrections' offender-based tracking system, and methamphetamine-related enforcement, education, training, and drug and alcohol treatment services.

[2001 2nd sp.s. c 7 § 914; 2001 c 289 § 4; 2000 2nd sp.s. c 1 § 911; 1999 c 309 § 915; 1997 c 149 § 910; 1996 c 283 § 901; 1995 2nd sp.s. c 18 § 912; 1993 sp.s. c 24 § 917; 1992 c 54 § 3. Prior: 1991 sp.s. c 16 § 919; 1991 sp.s. c 13 § 25; 1985 c 57 § 27; 1984 c 258 § 338.]

NOTES:

Reviser's note: This section was amended by 2001 c 289 § 4 and by 2001 2nd sp.s. c 7 § 914, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--Effective date--2001 2nd sp.s. c 7: See notes following RCW 43.320.110.

Severability--Effective date--2000 2nd sp.s. c 1: See notes following RCW 41.05.143.

Severability--Effective date--1999 c 309: See notes following RCW 41.06.152.

Severability--1997 c 149: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 149 § 917.]

Effective date--1997 c 149: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 149 § 918.]

Severability--1996 c 283: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 283 § 904.]

Effective date--1996 c 283: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1996]." [1996 c 283 § 905.]

Severability--Effective date--1995 2nd sp.s. c 18: See notes following RCW 19.118.110.

Severability--Effective dates--1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective date--1992 c 54: See note following RCW 36.18.020.

Severability--Effective date--1991 sp.s. c 16: See notes following RCW 9.46.100.

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1985 c 57: See note following RCW 18.04.105.

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

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

Public safety and education assessment: RCW 3.62.090.

RCW 43.08.260 Public safety and education account to fund civil representation of indigent persons--When authorized--Distribution formula--Audit--Rules.

(1)(a) The legislature recognizes the ethical obligation of attorneys to represent clients without interference by third parties in the discharge of professional obligations to clients. However, to ensure the most beneficial use of state resources, the legislature finds that it is

within the authority of the legislature to specify the categories of legal cases in which qualified legal aid programs may provide civil representation with state moneys. Accordingly, moneys appropriated for civil legal representation pursuant to this section shall not be used for legal representation that is either outside the scope of this section or prohibited by this section.

(b) Nothing in this section is intended to limit the authority of existing entities, including but not limited to the Washington state bar association, the public disclosure commission, the state auditor, and the federal legal services corporation to resolve issues within their respective jurisdictions.

(2) Any money appropriated by the legislature from the public safety and education account pursuant to RCW 43.08.250 or from any other state fund or account for civil representation of indigent persons shall be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to: (a) Domestic relations and family law matters, (b) public assistance and health care, (c) housing and utilities, (d) social security, (e) mortgage foreclosures, (f) home protection bankruptcies, (g) consumer fraud and unfair sales practices, (h) rights of residents of long-term care facilities, (i) wills, estates, and living wills, (j) elder abuse, and (k) guardianship.

(3) For purposes of this section, a "qualified legal aid program" means a not-for-profit corporation incorporated and operating exclusively in Washington which has received basic field funding for the provision of civil legal services to indigents from the federal legal services corporation or that has received funding for civil legal services for indigents under this section before July 1, 1997.

(4) The department of community, trade, and economic development shall establish a distribution formula based on the distribution by county of individuals with incomes below the official federal poverty level guidelines. When entering into a contract with a qualified legal services provider under this section, the department shall require the provider to provide legal services in a manner that maximizes geographic access in accordance with the formula established in this subsection (4).

(5) Funds distributed to qualified legal aid programs under this section may not be used directly or indirectly for:

(a) Lobbying.

(i) For purposes of this section, "lobbying" means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device directly or indirectly intended to influence any member of congress or any other federal, state, or local nonjudicial official, whether elected or appointed:

(A) In connection with any act, bill, resolution, or similar legislation by the congress of the United States or by any state or local legislative body, or any administrative rule, rule-making activity, standard, rate, or other enactment by any federal, state, or local administrative agency;

(B) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the congress, any state legislature, any local council, or any similar governing body acting in a legislative capacity; or

(C) In connection with inclusion of any provision in a legislative measure appropriating

funds to, or defining or limiting the functions or authority of, the recipient of funds under this section.

(ii) "Lobbying" does not include the response of an employee of a legal aid program to a written request from a governmental agency, an elected or appointed official, or committee on a specific matter. This exception does not authorize communication with anyone other than the requesting party, or agent or employee of such agency, official, or committee.

(b) Grass roots lobbying. For purposes of this section, "grass roots lobbying" means preparation, production, or dissemination of information the purpose of which is to encourage the public at large, or any definable segment thereof, to contact legislators or their staff in support of or in opposition to pending or proposed legislation; or contribute to or participate in a demonstration, march, rally, lobbying campaign, or letter writing or telephone campaign for the purpose of influencing the course of pending or proposed legislation.

(c) Class action lawsuits.

(d) Participating in or identifying the program with prohibited political activities. For purposes of this section, "prohibited political activities" means (i) any activity directed toward the success or failure of a political party, a candidate for partisan or nonpartisan office, a partisan political group, or a ballot measure; (ii) advertising or contributing or soliciting financial support for or against any candidate, political group, or ballot measure; or (iii) voter registration or transportation activities.

(e) Representation in fee-generating cases. For purposes of this section, "fee-generating" means a case that might reasonably be expected to result in a fee for legal services if undertaken by a private attorney. The charging of a fee pursuant to subsection (6) of this section does not establish the fee-generating nature of a case.

A fee-generating case may be accepted when: (i) The case has been rejected by the local lawyer referral services or by two private attorneys; (ii) neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; (iii) after consultation with the appropriate representatives of the private bar, the program has determined that the type of case is one that private attorneys do not ordinarily accept, or do not accept without prepayment of a fee; or (iv) the director of the program or the director's designee has determined that referral of the case to the private bar is not possible because documented attempts to refer similar cases in the past have been futile, or because emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(f) Organizing any association, union, or federation, or representing a labor union. However, nothing in this subsection (5)(f) prohibits the provision of legal services to clients as otherwise permitted by this section.

(g) Representation of undocumented aliens.

(h) Picketing, demonstrations, strikes, or boycotts.

(i) Engaging in inappropriate solicitation. For purposes of this section, "inappropriate solicitation" means promoting the assertion of specific legal claims among persons who know of their rights to make a claim and who decline to do so. Nothing in this subsection precludes a legal services program or its employees from providing information regarding legal rights and

responsibilities or providing information regarding the program's services and intake procedures through community legal education activities, responding to an individual's specific question about whether the individual should consult with an attorney or take legal action, or responding to an individual's specific request for information about the individual's legal rights or request for assistance in connection with a specific legal problem.

(j) Conducting training programs that: (i) Advocate particular public policies; (ii) encourage or facilitate political activities, labor or antilabor activities, boycotts, picketing, strikes, or demonstrations; or (iii) attempt to influence legislation or rule making. Nothing in this subsection (5)(j) precludes representation of clients as otherwise permitted by this section.

(6) The department may establish requirements for client participation in the provision of civil legal services under this section, including but not limited to copayments and sliding fee scales.

(7)(a) Contracts entered into by the department of community, trade, and economic development with qualified legal services programs under this section must specify that the program's expenditures of moneys distributed under this section:

(i) Must be audited annually by an independent outside auditor. These audit results must be provided to the department of community, trade, and economic development; and

(ii) Are subject to audit by the state auditor.

(b)(i) Any entity auditing a legal services program under this section shall have access to all records of the legal services program to the full extent necessary to determine compliance with this section, with the exception of confidential information protected by the United States Constitution, the state Constitution, the attorney-client privilege, and applicable rules of attorney conduct.

(ii) The legal services program shall have a system allowing for production of case-specific information, including client eligibility and case type, to demonstrate compliance with this section, with the exception of confidential information protected by the United States Constitution, the state Constitution, the attorney-client privilege, and applicable rules of attorney conduct. Such information shall be available to any entity that audits the program.

(8) The department of community, trade, and economic development must recover or withhold amounts determined by an audit to have been used in violation of this section.

(9) The department of community, trade, and economic development may adopt rules to implement this section.

[1997 c 319 § 2; 1995 c 399 § 62; 1992 c 54 § 4.]

Notes:

Intent--1997 c 319: "It is the intent of the legislature to promote the provision of civil legal services to indigent persons, subject to available funds. To the extent that funds are appropriated for civil legal services for the indigent, the legislature intends that civil legal services be offered within an oversight framework that ensures accountability." [1997 c 319 § 1.]

Effective date--1992 c 54: See note following RCW 36.18.020.

RCW 43.08.270 Joint legislative civil legal services oversight committee.

The joint legislative civil legal services oversight committee is established.

(1) The committee's members are one member from each of the minority and majority caucuses of the house of representatives, who are appointed by the speaker of the house of representatives, and one member from each of the minority and majority caucuses of the senate, who are appointed by the president of the senate.

(2)(a) The committee shall oversee the provision of civil legal services funded through RCW 43.08.260 and shall act as a forum for discussion of issues related to state-funded civil legal services.

(b) By December 1, 1997, and by December 1st of each year thereafter, the committee must report to the appropriate standing policy and fiscal committees of the legislature on the provision of legal services under RCW 43.08.260.

(3) The committee chairman is selected by the members and shall serve a one-year term. The chairman position rotates between the house and senate members and the political parties.

(4) The committee shall meet at least four times during each fiscal year. The committee shall accept public testimony at a minimum of two of these meetings.

[1997 c 319 § 3.]

Notes:

Intent--1997 c 319: See note following RCW 43.08.260.

RCW 43.08.280 State-wide custody contract for local governments and institutions of higher education.

(1) The state treasurer is authorized to negotiate a state-wide custody contract for custody services for local governments and institutions of higher education. The term of the contract shall be for a minimum of four years.

(2) The state treasurer shall, as soon as is practical after negotiations have been successfully completed, notify local governments and institutions of higher education that a state-wide custody contract has been negotiated.

(3) Following such notification, each local government or institution of higher education may, at its option, become a signatory to the state-wide contract. Each local government or institution of higher education may only become a signatory to the contract by having its authorized local government official or financial officer and the state-wide custodian execute the state-wide contract. The contract is between the state-wide custodian and the respective local government or institution of higher education. It is the responsibility of the local government official or financial officer to fully understand the terms and conditions of the state-wide custody contract prior to its execution, and to ensure those terms and conditions are observed by the state-wide custodian during the term of the contract.

(4) The state treasurer may adopt rules to implement this section, including, but not limited to, those rules deemed necessary to provide for an orderly transition in the event of a different state-wide custodian in a new state-wide custody contract.

(5) Any state-wide custodian who becomes a signatory to the state-wide custody contract may be exempted from the requirements of chapter 39.58 RCW for the purposes of this section,

based on rules adopted by the public deposit protection commission.

(6) For the purposes of this section:

(a) "Financial institution" means a bank or trust company chartered and supervised under state or federal law;

(b) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation created by such an entity, which legally possesses and exercises investment authority;

(c) "State-wide custody contract" means a contract negotiated between the state treasurer and a financial institution that establishes terms and fees for custody services which are optional to any local government for the term of the contract;

(d) "State-wide custodian" means the financial institution with whom the state treasurer has negotiated a state-wide custody contract;

(e) "Custody services" means services performed by a financial institution such as the settlement, safekeeping, valuation, and market-value reporting of negotiable instruments owned by the local government;

(f) "Local government official" means any officer or employee of a local government who has been designated by statute or local charter, ordinance, or resolution as the officer having the authority to invest the funds of the local government. However, the county treasurer is the only local government official for all political subdivisions for which the county treasurer has statutory or contractual authority to invest the funds thereof;

(g) "Financial officer" means the board-appointed treasurer of a college, university, community or technical college district, or the state board for community and technical colleges.

[1999 c 293 § 2.]

Notes:

Purpose--1999 c 293: "Local governments enter into separate, individual contracts with banks for custody services. The rate and terms which each local government obtains from a given bank sometimes varies widely depending upon the size of the local government's portfolio, and thus fails to provide all of the state's taxpayers with the most advantageous rates and terms for such custody services. The purpose of this act is to enable local governments and institutions of higher education, through a state-wide custody contract, to collectively obtain the most advantageous rate and terms from a single financial institution for custodial banking services. Under such a state-wide custody contract, smaller local governments may receive a higher level of service, while paying lower fees than they might have individually obtained." [1999 c 293 § 1.]

Effective date--1999 c 293: "This act takes effect September 1, 1999." [1999 c 293 § 4.]

Chapter 43.09 RCW STATE AUDITOR

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honey bee commission: RCW 15.62.040.

housing finance commission: RCW 43.180.050.

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GENERALLY

RCW 43.09.010 Residence--Office--Bond--Oath.

The state auditor shall reside and keep his or her office at the seat of government. Before entering upon his or her duties he or she shall execute and deliver to the secretary of state a bond to the state in the sum of fifty thousand dollars, to be approved by the governor, conditioned for the faithful performance of all duties required by law. He or she shall take an oath of office before any person authorized to administer oaths, and file a copy thereof, together with the required bond, in the office of the secretary of state.

[1995 c 301 § 1; 1965 c 8 § 43.09.010. Prior: 1890 p 634 § 1; RRS § 10996; prior: Code 1881 § 2566; 1871 p 96 § 1; 1854 p 409 § 2.]

RCW 43.09.020 Auditor of public accounts.

The auditor shall be auditor of public accounts, and shall have such powers and perform such duties in connection therewith as may be prescribed by law.

[1989 c 140 § 1; 1965 c 8 § 43.09.020. Prior: 1890 p 635 § 2; RRS § 10997; prior: Code 1881 § 2567; 1871 p 97 § 4; 1854 p 409 § 3.]

Notes:

Budget and accounting system, powers and duties: RCW 43.88.160.

Fiscal records open to public: RCW 43.88.200.

RCW 43.09.025 Deputy auditors--Assistant directors.

The state auditor may appoint deputies and assistant directors as necessary to carry out the duties of the office of the state auditor. These individuals serve at the pleasure of the state auditor and are exempt from the provisions of chapter 41.06 RCW as stated in *RCW 41.06.070(1)(y).

[1995 c 301 § 2.]

Notes:

***Reviser's note:** RCW 41.06.070 was amended by 1995 c 163 § 1, changing subsection (1)(y) to subsection (1)(x).

RCW 43.09.035 Assistants--Personnel.

The state auditor may appoint and employ other assistants and personnel necessary to carry out the work of the office of the state auditor.

[1995 c 301 § 3.]

RCW 43.09.045 Contracts with certified public accountants.

The state auditor may contract with public accountants certified in Washington to carry out those portions of the duties of auditing state agencies and local governments as the state auditor may determine.

[1995 c 301 § 4.]

RCW 43.09.050 General duties of auditor.

The auditor shall:

(1) Except as otherwise specifically provided by law, audit the accounts of all collectors of the revenue and other holders of public money required by law to pay the same into the treasury;

(2) In his or her discretion, inspect the books of any person charged with the receipt, safekeeping, and disbursement of public moneys;

(3) Investigate improper governmental activity under chapter 42.40 RCW;

(4) Inform the attorney general in writing of the necessity for the attorney general to direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means,

become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

(5) Give information in writing to the legislature, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his or her office;

(6) Report to the director of financial management in writing the names of all persons who have received any moneys belonging to the state, and have not accounted therefor;

(7) Authenticate with his or her official seal papers issued from his or her office;

(8) Make his or her official report annually on or before the 31st of December.

[1992 c 118 § 6; 1979 c 151 § 91. Prior: 1977 ex.s. c 144 § 7; 1977 c 75 § 40; 1971 ex.s. c 170 § 1; 1965 c 8 § 43.09.050; prior: 1890 p 636 § 5; RRS § 11001; prior: Code 1881 § 2570; 1854 p 410 § 5.]

Notes:

Severability--1971 ex.s. c 170: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 170 § 5.]

Advances: Chapter 42.24 RCW.

Information to legislature: RCW 43.88.160.

Investigations of improper governmental actions--Protection of employee disclosures: Chapter 42.40 RCW.

Post-audit duties: RCW 43.88.160.

Powers and duties, budget and accounting system: RCW 43.88.160.

Report of irregularities to attorney general: RCW 43.88.160.

Report to legislature: RCW 43.88.160.

RCW 43.09.055 Audit of entities with state contracts or grants--Costs.

The state auditor may, where there is reasonable cause to believe that a misuse of state moneys has occurred, conduct an audit of financial and legal compliance of any entity that receives public moneys through contract or grant in return for services. This authority includes examinations of not-for-profit corporations who provide personal services to a state agency or to clients of a state agency. Such a financial audit shall be performed in a manner consistent with this chapter, and may be performed according to an agreed upon procedures engagement as in the existing 1998 standards of the American institute of certified public accountants professional standards section 600.

The state auditor may charge the contracting agency, whether state or local, for the costs of an audit of a not-for-profit corporation that receives public moneys through contract or grant in return for services. Any contracting agency that is responsible to the state auditor for such costs shall use due diligence to recover costs from the audited entity.

[1998 c 232 § 3.]

Notes:

Findings--Intent--1998 c 232: "The legislature finds that the state auditor lacks the needed authority to investigate the finances of state nongovernmental contractors. The legislature further finds that current contract oversight and management procedures cannot ensure that services under contract are delivered effectively and efficiently. Therefore, the legislature intends to enhance the authority of the state auditor to audit entities that provide services to the state or its clients under contract with state agencies." [1998 c 232 § 1.]

RCW 43.09.065 Audit of entities with state contracts or grants--Report regarding criminal misuse of public moneys.

If after a financial audit of an entity that receives public moneys under contract or grant in return for services, there is reasonable cause to believe that a criminal misuse of public moneys has occurred, the office of the state auditor, within thirty days from receipt of the report, shall deliver a copy of the report to the appropriate local prosecuting authority.

[1998 c 232 § 4.]

Notes:

Findings--Intent--1998 c 232: See note following RCW 43.09.055.

RCW 43.09.165 Subpoenas--Compulsory process--Witnesses--Oaths--Testimony--Penalty.

The state auditor, his or her employees and every person legally appointed to perform such service, may issue subpoenas and compulsory process and direct the service thereof by any constable or sheriff, compel the attendance of witnesses and the production of books and papers before him or her at any designated time and place, and may administer oaths.

When any person summoned to appear and give testimony neglects or refuses to do so, or neglects or refuses to answer any question that may be put to him or her touching any matter under examination, or to produce any books or papers required, the person making such examination shall apply to a superior court judge of the proper county to issue a subpoena for the appearance of such person before him or her; and the judge shall order the issuance of a subpoena for the appearance of such person forthwith before him or her to give testimony; and if any person so summoned fails to appear, or appearing, refuses to testify, or to produce any books or papers required, he or she shall be subject to like proceedings and penalties for contempt as witnesses in the superior court. Willful false swearing in any such examination shall be perjury and punishable as such.

[1995 c 301 § 5.]

RCW 43.09.170 May administer oaths.

The state auditor may administer all oaths required by law in matters pertaining to the duties of his or her office.

[1995 c 301 § 6; 1965 c 8 § 43.09.170. Prior: 1890 p 641 § 23; RRS § 11017; prior: Code 1881 § 2586.]

RCW 43.09.180 Seal--Copies of documents as evidence.

The state auditor shall keep a seal of office for the identification of all papers, writings, and documents required by law to be certified by him or her, and copies authenticated and certified of all papers and documents lawfully deposited in his or her office shall be received in evidence with the same effect as the originals.

[1995 c 301 § 7; 1965 c 8 § 43.09.180. Prior: 1890 p 641 § 24; RRS § 11018; prior: Code 1881 § 2587.]

RCW 43.09.185 Loss of public funds--Illegal activity--Report to state auditor's office.

State agencies and local governments shall immediately report to the state auditor's office known or suspected loss of public funds or assets or other illegal activity.

[1995 c 301 § 8.]

LOCAL GOVERNMENT ACCOUNTING

RCW 43.09.200 Local government accounting--Uniform system of accounting.

The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The system shall exhibit true accounts and detailed statements of funds collected, received, and expended for account of the public for any purpose whatever, and by all public officers, employees, or other persons.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction; all statements and reports made or required to be made, for the internal administration of the office to which they pertain; and all reports published or required to be published, for the information of the people regarding any and all details of the financial administration of public affairs.

[1995 c 301 § 9; 1965 c 8 § 43.09.200. Prior: 1909 c 76 § 2; RRS § 9952.]

Notes:

Electronic transfer of public funds to be in compliance with: RCW 39.58.750.

School districts budgets to be in compliance with: RCW 28A.505.120.

RCW 43.09.205 Local government accounting--Costs of public works--Standard form.

The state auditor shall prescribe a standard form with which the accounts and records of costs of all local governments shall be maintained as required under RCW 39.04.070.

[1995 c 301 § 10; 1987 c 120 § 4.]

RCW 43.09.210 Local government accounting--Separate accounts for each fund or activity--Exemption for agency surplus personal property.

Separate accounts shall be kept for every appropriation or fund of a taxing or legislative body showing date and manner of each payment made therefrom, the name, address, and

vocation of each person, organization, corporation, or association to whom paid, and for what purpose paid.

Separate accounts shall be kept for each department, public improvement, undertaking, institution, and public service industry under the jurisdiction of every taxing body.

All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

All unexpended balances of appropriations shall be transferred to the fund from which appropriated, whenever the account with an appropriation is closed.

This section does not apply to agency surplus personal property handled under RCW 43.19.1919(5).

[2000 c 183 § 2; 1965 c 8 § 43.09.210. Prior: 1909 c 76 § 3; RRS § 9953.]

RCW 43.09.220 Local government accounting--Separate accounts for public service industries.

Separate accounts shall be kept for every public service industry of every local government, which shall show the true and entire cost of the ownership and operation thereof, the amount collected annually by general or special taxation for service rendered to the public, and the amount and character of the service rendered therefor, and the amount collected annually from private users for service rendered to them, and the amount and character of the service rendered therefor.

[1995 c 301 § 11; 1965 c 8 § 43.09.220. Prior: 1909 c 76 § 4; RRS § 9954.]

RCW 43.09.230 Local government accounting--Annual reports--Comparative statistics.

The state auditor shall require from every local government financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the state auditor within one hundred fifty days after the close of each fiscal year.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (1) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a local government; (2) a statement of the entire public debt of every local government, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the

provisions made for the payment thereof; (3) a classified statement of all receipts and expenditures by any public institution; and (4) a statement of all expenditures for labor relations consultants, with the identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement; together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certification.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document.

[1995 c 301 § 12; 1993 c 18 § 2; 1989 c 168 § 1; 1977 c 75 § 41; 1965 c 8 § 43.09.230. Prior: 1909 c 76 § 5; RRS § 9955.]

Notes:

Finding--Purpose--1993 c 18: "The legislature finds and declares that the use of outside consultants is an increasing element in public sector labor relations. The public has a right to be kept informed about the role of outside consultants in public sector labor relations. The purpose of this act is to help ensure that public information is available." [1993 c 18 § 1.]

RCW 43.09.240 Local government accounting--Public officers and employees--Duty to account and report--Removal from office--Deposit of collections.

Every public officer and employee of a local government shall keep all accounts of his or her office in the form prescribed and make all reports required by the state auditor. Any public officer or employee who refuses or willfully neglects to perform such duties shall be subject to removal from office in an appropriate proceeding for that purpose brought by the attorney general or by any prosecuting attorney.

Every public officer and employee, whose duty it is to collect or receive payments due or for the use of the public shall deposit such moneys collected or received by him or her with the treasurer of the local government once every twenty-four consecutive hours. The treasurer may in his or her discretion grant an exception where such daily transfers would not be administratively practical or feasible.

In case a public officer or employee collects or receives funds for the account of a local government of which he or she is an officer or employee, the treasurer shall, by Friday of each week, pay to the proper officer of the local government for the account of which the collection was made or payment received, the full amount collected or received during the current week for the account of the district.

[1995 c 301 § 13; 1991 c 245 § 13; 1965 c 8 § 43.09.240. Prior: 1963 c 209 § 2; 1911 c 30 § 1; 1909 c 76 § 6; RRS § 9956; prior: 1890 p 638 § 11; Code 1881 § 2577; 1854 p 411 § 7.]

RCW 43.09.245 Local government accounting--Examination of financial affairs.

The state auditor has the power to examine all the financial affairs of every local government and its officers and employees.

[1995 c 301 § 14.]

RCW 43.09.260 Local government accounting--Examination of local governments--Reports--Action by attorney general.

The examination of the financial affairs of all local governments shall be made at such reasonable, periodic intervals as the state auditor shall determine. However, an examination of the financial affairs of all local governments shall be made at least once in every three years, and an examination of individual local government health and welfare benefit plans and local government self-insurance programs shall be made at least once every two years. The term local governments for purposes of this chapter includes but is not limited to all counties, cities, and other political subdivisions, municipal corporations, and quasi-municipal corporations, however denominated.

The state auditor shall establish a schedule to govern the auditing of local governments which shall include: A designation of the various classifications of local governments; a designation of the frequency for auditing each type of local government; and a description of events which cause a more frequent audit to be conducted.

On every such examination, inquiry shall be made as to the financial condition and resources of the local government; whether the Constitution and laws of the state, the ordinances and orders of the local government, and the requirements of the state auditor have been properly complied with; and into the methods and accuracy of the accounts and reports.

A report of such examination shall be made and filed in the office of state auditor, and one copy shall be transmitted to the local government. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general. If any such report discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute, in the proper county, such legal action as is proper in the premises by civil process and prosecute the same to final determination to carry into effect the findings of the examination.

It shall be unlawful for any local government or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action, without the written approval and consent of the attorney general and the state auditor.

[1995 c 301 § 15; 1991 sp.s. c 30 § 26; 1979 c 71 § 1; 1965 c 8 § 43.09.260. Prior: 1909 c 76 § 8; RRS § 9958.]

Notes:

Effective date, implementation, application--Severability--1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

School district budgeting violations not to affect duties of attorney general under RCW 43.09.260: RCW 28A.505.150.

RCW 43.09.265 Local government accounting--Review of tax levies of local governments.

The state auditor shall review the tax levies of all local governments in the regular examinations under RCW 43.09.260.

[1995 c 301 § 16; 1979 ex.s. c 218 § 7.]

RCW 43.09.270 Local government accounting--Expense of audit, what constitutes.

The expense of auditing local governments and those expenses directly related to prescribing accounting systems, training, maintenance of working capital including reserves for late and uncollectible accounts and necessary adjustments to billings, and field audit supervision, shall be considered expenses of auditing public accounts within the meaning of RCW 43.09.280 and 43.09.282, and shall be prorated for that purpose equally among all entities directly affected by such service.

[1995 c 301 § 17; 1993 c 315 § 1; 1991 sp.s. c 16 § 920; 1982 c 206 § 1; 1965 c 8 § 43.09.270. Prior: 1963 c 209 § 4; 1911 c 30 § 1; 1909 c 76 § 10; RRS § 9960.]

Notes:

Effective date--1993 c 315: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 315 § 2.]

Severability--Effective date--1991 sp.s. c 16: See notes following RCW 9.46.100.

RCW 43.09.280 Local government accounting--Expense of examination.

The expense of auditing public accounts shall be borne by each entity subject to such audit for the auditing of all accounts under its jurisdiction and the state auditor shall certify the expense of such audit to the fiscal or warrant-issuing officer of such entity, who shall immediately make payment to the state auditor. If the expense as certified is not paid by any local government within thirty days from the date of certification, the state auditor may certify the expense to the auditor of the county in which the local government is situated, who shall promptly issue his or her warrant on the county treasurer payable out of the current expense fund of the county, which fund, except as to auditing the financial affairs and making inspection and examination of the county, shall be reimbursed by the county auditor or chief financial officer out of the money due the local government at the next monthly settlement of the collection of taxes and shall be transferred to the current expense fund.

[1995 c 301 § 18; 1979 c 71 § 2; 1965 c 8 § 43.09.280. Prior: 1963 c 209 § 5; 1911 c 30 § 1; 1909 c 76 § 11; RRS § 9961.]

RCW 43.09.2801 Local government accounting--Expense of audit--Additional charge.

(1) From July 1, 1992, to June 30, 1995, the state auditor shall charge an entity subject to

an audit an additional ten cents per hour billed under RCW 43.09.270 and 43.09.280, to be deposited in the local government administrative hearings account.

(2) After June 30, 1995, the state auditor shall base the amount to be collected and deposited into the local government administrative hearings account on the funds remaining in the account on June 30, 1995, and the anticipated caseload for the future.

(3) The state auditor may exempt a local government that certifies that it is in compliance with RCW 42.41.050 from a charge added under subsection (1) or (2) of this section.

[1995 c 301 § 19; 1992 c 44 § 11.]

Notes:

Effective dates--Severability--1992 c 44: See RCW 42.41.901 and 42.41.902.

Local government administrative hearings account: RCW 42.41.060.

RCW 43.09.281 Appeal procedure to be adopted--Inclusion of number and disposition of appeals in annual report.

The state auditor shall adopt appropriate rules pursuant to chapter 34.05 RCW, the administrative procedure act, to provide a procedure whereby a *taxing district may appeal charges levied under RCW 43.09.280. Such procedure shall provide for an administrative review process and an external review process which shall be advisory to the state auditor's office. The number of appeals and their disposition shall be included in the auditor's annual report.

[1982 c 206 § 3.]

Notes:

***Reviser's note:** "Taxing district" was redesignated "local government" by 1995 c 301 § 18.

RCW 43.09.282 Local government accounting--Municipal revolving account--Records of auditing costs.

For the purposes of centralized funding, accounting, and distribution of the costs of the audits performed on local governments by the state auditor, there is hereby created an account entitled the municipal revolving account. The state treasurer shall be custodian of the account. All moneys received by the state auditor or by any officer or employee thereof shall be deposited with the state treasurer and credited to the municipal revolving account. Only the state auditor or the auditor's designee may authorize expenditures from the account. No appropriation is required for expenditures. The state auditor shall keep such records as are necessary to detail the auditing costs attributable to the various types of local governments.

[1995 c 301 § 20; 1982 c 206 § 2; 1965 c 8 § 43.09.282. Prior: 1963 c 209 § 6.]

Notes:

Effective date--1982 c 206 § 2: "Section 2 of this act shall take effect on July 1, 1983." [1982 c 206 § 4.]

RCW 43.09.285 Joint operations by municipal corporations or political subdivisions--Deposit and control of funds.

Whenever by law, two or more municipal corporations or political subdivisions of the

state are permitted by law to engage in a joint operation, the funds of such joint operation shall be deposited in the public treasury of the municipal corporation or political subdivision embracing the largest population or the public treasury of any other as so agreed upon by the parties; and such deposit shall be subject to the same audit and fiscal controls as the public treasury where the funds are so deposited: PROVIDED, That whenever the laws applicable to any particular joint operation specifically state a contrary rule for deposits, the specific rule shall apply in lieu of the provisions of this section: PROVIDED, FURTHER, That nothing contained herein shall be construed as limiting the power or authority of the disbursing officer of such joint operation from making disbursements in accordance with the provisions of any contract or agreement entered into between the parties to the joint operation.

[1967 c 41 § 1.]

RCW 43.09.2851 Repayment of amounts charged to another fund within same political subdivision to be credited to original fund or appropriation--Expenditure.

Except as otherwise provided by law, amounts charged by a county, city, or other municipal or quasi municipal corporation for providing services or furnishing materials to or for another fund within the same county, city, or other municipal or quasi municipal corporation pursuant to RCW 43.09.210 or other law shall be repaid and credited to the fund or appropriation against which the expenditure originally was charged. Amounts representing a return of expenditures from an appropriation shall be considered as returned loans of services or goods, supplies, or other materials furnished and may be expended as part of the original appropriation to which they belong, without further or additional appropriation.

Except as otherwise provided by law, this section shall not apply to the furnishing of materials or services by one fund to another when other funds have been provided specifically for that purpose pursuant to law.

[1981 c 39 § 1. Formerly RCW 39.58.160.]

RCW 43.09.2853 Municipal corporations authorized to establish line of credit for payment of warrants--Interest.

Any municipal corporation is authorized to establish a line of credit with any *qualified public depository to be drawn upon for cashing its warrants, to delegate to a fiscal officer authority to determine the amount of credit extended, and to pay interest and other finance or service charges. The interest rate may be a fixed rate set periodically or a fluctuating rate determined by agreement of the parties. If any warrant of a municipal corporation is presented and not paid for lack of funds, the interest rate set on unpaid warrants shall apply. Nothing in this section affects the priority for payment of warrants established by law.

[1981 c 156 § 37. Formerly RCW 39.58.170.]

Notes:

***Reviser's note:** The term "qualified public depository" was redefined as "public depository" by 1996 c

256 § 1.

RCW 43.09.2855 Local governments--Use of credit cards.

(1) Local governments, including counties, cities, towns, special purpose districts, municipal and quasi-municipal corporations, and political subdivisions, are authorized to use credit cards for official government purchases and acquisitions.

(2) A local government may contract for issuance of the credit cards.

(3) The legislative body shall adopt a system for:

(a) The distribution of the credit cards;

(b) The authorization and control of the use of credit card funds;

(c) The credit limits available on the credit cards;

(d) Payment of the bills; and

(e) Any other rule necessary to implement or administer the system under this section.

(4) As used in this section, "credit card" means a card or device issued under an arrangement pursuant to which the issuer gives to a card holder the privilege of obtaining credit from the issuer.

(5) Any credit card system adopted under this section is subject to examination by the state auditor's office pursuant to chapter 43.09 RCW.

(6) Cash advances on credit cards are prohibited.

[1995 c 30 § 2. Formerly RCW 39.58.180.]

Notes:

Findings--1995 c 30: "The legislature finds that (1) the use of credit cards is a customary and economical business practice to improve cash management, reduce costs, and increase efficiency; and (2) local governments should consider and use credit cards when appropriate." [1995 c 30 § 1.]

AGENCY AUDITS

RCW 43.09.290 Post-audit of state agencies--Definitions.

For the purposes of RCW 43.09.290 through 43.09.340 and 43.09.410 through 43.09.418, post-audit means an audit of the books, records, funds, accounts, and financial transactions of a state agency for a complete fiscal period; pre-audit means all other audits and examinations; state agency means elective officers and offices, and every other office, officer, department, board, council, committee, commission, or authority of the state government now existing or hereafter created, supported, wholly or in part, by appropriations from the state treasury or funds under its control, or by the levy, assessment, collection, or receipt of fines, penalties, fees, licenses, sales of commodities, service charges, rentals, grants-in-aid, or other income provided by law, and all state educational, penal, reformatory, charitable, eleemosynary, or other institutions, supported, wholly or in part, by appropriations from the state treasury or funds under its control.

[1995 c 301 § 21; 1981 c 336 § 6; 1965 c 8 § 43.09.290. Prior: 1941 c 196 § 1; Rem. Supp. 1941 § 11018-1.]

Notes:

Effective date--1981 c 336: See note following RCW 43.09.410.

Petty cash: RCW 42.26.080.

Post-audit duties, budget and accounting system: RCW 43.88.160.

RCW 43.09.310 Audit of state-wide combined financial statements--Post-audits of state agencies--Periodic audits--Reports--Filing.

The state auditor shall annually audit the state-wide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies shall be made at such periodic intervals as is determined by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their preparation, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the state agency audited, one to the joint legislative audit and review committee, one each to the standing committees on ways and means of the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of the state auditor. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general.

[1996 c 288 § 35; 1995 c 301 § 22; 1981 c 217 § 1; 1979 c 151 § 92; 1975-'76 2nd ex.s. c 17 § 1. Prior: 1975 1st ex.s. c 293 § 1; 1975 1st ex.s. c 193 § 1; 1971 ex.s. c 170 § 2; 1965 c 8 § 43.09.310; prior: 1947 c 114 § 1; 1941 c 196 § 3; Rem. Supp. 1947 § 11018-3.]

Notes:

Severability--Effective date--1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

Severability--1971 ex.s. c 170: See note following RCW 43.09.050.

Reports of post-audits: RCW 43.88.160.

RCW 43.09.330 Audit disclosing malfeasance or nonfeasance--Action by attorney general.

If any audit of a state agency discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute and prosecute in the proper county, appropriate legal action to carry into effect the findings of such post-audit. It shall be unlawful for any state agency or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action without the written approval and consent of the attorney general and the state auditor.

[1995 c 301 § 23; 1965 c 8 § 43.09.330. Prior: 1941 c 196 § 5; Rem. Supp. 1941 § 11018-5.]

RCW 43.09.340 Post-audit of books of state auditor.

The governor shall, at least every two years, provide for a post-audit of the books, accounts, and records of the state auditor, and the funds under his or her control, to be made

either by independent qualified public accountants or the director of financial management, as he or she may determine. The expense of making such audit shall be paid from appropriations made therefor from the general fund.

[1995 c 301 § 24; 1979 c 151 § 93; 1965 c 8 § 43.09.340. Prior: 1947 c 114 § 2; 1941 c 196 § 6; Rem. Supp. 1947 § 11018-6.]

RCW 43.09.410 Auditing services revolving account--Created--Purpose.

An auditing services revolving account is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the audits provided to state agencies by the state auditor and audits of the state employee whistleblower program under RCW 42.40.110.

[1999 c 361 § 9; 1995 c 301 § 25; 1981 c 336 § 1.]

Notes:

Effective date--1981 c 336: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1981." [1981 c 336 § 8.]

RCW 43.09.412 Auditing services revolving account--Transfers and payments into account--Allotments to state auditor.

The amounts to be disbursed from the auditing services revolving account shall be paid from funds appropriated to any and all state agencies for auditing services or administrative expenses. State agencies operating in whole or in part from nonappropriated funds shall pay into the auditing services revolving account such funds as will fully reimburse funds appropriated to the state auditor for auditing services provided.

The director of financial management shall allot all such funds to the state auditor for the operation of his or her office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other state agencies headed by elected officers under chapter 43.88 RCW.

[1995 c 301 § 26; 1987 c 165 § 1; 1981 c 336 § 2.]

Notes:

Effective date--1981 c 336: See note following RCW 43.09.410.

RCW 43.09.414 Auditing services revolving account--Disbursements.

Disbursements from the auditing services revolving account shall be made pursuant to vouchers executed by the state auditor or his or her designee in accordance with RCW 43.09.412.

[1995 c 301 § 27; 1981 c 336 § 3.]

Notes:

Effective date--1981 c 336: See note following RCW 43.09.410.

RCW 43.09.416 Auditing services revolving account--Allocation of costs to funds,

accounts, and agencies--Billing rate.

The state auditor shall keep such records as are necessary to facilitate proper allocation of costs to funds and accounts and state agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and accounts and state agencies served. The billing rate shall be established based on costs incurred in the prior biennium and anticipated costs in the new biennium. Those expenses related to training, maintenance of working capital including reserves for late and uncollectible accounts, and necessary adjustments to billings, shall be considered as expenses of auditing public accounts. Working capital shall not exceed five percent of the auditing services revolving account appropriation.

[1995 c 301 § 28; 1987 c 165 § 2; 1981 c 336 § 4.]

Notes:

Effective date--1981 c 336: See note following RCW 43.09.410.

RCW 43.09.418 Auditing services revolving account--Direct payments from state agencies.

In cases where there are unanticipated demands for auditing services or where there are insufficient funds on hand or available for payment through the auditing services revolving account or in other cases of necessity, the state auditor may request payment for auditing services directly from state agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the state agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management.

[1995 c 301 § 29; 1981 c 336 § 5.]

Notes:

Effective date--1981 c 336: See note following RCW 43.09.410.

RCW 43.09.420 Audit of revolving, local, and other funds and accounts.

As part of the routine audits of state agencies, the state auditor shall audit all revolving funds, local funds, and other state funds and state accounts that are not managed by or in the care of the state treasurer and that are under the control of state agencies, including but not limited to state departments, boards, and commissions. In conducting the audits of these funds and accounts, the auditor shall examine revenues and expenditures or assets and liabilities, accounting methods and procedures, and recordkeeping practices. In addition to including the results of these examinations as part of the routine audits of the agencies, the auditor shall report to the legislature on the status of all such funds and accounts that have been examined during the preceding biennium and any recommendations for their improved financial management. Such a report shall be filed with the legislature within five months of the end of each biennium regarding the funds and accounts audited during the biennium. The first such report shall be filed by December 1, 1993, regarding any such funds and accounts audited during the 1991-93 biennium.

[1993 c 216 § 1.]

Chapter 43.10 RCW
ATTORNEY GENERAL

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NOTES:

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Motor vehicle dealers' licenses, attorney general to approve applicant's surety bond accompanying application for: RCW 46.70.070.

Natural resources department, counsel for: RCW 78.52.035.

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Records, keeping of: State Constitution Art. 3 § 24; RCW 43.10.030.

Records committee, to appoint a member of: RCW 40.14.050.

Removal from office, grounds: State Constitution Art. 4 § 9.

Salary, amount of: State Constitution Art. 28 § 1; RCW 43.03.010.

Schools and school districts, supervision of prosecuting attorney: RCW 36.27.020.

Securities act violations referred to: RCW 21.20.410.

Social and health services department, representation, hospital regulation: RCW 70.41.160.

State board for volunteer fire fighters and reserve officers, to advise: RCW 41.24.280.

State board of health, representation, hospital regulation: RCW 70.41.160.

State officers, defends actions against: RCW 4.92.070, 43.10.030.

Steamboat company penalties, recovery action by attorney general: RCW 81.84.050.

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Vital statistics, duty to enforce laws of: RCW 70.58.050.

Washington habitual traffic offenders act, attorney general's duties: Chapter 46.65 RCW.

RCW 43.10.010 Qualifications--Oath--Bond.

No person shall be eligible to be attorney general unless he is a qualified practitioner of the supreme court of this state.

Before entering upon the duties of his office, any person elected or appointed attorney general shall take, subscribe, and file the oath of office as required by law; take, subscribe, and file with the secretary of state an oath to comply with the provisions of RCW 43.10.115; and execute and file with the secretary of state, a bond to the state, in the sum of five thousand dollars, with sureties to be approved by the governor, conditioned for the faithful performance of his duties and the paying over of all moneys, as provided by law.

[1973 c 43 § 1; 1965 c 8 § 43.10.010. Prior: 1929 c 92 § 1, part; RRS § 11030, part; prior: 1921 c 119 § 1; 1888 p 7 § 4.]

Notes:

Severability--1973 c 43: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 43 § 6.]

RCW 43.10.020 Additional bond--Penalty for failure to furnish.

If the governor deems any bond filed by the attorney general insufficient, he may require an additional bond for any amount not exceeding five thousand dollars.

If any attorney general fails to give such additional bond as required by the governor within twenty days after notice in writing of such requirement, his office may be declared vacant by the governor and filled as provided by law.

[1965 c 8 § 43.10.020. Prior: (i) 1929 c 92 § 1, part; RRS § 11030, part. (ii) 1929 c 92 § 2; RRS § 11031; prior: 1921 c 119 § 1; 1888 p 7 § 4, 5.]

RCW 43.10.030 General powers and duties.

The attorney general shall:

- (1) Appear for and represent the state before the supreme court or the court of appeals in all cases in which the state is interested;
- (2) Institute and prosecute all actions and proceedings for, or for the use of the state, which may be necessary in the execution of the duties of any state officer;
- (3) Defend all actions and proceedings against any state officer or employee acting in his official capacity, in any of the courts of this state or the United States;
- (4) Consult with and advise the several prosecuting attorneys in matters relating to the duties of their office, and when the interests of the state require, he shall attend the trial of any person accused of a crime, and assist in the prosecution;
- (5) Consult with and advise the governor, members of the legislature, and other state officers, and when requested, give written opinions upon all constitutional or legal questions relating to the duties of such officers;
- (6) Prepare proper drafts of contracts and other instruments relating to subjects in which the state is interested;
- (7) Give written opinions, when requested by either branch of the legislature, or any committee thereof, upon constitutional or legal questions;
- (8) Enforce the proper application of funds appropriated for the public institutions of the state, and prosecute corporations for failure or refusal to make the reports required by law;
- (9) Keep in proper books a record of all cases prosecuted or defended by him, on behalf of the state or its officers, and of all proceedings had in relation thereto, and deliver the same to his successor in office;
- (10) Keep books in which he shall record all the official opinions given by him during his term of office, and deliver the same to his successor in office;
- (11) Pay into the state treasury all moneys received by him for the use of the state.

[1975 c 40 § 5; 1971 c 81 § 109; 1965 c 8 § 43.10.030. Prior: (i) 1929 c 92 § 3; RRS § 112. (ii) 1929 c 92 § 4; RRS § 11032; prior: 1891 c 55 § 2; 1888 p 8 § 6.]

RCW 43.10.035 Prosecutions for official delinquencies in the assessment, collection and payment of revenue; failure to pay over or deliver public money or property; and against all debtors of the state.

Upon receipt of information from the state auditor as provided in *RCW 43.09.050(3) as now or hereafter amended, the attorney general shall direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state.

[1977 ex.s. c 144 § 9.]

Notes:

***Reviser's note:** RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (3) to subsection (4).

RCW 43.10.040 Representation of boards, commissions and agencies.

The attorney general shall also represent the state and all officials, departments, boards, commissions and agencies of the state in the courts, and before all administrative tribunals or bodies of any nature, in all legal or quasi legal matters, hearings, or proceedings, and advise all officials, departments, boards, commissions, or agencies of the state in all matters involving legal or quasi legal questions, except those declared by law to be the duty of the prosecuting attorney of any county.

[1965 c 8 § 43.10.040. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

RCW 43.10.045 Retention of counsel by legislature--Notice--Representation in absence of notice.

The legislature may employ or retain counsel of its own choosing. However, the legislature shall notify the attorney general whenever it makes a decision to use the services of such counsel to represent it or any of its members in a particular judicial or administrative proceeding. With respect to any such proceeding where the legislature has not so notified the attorney general, the attorney general shall represent the legislature until so notified. For purposes of this section, "legislature" means the senate and house of representatives together. The major purposes of this section are to confirm and implement in statute law the constitutional power of the legislative branch to select its own counsel.

[1986 c 323 § 1.]

RCW 43.10.050 Authority to execute appeal and other bonds.

The attorney general may execute, on behalf of the state, any appeal or other bond required to be given by the state in any judicial proceeding to which it is a party in any court, and procure sureties thereon.

[1965 c 8 § 43.10.050. Prior: 1929 c 92 § 6; RRS § 11034; prior: 1905 c 99 § 1.]

RCW 43.10.060 Appointment and authority of assistants.

The attorney general may appoint necessary assistants, who shall hold office at his pleasure, and who shall have the power to perform any act which the attorney general is authorized by law to perform.

[1965 c 8 § 43.10.060. Prior: 1929 c 92 § 7, part; RRS § 11034-1, part.]

RCW 43.10.065 Employment of attorneys and employees to transact state's legal business.

The attorney general may employ or discharge attorneys and employees to transact for the state, its departments, officials, boards, commissions, and agencies, all business of a legal or

quasi legal nature, except those declared by law to be the duty of the judge of any court, or the prosecuting attorney of any county.

[1965 c 8 § 43.10.065. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part. Formerly RCW 43.10.060, part.]

RCW 43.10.067 Employment of attorneys by others restricted.

No officer, director, administrative agency, board, or commission of the state, other than the attorney general, shall employ, appoint or retain in employment any attorney for any administrative body, department, commission, agency, or tribunal or any other person to act as attorney in any legal or quasi legal capacity in the exercise of any of the powers or performance of any of the duties specified by law to be performed by the attorney general, except where it is provided by law to be the duty of the judge of any court or the prosecuting attorney of any county to employ or appoint such persons: PROVIDED, That RCW 43.10.040, and 43.10.065 through 43.10.080 shall not apply to the administration of the commission on judicial conduct, the state law library, the law school of the state university, the administration of the state bar act by the Washington State Bar Association, or the representation of an estate administered by the director of the department of revenue or the director's designee pursuant to chapter 11.28 RCW.

The authority granted by chapter 1.08 RCW, RCW 44.28.065, and 47.01.061 shall not be affected hereby.

[1997 c 41 § 9. Prior: 1987 c 364 § 1; 1987 c 186 § 7; prior: 1985 c 133 § 2; 1985 c 7 § 108; 1981 c 268 § 1; 1965 c 8 § 43.10.067; prior: (i) 1941 c 50 § 2; Rem. Supp. 1941 § 11034-4. (ii) 1941 c 50 § 4; Rem. Supp. 1941 § 11034-6. Formerly RCW 43.01.080.]

RCW 43.10.070 Compensation of assistants, attorneys and employees.

The attorney general shall fix the compensation of all assistants, attorneys, and employees, and in the event they are assigned to any department, board, or commission, such department, board, or commission shall pay the compensation as fixed by the attorney general, not however in excess of the amount made available to the department by law for legal services.

[1965 c 8 § 43.10.070. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

RCW 43.10.080 Employment of experts, technicians.

The attorney general may employ such skilled experts, scientists, technicians, or other specially qualified persons as he deems necessary to aid him in the preparation or trial of actions or proceedings.

[1965 c 8 § 43.10.080. Prior: 1941 c 50 § 3; Rem. Supp. 1941 § 11034-5.]

RCW 43.10.090 Criminal investigations--Supervision.

Upon the written request of the governor the attorney general shall investigate violations

of the criminal laws within this state.

If, after such investigation, the attorney general believes that the criminal laws are improperly enforced in any county, and that the prosecuting attorney of the county has failed or neglected to institute and prosecute violations of such criminal laws, either generally or with regard to a specific offense or class of offenses, the attorney general shall direct the prosecuting attorney to take such action in connection with any prosecution as the attorney general determines to be necessary and proper.

If any prosecuting attorney, after the receipt of such instructions from the attorney general, fails or neglects to comply therewith within a reasonable time, the attorney general may initiate and prosecute such criminal actions as he shall determine. In connection therewith, the attorney general shall have the same powers as would otherwise be vested in the prosecuting attorney.

From the time the attorney general has initiated or taken over a criminal prosecution, the prosecuting attorney shall not have power or authority to take any legal steps relating to such prosecution, except as authorized or directed by the attorney general.

[1965 c 8 § 43.10.090. Prior: 1937 c 88 § 1; RRS § 112-1.]

Notes:

Corporations, governor may require attorney general to investigate: RCW 43.06.010.

Prosecuting attorneys, governor may require attorney general to aid: RCW 43.06.010.

RCW 43.10.095 Homicide investigative tracking system--Supervision management and recidivist tracking (SMART) system.

(1) There is created, as a component of the homicide investigative tracking system, a supervision management and recidivist tracking system called the SMART system. The office of the attorney general may contract with any state, local, or private agency necessary for implementation of and training for supervision management and recidivist tracking program partnerships for development and operation of a state-wide computer linkage between the attorney general's homicide investigative tracking system, local police departments, and the state department of corrections. Dormant information in the supervision management and recidivist tracking system shall be automatically archived after seven years. The department of corrections shall notify the attorney general when each person is no longer under its supervision.

(2) As used in this section, unless the context requires otherwise:

(a) "Dormant" means there have been no inquiries by the department of corrections or law enforcement with regard to an active supervision case or an active criminal investigation in the past seven years.

(b) "Archived" means information which is not in the active data base and can only be retrieved for use in an active criminal investigation.

[1998 c 223 § 2.]

Notes:

Finding--1998 c 223: "The legislature finds that increased communications between local law

enforcement officers and the state department of corrections' community corrections officers improves public safety through shared monitoring and supervision of offenders living in the community under the jurisdiction of the department of corrections.

Participating local law enforcement agencies and the local offices of the department of corrections have implemented the supervision management and recidivist tracking program, whereby each entity provides mutual assistance in supervising offenders living within the boundaries of local law enforcement agencies. The supervision management and recidivist tracking program has helped local law enforcement solve crimes faster or prevented future criminal activity by reporting offender's sentence violations in a more timely manner to community corrections officers by rapid and comprehensive electronic sharing of information regarding supervised offenders. The expansion of the supervision management and recidivist tracking program will improve public safety throughout the state." [1998 c 223 § 1.]

RCW 43.10.097 Homicide investigative tracking system--Purpose limited.

The homicide investigative tracking system and the supervision management and recidivist tracking system are tools for the administration of criminal justice and these systems may not be used for any other purpose.

[1998 c 223 § 3.]

Notes:

Finding--1998 c 223: See note following RCW 43.10.095.

RCW 43.10.101 Report to legislative transportation committee--Tort claims.

The attorney general shall prepare annually a report to the legislative transportation committee comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

- (1) A summary of the factual background of the case;
- (2) Identification of the attorneys representing the state and the opposing parties;
- (3) A synopsis of the legal theories asserted and the defenses presented;
- (4) Whether the case was tried, settled, or dismissed, and in whose favor;
- (5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and
- (6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims.

[1995 2nd sp.s. c 14 § 527.]

Notes:

Effective dates--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

RCW 43.10.110 Other powers and duties.

The attorney general shall have the power and it shall be his duty to perform any other duties that are, or may from time to time be required of him by law.

[1965 c 8 § 43.10.110. Prior: 1929 c 92 § 8; RRS § 11034-2.]

RCW 43.10.115 Private practice of law--Attorney general--Prohibited.

The attorney general shall not practice law for remuneration in his private capacity:

- (1) As an attorney in any court of this state during his continuance in office; or
- (2) As adviser or advocate for any person who may wish to become his client.

[1973 c 43 § 2.]

Notes:

Severability--1973 c 43: See note following RCW 43.10.010.

RCW 43.10.120 Private practice of law--Deputies and assistants--Prohibited.

No full time deputy or assistant attorney general shall practice law for remuneration in his private capacity:

- (1) As an attorney in any court of this state during his continuance in office; or
- (2) As adviser or advocate for any person who may wish to become his client.

[1973 c 43 § 3.]

Notes:

Severability--1973 c 43: See note following RCW 43.10.010.

RCW 43.10.125 Private practice of law--Special assistant attorney generals.

Special assistant attorney generals employed on less than a full time basis to transact business of a legal or quasi legal nature for the state, such assistants and attorneys may practice law in their private capacity as attorney.

[1973 c 43 § 4.]

Notes:

Severability--1973 c 43: See note following RCW 43.10.010.

RCW 43.10.130 Private practice of law--Exceptions.

None of the provisions of RCW 43.10.010 and 43.10.115 through 43.10.125 shall be construed as prohibiting the attorney general or any of his full time deputies or assistants from:

- (1) Performing legal services for himself or his immediate family; or
- (2) Performing legal services of a charitable nature.

[1973 c 43 § 5.]

Notes:

Severability--1973 c 43: See note following RCW 43.10.010.

RCW 43.10.150 Legal services revolving fund--Created--Purpose.

A legal services revolving fund is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the legal services provided to agencies of the state government by the attorney general.

[1974 ex.s. c 146 § 1; 1971 ex.s. c 71 § 1.]

Notes:

Effective date--1974 ex.s. c 146: "This act shall take effect on July 1, 1974 for costs, billings and charges affecting the 1975 fiscal year and subsequent biennia." [1974 ex.s. c 146 § 5.]

Legal services revolving fund--Approval of certain changes required: RCW 43.88.350.

RCW 43.10.160 Legal services revolving fund--Transfers and payments into fund--Allotments to attorney general.

The amounts to be disbursed from the legal services revolving fund from time to time shall be transferred thereto by the state treasurer from funds appropriated to any and all agencies for legal services or administrative expenses on a quarterly basis. Agencies operating in whole or in part from nonappropriated funds shall pay into the legal services revolving fund such funds as will fully reimburse funds appropriated to the attorney general for any legal services provided activities financed by nonappropriated funds.

The director of financial management shall allot all such funds to the attorney general for the operation of his office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other agencies headed by elected officers under chapter 43.88 RCW.

[1979 c 151 § 94; 1974 ex.s. c 146 § 2; 1971 ex.s. c 71 § 2.]

Notes:

Effective date--1974 ex.s. c 146: See note following RCW 43.10.150.

RCW 43.10.170 Legal services revolving fund--Disbursements.

Disbursements from the legal services revolving fund shall be pursuant to vouchers executed by the attorney general or his designee in accordance with the provisions of RCW 43.88.160.

[1971 ex.s. c 71 § 3.]

RCW 43.10.180 Legal services revolving fund--Allocation of costs to funds and agencies--Accounting--Billing.

The attorney general shall keep such records as are necessary to facilitate proper allocation of costs to funds and agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and agencies served. Billings shall be adjusted in line with actual costs incurred at intervals not to exceed six

months.

[1979 c 151 § 95; 1974 ex.s. c 146 § 3; 1971 ex.s. c 71 § 4.]

Notes:

Effective date--1974 ex.s. c 146: See note following RCW 43.10.150.

RCW 43.10.190 Legal services revolving fund--Direct payments from agencies.

In cases where there are unanticipated demands for legal services or where there are insufficient funds on hand or available for payment through the legal services revolving fund or in other cases of necessity, the attorney general may request payment for legal services directly from agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management.

[1979 c 151 § 96; 1971 ex.s. c 71 § 5.]

RCW 43.10.200 Legal services revolving fund--Recovered court costs, fees and expenses--Deposit in fund--Expenditure.

Court costs, attorneys' fees, and other expenses recovered by the attorney general shall be deposited in the legal services revolving fund and shall be considered as returned loans of materials supplied or services rendered. Such amounts may be expended in the same manner and under the same conditions and restrictions as set forth in section 11, chapter 282, Laws of 1969 ex. sess.

[1971 ex.s. c 71 § 6.]

RCW 43.10.210 Antitrust revolving fund--Legislative finding and purpose.

The legislature having found that antitrust laws and the enforcement thereof are necessary for the protection of consumers and businesses, and further that the creation of an antitrust revolving fund provides a reasonable means of funding antitrust actions by the attorney general, and that the existence of such a fund increases the possibility of obtaining funding from other sources, now therefore creates the antitrust revolving fund.

[1974 ex.s. c 162 § 1.]

RCW 43.10.215 Antitrust revolving fund--Created--Contents.

There is hereby created the antitrust revolving fund in the custody of the state treasurer which shall consist of: Funds appropriated to the revolving fund, funds transferred to the revolving fund pursuant to a court order or judgment in an antitrust action; gifts or grants made to the revolving fund; and funds awarded to the state or any agency thereof for the recovery of costs and attorney fees in an antitrust action: PROVIDED HOWEVER, That to the extent that

such costs constitute reimbursement for expenses directly paid from constitutionally dedicated funds, such recoveries shall be transferred to the constitutionally dedicated fund.

[1974 ex.s. c 162 § 2.]

RCW 43.10.220 Antitrust revolving fund--Expenditures.

The attorney general is authorized to expend from the antitrust revolving fund, created by RCW 43.10.210 through 43.10.220, such funds as are necessary for the payment of costs, expenses and charges incurred in the preparation, institution and maintenance of antitrust actions under the state and federal antitrust acts. During the 1999-01 fiscal biennium, the attorney general may expend up to one million three hundred thousand dollars from the antitrust revolving fund for the purposes of implementing a case management data processing system for the centralized management of cases and workload, including antitrust and other complex litigation.

[1999 c 309 § 916; 1974 ex.s. c 162 § 3.]

NOTES:

Severability--Effective date--1999 c 309: See notes following RCW 41.06.152.

RCW 43.10.230 Purpose.

The purpose of RCW 43.10.232 is to grant authority to the attorney general concurrent with the county prosecuting attorneys to investigate and prosecute crimes. The purpose of *RCW 43.10.234 is to insure access by the attorney general to the procedural powers of the various prosecuting attorneys in exercising criminal prosecutorial authority granted in RCW 43.10.232 or otherwise granted by the legislature.

[1981 c 335 § 1.]

Notes:

***Reviser's note:** The reference to RCW 43.10.234 appears to be erroneous. RCW 10.01.190 was apparently intended.

RCW 43.10.232 Concurrent authority to investigate crimes and initiate and conduct prosecutions--Payment of costs.

(1) The attorney general shall have concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions upon the request of or with the concurrence of any of the following:

- (a) The county prosecuting attorney of the jurisdiction in which the offense has occurred;
- (b) The governor of the state of Washington; or
- (c) A majority of the committee charged with the oversight of the organized crime intelligence unit.

(2) Such request or concurrence shall be communicated in writing to the attorney general.

(3) Prior to any prosecution by the attorney general under this section, the attorney general and the county in which the offense occurred shall reach an agreement regarding the

payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution.

[1986 c 257 § 16; 1981 c 335 § 2.]

Notes:

Severability--1986 c 257: See note following RCW 9A.56.010.

RCW 43.10.234 Determination of prosecuting authority if defendant charged by attorney general and prosecuting attorney.

If both a prosecuting attorney and the attorney general file an information or indictment charging a defendant with substantially the same offense(s), the court shall, upon motion of either the prosecuting attorney or the attorney general:

- (1) Determine whose prosecution of the case will best promote the interests of justice and enter an order designating that person as the prosecuting authority in the case; and
- (2) Enter an order dismissing the information or indictment filed by the person who was not designated the prosecuting authority.

[1981 c 335 § 3.]

RCW 43.10.240 Investigative and criminal prosecution activity--Annual report--Security protection.

The attorney general shall annually report to the organized crime advisory board a summary of the attorney general's investigative and criminal prosecution activity conducted pursuant to this chapter. Except to the extent the summary describes information that is a matter of public record, the information made available to the board shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and rules and shall not be revealed or divulged publicly or privately by members of the board.

[1985 c 251 § 1.]

RCW 43.10.250 Appellate review of criminal case.

Upon request of a prosecuting attorney, the attorney general may assume responsibility for the appellate review of a criminal case or assist the prosecuting attorney in the appellate review if the attorney general finds that the case involves fundamental issues affecting the public interest and the administration of criminal justice in this state.

[1985 c 251 § 2.]

RCW 43.10.260 Criminal profiteering--Assistance to local officials.

The attorney general may: (1) Assist local law enforcement officials in the development of cases arising under the criminal profiteering laws with special emphasis on narcotics related

cases; (2) assist local prosecutors in the litigation of criminal profiteering or drug asset forfeiture cases, or, at the request of a prosecutor's office, litigate such cases on its behalf; and (3) conduct seminars and training sessions on prosecution of criminal profiteering cases and drug asset forfeiture cases.

[1991 c 345 § 2.]

Notes:

Findings--1991 c 345: "The legislature finds that drug asset forfeiture and criminal profiteering laws allow law enforcement officials and the courts to strip drug dealers and other successful criminals of the wealth they have acquired from their crimes and the assets they have used to facilitate those crimes. These laws are rarely used by prosecutors, however, because of the difficulty in identifying profiteering and the assets that criminals may have as a result of their crimes. It is the intent of the legislature to provide assistance to local law enforcement officials and state agencies to seize the assets of criminals and the proceeds of their profiteering." [1991 c 345 § 1.]

RCW 43.10.270 Criminal profiteering--Asset recovery.

All assets recovered pursuant to RCW 43.10.260 shall be distributed in the following manner: (1) For drug asset forfeitures, pursuant to the provisions of RCW 69.50.505; and (2) for criminal profiteering cases, pursuant to the provisions of RCW 9A.82.100.

[1991 c 345 § 3.]

Notes:

Findings--1991 c 345: See note following RCW 43.10.260.

**Chapter 43.12 RCW
COMMISSIONER OF PUBLIC LANDS**

Sections

43.12.010	Powers and duties--Generally.
43.12.025	Sealing of open holes and mine shafts.
43.12.035	Mine owners--Maps of property surface and underground workings--Filing.
43.12.045	Rule-making authority.
43.12.055	Enforcement in accordance with RCW 43.05.100 and 43.05.110.

Notes:

Abstracts of state lands maintained by: RCW 79.01.304.

Administrator of natural resources: RCW 43.30.050.

Assistant commissioner: RCW 79.01.056.

Attorney general to represent: RCW 79.01.736.

Board of natural resources secretary: RCW 43.30.150.

Bonds: RCW 79.01.064.

City or metropolitan park district parks or playgrounds, member of citizens committee to investigate and determine needs for tidelands and shorelands: RCW 79.08.080.

Duties of, to be prescribed by legislature: State Constitution Art. 3 § 23.

Election: State Constitution Art. 3 § 1.

Eminent domain

against state lands

filing judgment with commissioner of public lands: RCW 8.28.010.

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service of process on: RCW 8.28.010.
by corporations, service on: RCW 8.20.020.
Employees: RCW 79.01.060.
Escheats
conveyance of real property to claimant: RCW 11.08.270.
jurisdiction and supervision over real property: RCW 11.08.220.
land acquired by, management and control over: RCW 79.01.612.
Fees: RCW 79.01.720, 79.01.724.
Funds, daily deposit of funds in state treasury: RCW 43.85.130.
Harbor line relocation, platting of additional tidelands and shorelands created by: RCW 79.92.020.
Interagency committee for outdoor recreation, membership: RCW 79A.25.110.
Land inspectors
compensation: RCW 79.01.068.
employment of: RCW 79.01.060.
false statements by, penalty: RCW 79.01.072.
oath: RCW 79.01.068.
Local and other improvements and assessments against state lands, tidelands and harbor area assessments, disapproval, effect: RCW 79.44.140.
Mistakes, recall of leases, contract or deeds to correct: RCW 79.01.740.
Oath of office: RCW 43.01.020, 79.01.056.
Office may be abolished by legislature: State Constitution Art. 3 § 25.
Powers and duties transferred to natural resources department: RCW 43.30.130.
Recall of leases, contracts, or deeds to correct mistakes: RCW 79.01.740.
Reclamation projects of state: RCW 89.16.080.
Reconsideration of official acts: RCW 79.01.740.
Records to be kept at state capitol: State Constitution Art. 3 § 24.
Reports to legislature: RCW 79.01.744.
Salary
amount of: RCW 43.03.010.
regulated by legislature: State Constitution Art. 3 § 23.
School lands, data and information furnished to department of natural resources as to sale or lease of: RCW 79.01.094.
State capitol committee
member: RCW 43.34.010.
secretary of: RCW 43.34.015.
State lands: Chapter 79.01 RCW.
State parks, withdrawal of public lands from sale, exchange for highway abutting lands, duties: RCW 79A.05.110.
Subpoena power: RCW 79.01.704.
Succession to governorship: State Constitution Art. 3 § 10.
Survey and map agency, advisory board, appointment: RCW 58.24.020.
Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.
Underground storage of natural gas
lease of public lands for: RCW 80.40.060.
notice of application for sent to: RCW 80.40.040.
United States land offices, appearance before: RCW 79.01.732.
Washington State University real property, annual report as to: RCW 28B.30.310.
Wildlife and recreation lands; funding of maintenance and operation: Chapter 79A.20 RCW.
Withdrawal of state land from lease for game purposes, powers and duties concerning: RCW 77.12.360.

RCW 43.12.010 Powers and duties--Generally.

The commissioner of public lands shall exercise such powers and perform such duties as are prescribed by law.

[1965 c 8 § 43.12.010. Prior: 1921 c 7 § 119; RRS § 10877.]

RCW 43.12.025 Sealing of open holes and mine shafts.

The department of natural resources shall work with federal officials and private mine owners to ensure the prompt sealing of open holes and mine shafts that constitute a threat to safety.

[1985 c 459 § 7.]

Notes:

Severability--1985 c 459: See note following RCW 79.01.668.

RCW 43.12.035 Mine owners--Maps of property surface and underground workings--Filing.

The owner of each mine shall make a map of the surface of the property. The owner of each active mine shall make a map of the underground workings. All maps shall be filed with the department of natural resources. The department shall establish by rule the scale and contents required for the maps.

[1985 c 459 § 8.]

Notes:

Severability--1985 c 459: See note following RCW 79.01.668.

RCW 43.12.045 Rule-making authority.

For rules adopted after July 23, 1995, the commissioner of public lands may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule.

[1995 c 403 § 101.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 43.12.055 Enforcement in accordance with RCW 43.05.100 and 43.05.110.

Enforcement action taken after July 23, 1995, by the commissioner of public lands shall

be in accordance with RCW 43.05.100 and 43.05.110.

[1995 c 403 § 622.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

Chapter 43.17 RCW

ADMINISTRATIVE DEPARTMENTS AND AGENCIES--GENERAL PROVISIONS

Sections

43.17.010	Departments created.
43.17.020	Chief executive officers--Appointment.
43.17.030	Powers and duties--Oath.
43.17.040	Chief assistant director--Powers.
43.17.050	Office at capital--Branch offices.
43.17.060	Departmental rules and regulations.
43.17.070	Administrative committees.
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NOTES:

Collection agency use by state: RCW 19.16.500.

Debts owed to state, interest rate: RCW 43.17.240.

Facilitating recovery from Mt. St. Helens eruption--Scope of state agency action: RCW 43.01.210.

RCW 43.17.010 Departments created.

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6)

the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, and (14) the department of health, and (15) the department of financial institutions, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

[1993 sp.s. c 2 § 16; 1993 c 472 § 17; 1993 c 280 § 18; 1989 1st ex.s. c 9 § 810; 1987 c 506 § 2; 1985 c 466 § 47; 1984 c 125 § 12; 1981 c 136 § 61; 1979 c 10 § 1. Prior: 1977 ex.s. c 334 § 5; 1977 ex.s. c 151 § 20; 1977 c 7 § 1; prior: 1975-'76 2nd ex.s. c 115 § 19; 1975-'76 2nd ex.s. c 105 § 24; 1971 c 11 § 1; prior: 1970 ex.s. c 62 § 28; 1970 ex.s. c 18 § 50; 1969 c 32 § 1; prior: 1967 ex.s. c 26 § 12; 1967 c 242 § 12; 1965 c 156 § 20; 1965 c 8 § 43.17.010; prior: 1957 c 215 § 19; 1955 c 285 § 2; 1953 c 174 § 1; prior: (i) 1937 c 111 § 1, part; RRS § 10760-2, part. (ii) 1935 c 176 § 1; 1933 c 3 § 1; 1929 c 115 § 1; 1921 c 7 § 2; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part. (iv) 1947 c 114 § 5; Rem. Supp. 1947 § 10786-10c.]

Notes:

Reviser's note: This section was amended by 1993 c 280 § 18, 1993 c 472 § 17, and by 1993 sp.s. c 2 § 16, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability--1993 sp.s. c 2: See RCW 43.300.901.

Effective date--Implementation--1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Legislative findings and intent--1987 c 506: See note following RCW 77.04.020.

Effective date--Severability--1985 c 466: See notes following RCW 43.31.005.

Severability--Headings--Effective date--1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date--1981 c 136: See RCW 72.09.900.

Effective date--1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements--Severability--1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability--1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date--Severability--1970 ex.s. c 18: See notes following RCW 43.20A.010.

Department of

agriculture: Chapter 43.23 RCW.

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

corrections: Chapter 72.09 RCW.

ecology: Chapter 43.21A RCW.

employment security: Chapter 50.08 RCW.

financial institutions: Chapter 43.320 RCW.

fish and wildlife: Chapters 43.300 and 77.04 RCW.

general administration: Chapter 43.19 RCW.

health: Chapter 43.70 RCW.

information services: Chapter 43.105 RCW.

labor and industries: Chapter 43.22 RCW.

licensing: Chapters 43.24, 46.01 RCW.

natural resources: Chapter 43.30 RCW.

personnel: Chapter 41.06 RCW.

retirement systems: Chapter 41.50 RCW.

revenue: Chapter 82.01 RCW.

services for the blind: Chapter 74.18 RCW.

social and health services: Chapter 43.20A RCW.

transportation: Chapter 47.01 RCW.

veterans affairs: Chapter 43.60A RCW.

RCW 43.17.020 Chief executive officers--Appointment.

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, and (14) the secretary of health, and (15) the director of financial institutions.

Such officers, except the secretary of transportation and the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

[1995 1st sp.s. c 2 § 2 (Referendum Bill No. 45, approved November 7, 1995). Prior: 1993 sp.s. c 2 § 17; 1993 c 472 § 18; 1993 c 280 § 19; 1989 1st ex.s. c 9 § 811; 1987 c 506 § 3; 1985 c 466 § 48; 1984 c 125 § 13; 1981 c 136 § 62; 1979 c 10 § 2; prior: 1977 ex.s. c 334 § 6; 1977 ex.s. c 151 § 21; 1977 c 7 § 2; prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

Notes:

Effective date--1995 1st sp.s. c 2: "Sections 2 through 43 of this act shall take effect July 1, 1996." [1995 1st sp.s. c 2 § 45.]

Referral to electorate--1995 1st sp.s. c 2: See note following RCW 77.04.013.

Effective date--1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability--1993 sp.s. c 2: See RCW 43.300.901.

Effective date--Implementation--1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Legislative findings and intent--1987 c 506: See note following RCW 77.04.020.

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

Severability--Headings--Effective date--1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date--1981 c 136: See RCW 72.09.900.

Effective date--1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements--Severability--1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability--1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date--Severability--1970 ex.s. c 18: See notes following RCW 43.20A.010.

RCW 43.17.030 Powers and duties--Oath.

The directors of the several departments shall exercise such powers and perform such executive and administrative duties as are provided by law.

Each appointive officer before entering upon the duties of his office shall take and subscribe the oath of office prescribed by law for elective state officers, and file the same in the office of the secretary of state.

[1965 c 8 § 43.17.030. Prior: 1921 c 7 § 18; RRS § 10776.]

Notes:

Oaths of elective state officers: RCW 43.01.020.

RCW 43.17.040 Chief assistant director--Powers.

The director of each department may, from time to time, designate and deputize one of the assistant directors of his department to act as the chief assistant director, who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director.

[1965 c 8 § 43.17.040. Prior: 1921 c 7 § 118; RRS § 10876.]

RCW 43.17.050 Office at capital--Branch offices.

Each department shall maintain its principal office at the state capital. The director of each department may, with the approval of the governor, establish and maintain branch offices at other places than the state capital for the conduct of one or more of the functions of his department.

The governor, in his discretion, may require all administrative departments of the state and the appointive officers thereof, other than those created by this chapter, to maintain their principal offices at the state capital in rooms to be furnished by the director of general administration.

[1965 c 8 § 43.17.050. Prior: (i) 1921 c 7 § 20; RRS § 10778. (ii) 1921 c 7 § 134; RRS § 10892.]

Notes:

Departments to share occupancy--Capital projects surcharge: RCW 43.01.090.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

RCW 43.17.060 Departmental rules and regulations.

The director of each department may prescribe rules and regulations, not inconsistent with law, for the government of his department, the conduct of its subordinate officers and employees, the disposition and performance of its business, and the custody, use, and preservation of the records, papers, books, documents, and property pertaining thereto.

[1965 c 8 § 43.17.060. Prior: 1921 c 7 § 19; RRS § 10777.]

RCW 43.17.070 Administrative committees.

There shall be administrative committees of the state government, which shall be known as: (1) The state finance committee and (2) the state capitol committee.

[1982 c 40 § 8; 1965 c 8 § 43.17.070. Prior: 1929 c 115 § 3; 1921 c 7 § 4; RRS § 10762.]

Notes:

Severability--1982 c 40: See note following RCW 29.33.041.

State capitol committee: Chapter 43.34 RCW.

State finance committee: Chapter 43.33 RCW.

RCW 43.17.100 Surety bonds for appointive state officers and employees.

Every appointive state officer and employee of the state shall give a surety bond, payable to the state in such sum as shall be deemed necessary by the director of the department of general administration, conditioned for the honesty of the officer or employee and for the accounting of all property of the state that shall come into his possession by virtue of his office or employment, which bond shall be approved as to form by the attorney general and shall be filed in the office of the secretary of state.

The director of general administration may purchase one or more blanket surety bonds for the coverage required in this section.

Any bond required by this section shall not be considered an official bond and shall not be subject to chapter 42.08 RCW.

[1977 ex.s. c 270 § 7; 1975 c 40 § 6; 1965 c 8 § 43.17.100. Prior: 1921 c 7 § 16; RRS § 10774.]

Notes:

Construction--1977 ex.s. c 270: See RCW 43.19.19364.

Official bonds: Chapter 42.08 RCW.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

RCW 43.17.110 Data, information, interdepartmental assistance.

Where power is vested in a department or officer to inspect, examine, secure data or information from, or procure assistance from, another department or officer, such other department or officer shall submit to such inspection or examination, and furnish the data, information, or assistance required.

[1965 c 8 § 43.17.110. Prior: 1921 c 7 § 128; RRS § 10886.]

RCW 43.17.120 Designation of agency to carry out federal social security disability program.

Such state agency as the governor may designate is hereby authorized to enter into an agreement on behalf of the state with the Secretary of Health, Education and Welfare to carry out the provisions of the federal social security act, as amended, relating to the making of

determinations of disability under title II of such act.

[1965 c 8 § 43.17.120. Prior: 1955 c 200 § 1. Formerly RCW 74.44.010.]

Notes:

Federal social security for public employees: Chapters 41.33, 41.41, 41.47, and 41.48 RCW.

RCW 43.17.130 Designation of agency to carry out federal social security disability program--Appointment of personnel.

The state agency entering into such agreement shall appoint such professional personnel and other assistants and employees as may be reasonably necessary to carry out the provisions of RCW 43.17.120 and 43.17.130.

[1965 c 8 § 43.17.130. Prior: 1955 c 200 § 2. Formerly RCW 74.44.020.]

RCW 43.17.150 Receipt of property or money from United States attorney general--Use, expenditure--Deposit.

(1) Each state agency is authorized to receive property or money made available by the attorney general of the United States under section 881(e) of Title 21 of the United States Code and, except as required to the contrary under subsection (2) of this section, to use the property or spend the money for such purposes as are permitted under both federal law and the state law specifying the powers and duties of the agency.

(2) Unless precluded by federal law, all funds received by a state agency under section 881(e) of Title 21 of the United States Code shall be promptly deposited into the public safety and education account established in RCW 43.08.250.

[1986 c 246 § 1.]

RCW 43.17.200 Allocation of moneys for acquisition of works of art--Expenditure by arts commission--Conditions.

All state agencies including all state departments, boards, councils, commissions, and quasi public corporations shall allocate, as a nondeductible item, out of any moneys appropriated for the original construction of any public building, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration of the visual arts program by the Washington state arts commission and all costs for installation of the works of art. For the purpose of this section building shall not include highway construction sheds, warehouses or other buildings of a temporary nature.

[1983 c 204 § 4; 1974 ex.s. c 176 § 2.]

Notes:

Severability--1983 c 204: See note following RCW 43.46.090.

Acquisition of works of art for public buildings and lands--Visual arts program established: RCW 43.46.090.

Purchase of works of art

interagency reimbursement for expenditure by visual arts program: RCW 43.17.205.

procedure: RCW 43.19.455.

State art collection: RCW 43.46.095.

RCW 43.17.205 Purchase of works of art--Interagency reimbursement for expenditure by visual arts program.

The funds allocated under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission when the particular law providing for the appropriation becomes effective. For appropriations which are dependent upon the sale of bonds, the amount or proportionate amount of the moneys under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission thirty days after the sale of a bond or bonds.

[1990 c 33 § 574; 1983 c 204 § 3.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1983 c 204: See note following RCW 43.46.090.

RCW 43.17.210 Purchase of works of art--Procedure.

The Washington state arts commission shall determine the amount to be made available for the purchase of art in consultation with the agency, except where another person or agency is specified under RCW 43.19.455, 28A.335.210, or 28B.10.025, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the directors of the state agencies. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to in RCW 43.17.200, 43.19.455, 28A.335.210, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose.

[1990 c 33 § 575; 1983 c 204 § 5.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1983 c 204: See note following RCW 43.46.090.

RCW 43.17.230 Emergency information telephone services--Accessibility from all phones required--Charges.

(1) The legislature finds that when the state provides emergency information by telephone to citizens that is of a critical nature, such as road or weather hazards, the information should be accessible from all residential, commercial, and coin-operated telephones. Information such as road and weather conditions should be available to all persons traveling within the state whether they own a telephone in this state or not.

(2) If an agency or department of the state makes emergency information services available by telephone, the agency or department shall ensure that the telephone line is accessible from all coin-operated telephones in this state by both the use of coins and the use of a telephone credit card.

(3) A state agency that provides an emergency information service by telephone may establish charges to recover the cost of those services. However, an agency charging for the service shall not price it at a profit to create excess revenue for the agency. The agency shall do a total cost-benefit analysis of the available methods of providing the service and shall adopt the method that provides the service at the lowest cost to the user and the agency.

(4) "Emergency information services," as used in this section, includes information on road and weather conditions.

[1986 c 45 § 1.]

RCW 43.17.240 Debts owed to the state--Interest rate.

Interest at the rate of one percent per month, or fraction thereof, shall accrue on debts owed to the state, starting on the date the debts become past due. This section does not apply to: (1) Any instance where such interest rate would conflict with the provisions of a contract or with the provisions of any other law; or (2) debts to be paid by other governmental units. The office of financial management may adopt rules specifying circumstances under which state agencies may waive interest, such as when assessment or collection of interest would not be cost-effective. This section does not affect any authority of the state to charge or collect interest under any other law on a debt owed to the state by a governmental unit. This section applies only to debts which become due on or after July 28, 1991.

[1991 c 85 § 2.]

Notes:

Collection agency use by state: RCW 19.16.500.

RCW 43.17.250 County-wide planning policy.

(1) Whenever a state agency is considering awarding grants or loans for a county, city, or town planning under RCW 36.70A.040 to finance public facilities, it shall consider whether the county, city, or town requesting the grant or loan has adopted a comprehensive plan and

development regulations as required by RCW 36.70A.040.

(2) When reviewing competing requests from counties, cities, or towns planning under RCW 36.70A.040, a state agency considering awarding grants or loans for public facilities shall accord additional preference to those counties, cities, or towns that have adopted a comprehensive plan and development regulations as required by RCW 36.70A.040. For the purposes of the preference accorded in this section, a county, city, or town planning under RCW 36.70A.040 is deemed to have satisfied the requirements for adopting a comprehensive plan and development regulations specified in RCW 36.70A.040 if the county, city, or town:

(a) Adopts or has adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040;

(b) Adopts or has adopted a comprehensive plan and development regulations before submitting a request for a grant or loan if the county, city, or town failed to adopt a comprehensive plan and/or development regulations within the time periods specified in RCW 36.70A.040; or

(c) Demonstrates substantial progress toward adopting a comprehensive plan or development regulations within the time periods specified in RCW 36.70A.040. A county, city, or town that is more than six months out of compliance with the time periods specified in RCW 36.70A.040 shall not be deemed to demonstrate substantial progress for purposes of this section.

(3) The preference specified in subsection (2) of this section applies only to competing requests for grants or loans from counties, cities, or towns planning under RCW 36.70A.040. A request from a county, city, or town planning under RCW 36.70A.040 shall be accorded no additional preference based on subsection (2) of this section over a request from a county, city, or town not planning under RCW 36.70A.040.

(4) Whenever a state agency is considering awarding grants or loans for public facilities to a special district requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040 and shall apply the preference specified in subsection (2) of this section and restricted in subsection (3) of this section.

[1999 c 164 § 601; 1991 sp.s. c 32 § 25.]

Notes:

Reviser's note: 1991 sp.s. c 32 directed that this section be added to chapter 43.01 RCW. The placement appears inappropriate and the section has been codified as part of chapter 43.17 RCW.

Findings--Intent--Part headings and subheadings not law--Effective date--Severability--1999 c 164: See notes following RCW 43.160.010.

Savings--1999 c 164 §§ 301-303, 305, 306, and 601-603: See note following RCW 82.60.020.

Section headings not law--1991 sp.s. c 32: See RCW 36.70A.902.

RCW 43.17.310 Businesses--Rules coordinator to provide list of rules.

The rules coordinator under RCW 34.05.310 shall be knowledgeable regarding the agency's rules that affect businesses. The rules coordinator shall provide a list of agency rules applicable at the time of the request to a specific class or line of business, which are limited to

that specific class or line as opposed to generic rules applicable to most businesses, to the *business assistance center when so requested by the *business assistance center for the specific class or line of business.

[1992 c 197 § 5.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

RCW 43.17.320 Interagency disputes--Alternative dispute resolution--Definitions.

For purposes of RCW 43.17.320 through 43.17.340, "state agency" means:

- (1) Any agency for which the executive officer is listed in RCW 42.17.2401(1); and
- (2) The office of the secretary of state; the office of the state treasurer; the office of the state auditor; the department of natural resources; the office of the insurance commissioner; and the office of the superintendent of public instruction.

[1993 c 279 § 2.]

Notes:

Intent--1993 c 279: "It is the intent of the legislature to reduce the number of time-consuming and costly lawsuits between state agencies by establishing alternative dispute resolution processes available to any agency."

[1993 c 279 § 1.]

RCW 43.17.330 Interagency disputes--Alternative dispute resolution--Methods.

Whenever a dispute arises between state agencies, agencies shall employ every effort to resolve the dispute themselves without resorting to litigation. These efforts shall involve alternative dispute resolution methods. If a dispute cannot be resolved by the agencies involved, any one of the disputing agencies may request the governor to assist in the resolution of the dispute. The governor shall employ whatever dispute resolution methods that the governor deems appropriate in resolving the dispute. Such methods may include, but are not limited to, the appointment by the governor of a mediator, acceptable to the disputing agencies, to assist in the resolution of the dispute. The governor may also request assistance from the attorney general to advise the mediator and the disputing agencies.

[1993 c 279 § 3.]

Notes:

Intent--1993 c 279: See note following RCW 43.17.320.

RCW 43.17.340 Interagency disputes--Alternative dispute resolution--Exception.

RCW 43.17.320 and 43.17.330 shall not apply to any state agency that is a party to a lawsuit, which: (1) Impleads another state agency into the lawsuit when necessary for the administration of justice; or (2) files a notice of appeal, petitions for review, or makes other filings subject to time limits, in order to preserve legal rights and remedies.

[1993 c 279 § 4.]

Notes:

Intent--1993 c 279: See note following RCW 43.17.320.

RCW 43.17.350 Health-related state agencies--Professional health services--Fee schedules.

For the purpose of accurately describing professional health services purchased by the state, health-related state agencies may develop fee schedules based on billing codes and service descriptions published by the American medical association or the United States federal health care financing administration, or develop agency unique codes and service descriptions.

[1995 1st sp.s. c 6 § 20.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 43.17.360 Lease of real property--Term of a lease--Use of proceeds--Retroactive application.

(1) The department of social and health services and other state agencies may lease real property and improvements thereon to a consortium of three or more counties in order for the counties to construct or otherwise acquire correctional facilities for juveniles or adults.

(2) A lease governed by subsection (1) of this section shall not charge more than one dollar per year for the land value and facilities value, during the initial term of the lease, but the lease may include provisions for payment of any reasonable operation and maintenance expenses incurred by the state.

The initial term of a lease governed by subsection (1) of this section shall not exceed twenty years, except as provided in subsection (4) of this section. A lease renewed under subsection (1) of this section after the initial term shall charge the fair rental value for the land and improvements other than those improvements paid for by a contracting consortium. The renewed lease may also include provisions for payment of any reasonable operation and maintenance expenses incurred by the state. For the purposes of this subsection, fair rental value shall be determined by the commissioner of public lands in consultation with the department and shall not include the value of any improvements paid for by a contracting consortium.

(3) The net proceeds generated from any lease entered or renewed under subsection (1) of this section involving land and facilities on the grounds of eastern state hospital shall be used solely for the benefit of eastern state hospital programs for the long-term care needs of patients with mental disorders. These proceeds shall not supplant or replace funding from traditional sources for the normal operations and maintenance or capital budget projects. It is the intent of this subsection to ensure that eastern state hospital receives the full benefit intended by this section, and that such effect will not be diminished by budget adjustments inconsistent with this intent.

(4) The initial term of a lease under subsection (1) of this section entered into after

January 1, 1996, and involving the grounds of Eastern State hospital, shall not exceed fifty years. This subsection applies retroactively, and the department shall modify any existing leases to comply with the terms of this subsection. No other terms of a lease modified by this subsection may be modified unless both parties agree.

[1997 c 349 § 1; 1996 c 261 § 2.]

Notes:

Severability--1997 c 349: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 349 § 2.]

Effective date--1997 c 349: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 13, 1997]." [1997 c 349 § 3.]

RCW 43.17.370 Prerelease copy of report or study to local government.

(1) An agency, prior to releasing a final report or study regarding management by a county, city, town, special purpose district, or other unit of local government of a program delegated to the local government by the agency or for which the agency has regulatory responsibility, shall provide copies of a draft of the report or study at least two weeks in advance of the release of the final report or study to the legislative body of the local government. The agency shall, at the request of a local government legislative body, meet with the legislative body before the release of a final report or study regarding the management of such a program.

(2) For purposes of this section, "agency" means an office, department, board, commission, or other unit of state government, other than a unit of state government headed by a separately elected official.

[1997 c 409 § 603.]

Notes:

Part headings--Severability--1997 c 409: See notes following RCW 43.22.051.

**Chapter 43.19 RCW
DEPARTMENT OF GENERAL ADMINISTRATION**

Sections

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NOTES:

Archives and records management division: Chapter 40.14 RCW.

Buildings, provision to be made for use by aged and handicapped: Chapter 70.92 RCW.

Capitol campus design advisory committee: RCW 43.34.080.

Department created: RCW 43.17.010.

Director

appointment: RCW 43.17.020.

chief assistants: RCW 43.17.040.

control of traffic on capitol grounds: RCW 46.08.150.

oath: RCW 43.17.030.

vacancy in office of: RCW 43.17.020, 43.17.040.

East capitol site, powers and duties: Chapter 79.24 RCW.

Federal surplus property, powers and duties: Chapter 39.32 RCW.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

Inventory of state-owned property: RCW 27.34.310, 43.19.19201, 43.20A.035, 43.20A.037, 43.41.150, 43.63A.510, 43.82.150, 47.12.064, 72.09.055, and 79.01.006.

Office located at state capital: RCW 43.17.050.

Parking facilities and traffic on capitol grounds: RCW 46.08.150 and 79.24.300 through 79.24.320.

Rules and regulations: RCW 43.17.060.

RCW 43.19.010 Director--Authority, appointment, salary.

The director of general administration shall be the executive head of the department of general administration. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The director shall receive a salary in an amount fixed by the governor in accordance with RCW 43.03.040.

[1999 c 229 § 1; 1993 c 472 § 19; 1988 c 25 § 10; 1975 1st ex.s. c 167 § 1; 1965 c 8 § 43.19.010. Prior: 1959 c 301 § 1; 1955 c 285 § 4; 1955 c 195 § 6; 1935 c 176 § 11; prior: 1909 c 38 §§ 1-7; 1907 c 166 §§ 3-5; 1901 c 119 §§ 1-9; RRS § 10786-10.]

Notes:

Effective date--Implementation--1993 c 472: See RCW 43.320.900 and 43.320.901.

Severability--1975 1st ex.s. c 167: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1975 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 167 § 20.]

RCW 43.19.011 Director--Powers and duties.

(1) The director of general administration shall supervise and administer the activities of the department of general administration and shall advise the governor and the legislature with respect to matters under the jurisdiction of the department.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Accept and expend gifts and grants that are related to the purposes of this chapter, whether such grants be of federal or other funds;

(c) Appoint a deputy director and such assistant directors and special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(e) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director shall be responsible for the official acts of the officers and

employees of the department; and

(f) Perform other duties as are necessary and consistent with law.

(3) The director may establish additional advisory groups as may be necessary to carry out the purposes of this chapter.

(4) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.

[1999 c 229 § 2.]

RCW 43.19.015 Certain powers and duties of director of public institutions transferred to director of financial institutions.

The director of financial institutions shall have the power and duties of the director of public institutions contained in the following chapters of RCW: Chapter 33.04 RCW concerning savings and loan associations; and chapter 39.32 RCW concerning purchase of federal property.

[1994 c 92 § 495; 1984 c 29 § 2; 1983 c 3 § 101; 1981 c 115 § 2; 1965 c 8 § 43.19.015. Prior: 1955 c 285 § 18.]

Notes:

Effective date--1981 c 115: See note following RCW 40.14.020.

RCW 43.19.025 General administration services account.

The general administration services account is created in the custody of the state treasurer and shall be used for all activities previously budgeted and accounted for in the following internal service funds: The motor transport account, the general administration management fund, the general administration facilities and services revolving fund, the central stores revolving fund, the surplus property purchase revolving fund, the risk management account, and the energy efficiency services account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW.

[2001 c 292 § 2; 1998 c 105 § 1.]

NOTES:

Effective date--1998 c 105: "This act takes effect July 1, 1999." [1998 c 105 § 18.]

RCW 43.19.123 Powers, duties, and functions pertaining to energy efficiency in public buildings--Transfer from state energy office--References to director or state energy office.

(1) All powers, duties, and functions of the state energy office pertaining to energy efficiency in public buildings are transferred to the department of general administration. All references to the director or the state energy office in the Revised Code of Washington shall be

construed to mean the director or the department of general administration when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state energy office pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of general administration. All cabinets, furniture, office equipment, software, data base, motor vehicles, and other tangible property employed by the state energy office in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of general administration.

(b) Any appropriations made to the state energy office for carrying out the powers, functions, and duties transferred shall, on July 1, 1996, be transferred and credited to the department of general administration.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) Within funds available, employees of the state energy office whose primary responsibility is performing the powers, functions, and duties pertaining to energy efficiency in public buildings are transferred to the jurisdiction of the department of general administration. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of general administration to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state energy office pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of general administration. All existing contracts and obligations, excluding personnel contracts and obligations, shall remain in full force and shall be performed by the department of general administration.

(5) The transfer of the powers, duties, functions, and personnel of the state energy office shall not affect the validity of any act performed before July 1, 1996.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

[1996 c 186 § 401.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 43.19.125 Powers and duties--Division of capitol buildings.

The director of general administration, through the division of capitol buildings, shall have custody and control of the capitol buildings and grounds, supervise and direct proper care, heating, lighting and repairing thereof, and designate rooms in the capitol buildings to be occupied by various state officials.

[1965 c 8 § 43.19.125. Prior: 1959 c 301 § 2; 1955 c 285 § 9.]

Notes:

Capitol campus design advisory committee: RCW 43.34.080.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.600.

Housing for state offices: Chapter 43.82 RCW.

Parking facilities and traffic on capitol grounds: RCW 79.24.300 through 79.24.320, 46.08.150.

Public buildings, earthquake standards for construction: Chapter 70.86 RCW.

RCW 43.19.180 State purchasing and material control director--Appointment--Personnel.

The director of general administration shall appoint and deputize an assistant director to be known as the state purchasing and material control director, who shall have charge and supervision of the division of purchasing. In this capacity he shall ensure that overall state purchasing and material control policy is implemented by state agencies, including educational institutions, within established time limits.

With the approval of the director of general administration, he may appoint and employ such assistants and personnel as may be necessary to carry on the work of the division.

[1975-'76 2nd ex.s. c 21 § 1; 1965 c 8 § 43.19.180. Prior: 1955 c 285 § 10; 1935 c 176 § 16; RRS § 10786-15; prior: 1921 c 7 § 31; RRS § 10789.]

Notes:

Severability--1975-'76 2nd ex.s. c 21: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 21 § 14.]

RCW 43.19.185 State purchasing and material control director--System for the use of credit cards or similar devices to be developed--Rules.

(1) The director of general administration through the state purchasing and material control director shall develop a system for state agencies and departments to use credit cards or similar devices to make purchases. The director may contract to administer the credit cards.

(2) The director of general administration through the state purchasing and material control director shall adopt rules for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of the credit cards;
- (c) The credit limits available on the credit cards;

(d) Instructing users of gasoline credit cards to use self-service islands whenever possible;

(e) Payments of the bills; and

(f) Any other rule necessary to implement or administer the program under this section.

[1987 c 47 § 1; 1982 1st ex.s. c 45 § 1.]

RCW 43.19.190 State purchasing and material control director--Powers and duties.

The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: PROVIDED, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW 43.19.1935: PROVIDED FURTHER, That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029;

(3) Have authority to delegate to state agencies authorization to purchase or sell, which

authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies. Acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director. Also, delegation of such authorization to a state agency, including an educational institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(4) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(5) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(6) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(7) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(8) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications;

(9) Provide for the maintenance of inventory records of supplies, materials, and other property;

(10) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(11) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(12) Advise state agencies, including educational institutions, regarding compliance with established purchasing and material control policies under existing statutes.

[1995 c 269 § 1401; 1994 c 138 § 1; 1993 sp.s. c 10 § 2; 1993 c 379 § 102; 1991 c 238 § 135. Prior: 1987 c 414 § 10; 1987 c 70 § 1; 1980 c 103 § 1; 1979 c 88 § 1; 1977 ex.s. c 270 § 4; 1975-'76 2nd ex.s. c 21 § 2; 1971 c 81 § 110; 1969 c 32 § 3; prior: 1967 ex.s. c 104 § 2; 1967 ex.s. c 8 § 51; 1965 c 8 § 43.19.190; prior: 1959 c 178 § 1; 1957 c 187 § 1; 1955 c 285 § 12; prior: (i) 1935 c 176 § 21; RRS § 10786-20. (ii) 1921 c 7 § 42; RRS § 10800. (iii) 1955 c 285 § 12; 1921 c 7 § 37, part; RRS § 10795, part.]

NOTES:

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

Purpose--1993 sp.s. c 10: "The legislature recognizes the need for state agencies to maximize the buying power of increasingly scarce resources for the purchase of goods and services. The legislature seeks to provide state agencies with the ability to purchase goods and services at the lowest cost." [1993 sp.s. c 10 § 1.]

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability--1987 c 414: See RCW 39.29.900.

Severability--1980 c 103: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not

affected." [1980 c 103 § 3.]

Construction--1977 ex.s. c 270: See RCW 43.19.19364.

Severability--1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Federal surplus property: Chapter 39.32 RCW.

Purchase of blind made products and services: Chapter 19.06 RCW.

RCW 43.19.1901 "Purchase" includes leasing or renting--Electronic data processing equipment excepted.

The term "purchase" as used in RCW 43.19.190 through 43.19.200, and as they may hereafter be amended, shall include leasing or renting: PROVIDED, That the purchasing, leasing or renting of electronic data processing equipment shall not be included in the term "purchasing" if and when such transactions are otherwise expressly provided for by law.

The acquisition of job services and all other services for the family independence program under *chapter 74.21 RCW shall not be included in the term "purchasing" under this chapter.

[1987 c 434 § 23; 1983 c 3 § 102; 1967 ex.s. c 104 § 1.]

Notes:

***Reviser's note:** Chapter 74.21 RCW expired June 30, 1993, pursuant to 1988 c 43 § 5.

RCW 43.19.1905 State-wide policy for purchasing and material control--Establishment--Functions covered.

The director of general administration shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

(1) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;

(2) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(3) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(4) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(5) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(6) Determination of what function data processing equipment, including remote terminals, shall perform in state-wide purchasing and material control for improvement of service and promotion of economy;

(7) Standardization of records and forms used state-wide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions, including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and

the signature of the notifying agency's director or the director's designee;

(8) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

(9) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(10) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(11) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

(12) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

(13) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(14) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

(15) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(16) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(17) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

(18) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(19) Resolution of all other purchasing and material matters which require the establishment of overall state-wide policy for effective and economical supply management;

(20) Development of guidelines and criteria for the purchase of vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002).

[1995 c 269 § 1402; 1993 sp.s. c 10 § 3; 1987 c 504 § 16; 1980 c 172 § 7; 1975-'76 2nd ex.s. c 21 § 5.]

NOTES:

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

Notification forms--1993 sp.s. c 10: "The department of general administration shall forward copies of notification forms required under RCW 43.19.1905(7) to the office of financial management. By September 1, 1994, the department of general administration shall report to the house of representatives fiscal committees and senate ways and means committee on the volume and type of purchases made and the aggregate savings identified by state agencies making purchases as authorized by this act for fiscal year 1994." [1993 sp.s. c 10 § 4.]

Purpose--1993 sp.s. c 10: See note following RCW 43.19.190.

Severability--Effective date--1987 c 504: See RCW 43.105.901 and 43.105.902.

Severability--1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Energy conservation--Legislative finding--Declaration--Purpose: RCW 43.19.668 and 43.19.669.

RCW 43.19.19052 Initial purchasing and material control policy--Legislative intent--Agency cooperation.

Initial policy determinations for the functions described in RCW 43.19.1905 shall be developed and published within the 1975-77 biennium by the director for guidance and compliance by all state agencies, including educational institutions, involved in purchasing and material control. Modifications to these initial supply management policies established during the 1975-77 biennium shall be instituted by the director in future biennia as required to maintain an efficient and up-to-date state supply management system.

It is the intention of the legislature that measurable improvements in the effectiveness and economy of supply management in state government shall be achieved during the 1975-77 biennium, and each biennium thereafter. All agencies, departments, offices, divisions, boards, and commissions and educational, correctional, and other types of institutions are required to cooperate with and support the development and implementation of improved efficiency and economy in purchasing and material control. To effectuate this legislative intention, the director, through the state purchasing and material control director, shall have the authority to direct and require the submittal of data from all state organizations concerning purchasing and material control matters.

[1998 c 245 § 54; 1995 c 269 § 1403; 1986 c 158 § 9; 1979 c 151 § 98; 1975-'76 2nd ex.s. c 21 § 6.]

NOTES:

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

Severability--1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

RCW 43.19.19054 Exemptions from state-wide policy for purchasing and material control.

The provisions of RCW 43.19.1905 shall not apply to materials, supplies, and equipment purchased for resale to other than public agencies by state agencies, including educational institutions. In addition, RCW 43.19.1905 shall not apply to liquor purchased by the state for resale under the provisions of Title 66 RCW.

[1975-'76 2nd ex.s. c 21 § 7.]

Notes:

Severability--1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

RCW 43.19.1906 Competitive bids--Sealed bids, exceptions.

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed bid procedure shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to three thousand dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management office under RCW 43.19.1935;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement

personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases for resale by institutions of higher education to other than public agencies when such purchases are for the express purpose of supporting instructional programs and may best be executed through direct negotiation with one or more suppliers in order to meet the special needs of the institution;

(8) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between three thousand dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between three thousand dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from three thousand to thirty-five thousand dollars shall be documented for audit purposes; and

(9) Negotiation of a contract by the department of transportation, valid until June 30, 2001, with registered tow truck operators to provide roving service patrols in one or more Washington state patrol tow zones whereby those registered tow truck operators wishing to participate would cooperatively, with the department of transportation, develop a demonstration project upon terms and conditions negotiated by the parties.

Beginning on July 1, 1995, and on July 1 of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. However, the three thousand dollar figure in subsections (2) and (8) of this section may not be adjusted to exceed five thousand dollars.

[1999 sp.s. c 1 § 606; 1999 c 195 § 1; 1999 c 106 § 1; 1995 c 269 § 1404; 1994 c 300 § 1; 1993 c 379 § 103; 1992 c 85 § 1. Prior: 1987 c 81 § 1; 1987 c 70 § 2; 1985 c 342 § 1; 1984 c 102 § 3; 1983 c 141 § 1; 1980 c 103 § 2; 1979 ex.s. c 14 § 1; 1977 ex.s. c 270 § 5; 1975-'76 2nd ex.s. c 21 § 8; 1965 c 8 § 43.19.1906; prior: 1959 c 178 § 4.]

NOTES:

Reviser's note: This section was amended by 1999 c 106 § 1, 1999 c 195 § 1, and by 1999 sp.s. c 1 § 606, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1999 sp.s. c 1: "If any provision of this act or its application to any person or circumstance

is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1999 sp.s. c 1 § 619.]

Effective date--1999 sp.s. c 1: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 27, 1999]." [1999 sp.s. c 1 § 620.]

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

Findings--1984 c 102: See note following RCW 43.19.200.

Severability--1980 c 103: See note following RCW 43.19.190.

Construction--1977 ex.s. c 270: See RCW 43.19.19364.

Severability--1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

RCW 43.19.1908 Bids--Solicitation, notices--Qualified bidders--Writing.

Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in writing and conform to rules of the division of purchasing.

[1994 c 300 § 2; 1965 c 8 § 43.19.1908. Prior: 1959 c 178 § 5.]

RCW 43.19.1911 Competitive bids--Notice of modification or cancellation--Cancellation requirements--Lowest responsible bidder--Preferential purchase--Life cycle costing.

(1) Preservation of the integrity of the competitive bid system dictates that after competitive bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid pursuant to subsections (7) and (9) of this section, unless there is a compelling reason to reject all bids and cancel the solicitation.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the purchasing agency, division, or department head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the purchasing agency, division, or department head determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements

were cited in the solicitation;

- (b) Specifications, terms, conditions, or requirements have been revised;
 - (c) The supplies or services being contracted for are no longer required;
 - (d) The solicitation did not provide for consideration of all factors of cost to the agency;
 - (e) Bids received indicate that the needs of the agency can be satisfied by a less expensive article differing from that for which the bids were invited;
 - (f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;
 - (g) No responsive bid has been received from a responsible bidder; or
 - (h) The bid process was not fair or equitable.
- (5) The agency, division, or department head may not delegate his or her authority under this section.

(6) After the opening of bids, an agency may not reject all bids and enter into direct negotiations to complete the planned acquisition. However, the agency can enter into negotiations exclusively with the lowest responsible bidder in order to determine if the lowest responsible bid may be improved. An agency shall not use this negotiation opportunity to permit a bidder to change a nonresponsive bid into a responsive bid.

(7) In determining the lowest responsible bidder, the agency shall consider any preferences provided by law to Washington products and vendors and to RCW 43.19.704, and further, may take into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery.

(8) Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection.

(9) In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

- (a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
- (b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- (c) Whether the bidder can perform the contract within the time specified;
- (d) The quality of performance of previous contracts or services;
- (e) The previous and existing compliance by the bidder with laws relating to the contract or services;

(f) Such other information as may be secured having a bearing on the decision to award the contract: PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an

item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

[1996 c 69 § 2; 1989 c 431 § 60; 1983 c 183 § 4; 1980 c 172 § 8; 1965 c 8 § 43.19.1911. Prior: 1959 c 178 § 6.]

Notes:

Intent--1996 c 69: "It is the intent of the legislature to preserve the integrity of the competitive bidding system for state contracts. This dictates that, after competitive bids have been opened, the agency must award the contract to the responsible bidder who submitted the lowest responsive bid and that only in limited compelling circumstances may the agency reject all bids and cancel the solicitation. Further, after opening the competitive bids, the agency may not reject all bids and enter into direct negotiations with the bidders to complete the acquisition."
[1996 c 69 § 1.]

Severability--1989 c 431: See RCW 70.95.901.

Energy conservation--Legislative finding--Declaration--Purpose: RCW 43.19.668 and 43.19.669.

RCW 43.19.1913 Rejection of bid for previous unsatisfactory performance.

The division of purchasing may reject the bid of any bidder who has failed to perform satisfactorily a previous contract with the state.

[1965 c 8 § 43.19.1913. Prior: 1959 c 178 § 7.]

RCW 43.19.1914 Low bidder claiming error--Prohibition on later bid for same project.

A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same purchase or project if a second or subsequent call for bids is made for the project.

[1996 c 18 § 7.]

RCW 43.19.1915 Bidder's bond--Annual bid bond.

When any bid has been accepted, the division of purchasing may require of the successful bidder a bond payable to the state in such amount with such surety or sureties as determined by the division of purchasing, conditioned that he will fully, faithfully and accurately execute the terms of the contract into which he has entered. The bond shall be filed in the office of the division of purchasing. Bidders who regularly do business with the state shall be permitted to file with the division of purchasing an annual bid bond in an amount established by the division and such annual bid bond shall be acceptable as surety in lieu of furnishing surety with individual bids.

[1965 c 8 § 43.19.1915. Prior: 1959 c 178 § 8.]

RCW 43.19.1917 Records of equipment owned by state--Inspection--"State equipment" defined.

All state agencies, including educational institutions, shall maintain a perpetual record of ownership of state owned equipment, which shall be available for the inspection and check of those officers who are charged by law with the responsibility for auditing the records and accounts of the state organizations owning the equipment, or to such other special investigators and others as the governor may direct. In addition, these records shall be made available to members of the legislature, the legislative committees, and legislative staff on request.

All state agencies, including educational institutions, shall account to the office of financial management upon request for state equipment owned by, assigned to, or otherwise possessed by them and maintain such records as the office of financial management deems necessary for proper accountability therefor. The office of financial management shall publish a procedural directive for compliance by all state agencies, including educational institutions, which establishes a standard method of maintaining records for state owned equipment, including the use of standard state forms. This published directive also shall include instructions for reporting to the division of purchasing all state equipment which is excess to the needs of state organizations owning such equipment. The term "state equipment" means all items of machines, tools, furniture, or furnishings other than expendable supplies and materials as defined by the office of financial management.

[1979 c 88 § 3; 1975-'76 2nd ex.s. c 21 § 9; 1969 ex.s. c 53 § 2; 1965 c 8 § 43.19.1917. Prior: 1959 c 178 § 9.]

Notes:

Severability--1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

RCW 43.19.1919 Surplus personal property--Sale, exchange--Exceptions and limitations.

The division of purchasing shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund. This requirement is subject to the following exceptions and limitations:

(1) This section does not apply to property under RCW 27.53.045, 28A.335.180, or 43.19.1920;

(2) Sales of capital assets may be made by the division of purchasing and a credit established in central stores for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939;

(3) Personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the division of purchasing to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs

known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director of general administration to be in the best interest of the state. The division of purchasing shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property;

(4) This section does not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts;

(5) A state agency having a surplus personal property asset with a fair market value of less than five hundred dollars may transfer the asset to another state agency without charging fair market value. A state agency conducting this action must maintain adequate records to comply with agency inventory procedures and state audit requirements.

[2000 c 183 § 1; 1997 c 264 § 2; (1995 2nd sp.s. c 14 § 513 expired June 30, 1997); 1991 c 216 § 2; 1989 c 144 § 1; 1988 c 124 § 8; 1975-'76 2nd ex.s. c 21 § 11; 1965 c 8 § 43.19.1919. Prior: 1959 c 178 § 10.]

Notes:

Expiration date--1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Findings--1991 c 216: "The legislature finds that (1) there are an increasing number of persons who are unable to meet their basic needs relating to shelter, clothing, and nourishment; (2) there are many nonprofit organizations and units of local government that provide shelter and other assistance to these persons but that these organizations are finding it difficult to meet the increasing demand for such assistance; and (3) the numerous agencies and institutions of state government generate a significant quantity of surplus, tangible personal property that would be of great assistance to homeless persons throughout the state. Therefore, the legislature finds that it is in the best interest of the state to provide for the donation of state-owned, surplus, tangible property to assist the homeless in meeting their basic needs." [1991 c 216 § 1.]

Severability--Intent--Application--1988 c 124: See RCW 27.53.901 and notes following RCW 27.53.030.

Severability--1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

RCW 43.19.19190 Surplus property--Exemption for original or historic state capitol furnishings.

Original or historic furnishings from the state capitol group under RCW 27.48.040 do not constitute surplus property under this chapter.

[1999 c 343 § 3.]

Notes:

Findings--Purpose--1999 c 343: See note following RCW 27.48.040.

RCW 43.19.19191 Surplus computers and computer-related equipment--Donation to school districts or educational service districts.

(1) In addition to disposing of property under RCW 28A.335.180, 39.33.010, 43.19.1919, and 43.19.1920, state-owned, surplus computers and computer-related equipment may be donated to any school district or educational service district under the guidelines and distribution

standards established pursuant to subsection (2) of this section.

(2) By September 1, 1999, the department and office of the superintendent of public instruction shall jointly develop guidelines and distribution standards for the donation of state-owned, surplus computers and computer-related equipment to school districts and educational service districts. The guidelines and distribution standards shall include considerations for quality, school-district needs, and accountability, and shall give priority to meeting the computer-related needs of children with disabilities, including those disabilities necessitating the portability of laptop computers.

[1999 c 186 § 1.]

RCW 43.19.1920 Surplus personal property--Donation to emergency shelters.

The division of purchasing may donate state-owned, surplus, tangible personal property to shelters that are: Participants in the department of community, trade, and economic development's emergency shelter assistance program; and operated by nonprofit organizations or units of local government providing emergency or transitional housing for homeless persons. A donation may be made only if all of the following conditions have been met:

(1) The division of purchasing has made reasonable efforts to determine if any state agency has a requirement for such personal property and no such agency has been identified. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known;

(2) The agency owning the property has authorized the division of purchasing to donate the property in accordance with this section;

(3) The nature and quantity of the property in question is directly germane to the needs of the homeless persons served by the shelter and the purpose for which the shelter exists and the shelter agrees to use the property for such needs and purposes; and

(4) The director of general administration has determined that the donation of such property is in the best interest of the state.

[1995 c 399 § 63; 1991 c 216 § 3.]

Notes:

Findings--1991 c 216: See note following RCW 43.19.1919.
Emergency shelter assistance program: Chapter 365-120 WAC.

RCW 43.19.19201 Affordable housing--Inventory of suitable property.

(1) The department of general administration shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department of general administration shall provide a copy of the inventory to the department of community, trade, and economic development by November

1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department of general administration shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land.

[1995 c 399 § 64; 1993 c 461 § 7.]

Notes:

Finding--1993 c 461: See note following RCW 43.63A.510.

RCW 43.19.1921 Central stores warehouse facilities--Central maintenance, repair--Sales, exchanges, between state agencies.

The director of general administration, through the division of purchasing, shall:

(1) Establish and maintain warehouses hereinafter referred to as "central stores" for the centralized storage and distribution of such supplies, equipment, and other items of common use in order to effect economies in the purchase of supplies and equipment for state agencies. To provide central stores warehouse facilities the division of purchasing may, by arrangement with the state agencies, utilize any surplus available state owned space, and may acquire other needed warehouse facilities by lease or purchase of the necessary premises;

(2) Provide for the central salvage, maintenance, repair, and servicing of equipment, furniture, or furnishings used by state agencies, and also by means of such a service provide an equipment pool for effecting sales and exchanges of surplus and unused property by and between state agencies. Funds derived from the sale and exchange of property shall be placed to the account of the appropriate state agency on the central stores accounts but such funds may not be expended through central stores without prior approval of the office of financial management.

[1979 c 151 § 100; 1965 c 8 § 43.19.1921. Prior: 1959 c 178 § 11.]

RCW 43.19.1923 General administration services account--Use.

The general administration services account shall be used for the purchase of supplies and equipment handled or rented through central stores, and the payment of salaries, wages, and other costs incidental to the acquisition, operation, and maintenance of the central stores, and other activities connected therewith, which shall include utilities services. The account shall be credited with all receipts from the rental, sale, or distribution of supplies, equipment, and services rendered to the various state agencies. Central stores, utilities services, and other activities within the general administration services account shall be treated as separate operating entities for financial and accounting control. Financial records involving the general administration services account shall be designed to provide data for achieving maximum effectiveness and economy of each individual activity within the account.

[2001 c 292 § 3; 1998 c 105 § 6; 1991 sp.s. c 16 § 921; 1987 c 504 § 17; 1975-'76 2nd ex.s. c 21 § 12; 1967 ex.s. c

104 § 5; 1965 c 8 § 43.19.1923. Prior: 1959 c 178 § 12.]

NOTES:

Effective date--1998 c 105: See note following RCW 43.19.025.

Severability--1991 sp.s. c 16: See notes following RCW 9.46.100.

Severability--Effective date--1987 c 504: See RCW 43.105.901 and 43.105.902.

Severability--1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

RCW 43.19.1925 Combined purchases of commonly used items--Advance payments by state agencies--Costs of operating central stores.

To supply such funds as may be necessary for making combined purchases of items or services of common use by central stores, state agencies shall, upon request of the division of purchasing, from time to time, make advance payments into the general administration services account from funds regularly appropriated to them for the procurement of supplies, equipment, and services: PROVIDED, That advance payment for services shall be on a quarterly basis: PROVIDED FURTHER, That any person, firm or corporation other than central stores rendering services for which advance payments are made shall deposit cash or furnish surety bond coverage to the state in an amount as shall be fixed by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. Funds so advanced to central stores shall be used only for the combined procurement, storage, and delivery of such stocks of supplies, equipment, and services as are requisitioned by the agency and shall be offset and repaid to the respective state agencies by an equivalent value in merchandise supplied and charged out from time to time from central stores. Costs of operation of central stores may be recovered by charging as part of the value of materials, supplies, or services an amount sufficient to cover the costs of operating central stores.

[1998 c 105 § 7; 1975 c 40 § 8; 1973 c 104 § 2; 1965 c 8 § 43.19.1925. Prior: 1959 c 178 § 13.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

RCW 43.19.1932 Correctional industries goods and services--Sales and purchases.

The department of corrections shall be exempt from the following provisions of this chapter in respect to goods or services purchased or sold pursuant to the operation of correctional industries: RCW 43.19.180, 43.19.190, 43.19.1901, 43.19.1905, 43.19.1906, 43.19.1908, 43.19.1911, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.1921, 43.19.1925, and 43.19.200.

[1989 c 185 § 2; 1981 c 136 § 14.]

Notes:

Effective date--1981 c 136: See RCW 72.09.900.

RCW 43.19.1935 Insurance and bonds--Procurement through risk management office.

As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director of general administration through the risk management office shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: PROVIDED, That authority to purchase insurance may be delegated to state agencies. Insurance in force shall be reported to the risk management office periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director of the department of general administration.

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations or other appropriate resources available to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the risk management office prior to the issuance of the warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the general administration services account which shall be reimbursed by the agency or agencies for which procurement is made.

[1998 c 105 § 8; 1985 c 188 § 1; 1977 ex.s. c 270 § 6; 1975 c 40 § 9; 1965 c 8 § 43.19.1935. Prior: 1959 c 178 § 18.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

Construction--1977 ex.s. c 270: See RCW 43.19.19364.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

RCW 43.19.1936 Purchase of insurance for municipalities--Request--Procurement through risk management office.

The director of general administration, through the risk management office, may purchase, or contract for the purchase of, property and liability insurance for any municipality upon request of the municipality.

As used in this section, "municipality" means any city, town, county, special purpose district, municipal corporation, or political subdivision of the state of Washington.

[1985 c 188 § 5.]

RCW 43.19.19361 Risk management--State program of--Principles.

It is the policy of the state for the management of risks to which it is exposed to apply the following principles consistently in a state program of risk management:

(1) To identify those liability and property risks which may have a significant economic impact on the state;

(2) To evaluate risk in terms of the state's ability to fund potential loss rather than the

ability of an individual agency to fund potential loss;

(3) To eliminate or improve conditions and practices which contribute to loss whenever practical;

(4) To assume risks to the maximum extent practical;

(5) To provide flexibility within the state program to meet the unique requirements of any state agency for insurance coverage or service;

(6) To purchase commercial insurance:

(a) When the size and nature of the potential loss make it in the best interest of the state to purchase commercial insurance; or

(b) When the fiduciary of encumbered property insists on commercial insurance; or

(c) When the interest protected is not a state interest and an insurance company is desirable as an intermediary; or

(d) When services provided by an insurance company are considered necessary; or

(e) When services or coverages provided by an insurance company are cost-effective; or

(f) When otherwise required by statute; and

(7) To develop plans for the management and protection of the revenues and assets of the state.

[1985 c 188 § 2; 1977 ex.s. c 270 § 1.]

Notes:

Construction--1977 ex.s. c 270: See RCW 43.19.19364.

RCW 43.19.19362 Risk management--Office created--Powers and duties.

There is hereby created a risk management office within the department of general administration. The director of general administration shall implement the risk management policy in RCW 43.19.19361 through the risk management office. The director of general administration shall appoint a risk manager to supervise the risk management office. The risk management office shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss.

[1998 c 245 § 55; 1987 c 505 § 25; 1985 c 188 § 3; 1977 ex.s. c 270 § 2.]

Notes:

Construction--1977 ex.s. c 270: See RCW 43.19.19364.

RCW 43.19.19363 Risk management--Definitions applicable to RCW 43.19.19361 and 43.19.19362.

As used in RCW 43.19.19361 and 43.19.19362:

(1) "State agency" includes any state office, agency, commission, department, or institution, including colleges, universities, and community colleges, financed in whole or part from funds appropriated by the legislature; and

(2) "Risk management" means the total effort and continuous step by step process of risk identification, measurement, minimization, assumption, transfer, and loss adjustment which is aimed at protecting assets and revenues against accidental loss.

[1977 ex.s. c 270 § 3.]

Notes:

Construction--1977 ex.s. c 270: See RCW 43.19.19364.

RCW 43.19.19364 Construction--1977 ex.s. c 270.

Nothing in this 1977 amendatory act shall be construed as amending, repealing, or otherwise affecting RCW 28B.20.250 through 28B.20.255.

[1977 ex.s. c 270 § 9.]

RCW 43.19.19367 Risk management office--Enforcement of bonds under RCW 39.59.010.

The director of general administration, through the risk management office, shall receive and enforce bonds posted pursuant to RCW 39.59.010 (3) and (4).

[1988 c 281 § 6.]

Notes:

Severability--1988 c 281: See RCW 39.59.900.

RCW 43.19.19368 Risk management--Safety and loss control program established.

(1) The office of risk management shall establish a coordinated safety and loss control program to reduce liability exposure, safeguard state assets, and reduce costs associated with state liability and property losses.

(2) State agencies shall provide top management support and commitment to safety and loss control, and develop awareness through education, training, and information sharing.

(3) The office of risk management shall develop and maintain centralized loss history information for the purpose of identifying and analyzing risk exposures. Loss history information shall be privileged and confidential and reported only to appropriate agencies.

(4) The office of risk management shall develop methods of statistically monitoring agency and state-wide effectiveness in controlling losses.

(5) The office of risk management will routinely review agency loss control programs as appropriate to suggest improvements, and observe and recognize successful safety policies and procedures.

(6) The office of risk management shall provide direct assistance to smaller state agencies in technical aspects of proper safety and loss control procedures, upon request.

[1989 c 419 § 6.]

Notes:

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

RCW 43.19.19369 Risk management--Liability account--Actuarial studies.

The department of general administration shall conduct periodic actuarial studies to determine the amount of money needed to adequately fund the liability account.

[1989 c 419 § 11.]

Notes:

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

Liability account created: RCW 4.92.130.

RCW 43.19.1937 Acceptance of benefits, gifts, etc., prohibited--Penalties.

No state employee whose duties performed for the state include:

(1) Advising on or drawing specifications for supplies, equipment, commodities, or services;

(2) Suggesting or determining vendors to be placed upon a bid list;

(3) Drawing requisitions for supplies, equipment, commodities, or services;

(4) Evaluating specifications or bids and suggesting or determining awards; or

(5) Accepting the receipt of supplies, equipment, and commodities or approving the performance of services or contracts;

shall accept or receive, directly or indirectly, a personal financial benefit, or accept any gift, token, membership, or service, as a result of a purchase entered into by the state, from any person, firm, or corporation engaged in the sale, lease, or rental of property, material, supplies, equipment, commodities, or services to the state of Washington.

Violation of this section shall be considered a malfeasance and may cause loss of position, and the violator shall be liable to the state upon his official bond for all damages sustained by the state. Contracts involved may be canceled at the option of the state. Penalties provided in this section are not exclusive, and shall not bar action under any other statute penalizing the same act or omission.

[1995 c 269 § 1405; 1975-'76 2nd ex.s. c 21 § 13; 1965 c 8 § 43.19.1937. Prior: 1959 c 178 § 19.]

NOTES:

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

Severability--1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Public officers

code of ethics: Chapters 42.23 and 42.52 RCW.

misconduct: Chapter 42.20 RCW.

RCW 43.19.1939 Unlawful to offer, give, accept, benefits as inducement for or to refrain from bidding--Penalty.

When any competitive bid or bids are to be or have been solicited, requested, or advertised for by the state under the provisions of RCW 43.19.190 through 43.19.1939, it shall be unlawful for any person acting for himself, or as agent of another, to offer, give, or promise to give, any money, check, draft, property, or other thing of value, to another for the purpose of inducing such other person to refrain from submitting any bids upon such purchase or to enter into any agreement, understanding or arrangement whereby full and unrestricted competition for the securing of such public work will be suppressed, prevented, or eliminated; and it shall be unlawful for any person to solicit, accept or receive any money, check, draft, property, or other thing of value upon a promise or understanding, express or implied, that he individually or as an agent or officer of another will refrain from bidding upon such contract, or that he will on behalf of himself or such others submit or permit another to submit for him any bid upon such purchase in such sum as to eliminate full and unrestricted competition thereon. Any person violating any provision of this section shall be guilty of a misdemeanor.

[1965 c 8 § 43.19.1939. Prior: 1959 c 178 § 20.]

Notes:

Competitive bidding on public works, suppression or collusion, penalty: RCW 9.18.120 through 9.18.150.

RCW 43.19.200 Duty of others in relation to purchases--Emergency purchases--Written notifications.

(1) The governing authorities of the state's educational institutions, the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and all appointive officers of the state, shall prepare estimates of the supplies required for the proper conduct and maintenance of their respective institutions, offices, and departments, covering periods to be fixed by the director, and forward them to the director in accordance with his directions. No such authorities, officers, or departments, or any officer or employee thereof, may purchase any article for the use of their institutions, offices, or departments, except in case of emergency purchases as provided in subsection (2) of this section.

(2) The authorities, officers, and departments enumerated in subsection (1) of this section may make emergency purchases in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director of general administration. This notification shall contain a description of the purchase, description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(3) Purchases made for the state's educational institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and the offices of all appointive officers of the state, shall be paid for out of the moneys appropriated for supplies, material, and service of the respective institutions, offices,

and departments.

(4) The director of general administration shall submit, on an annual basis, the written notifications required by subsection (2) of this section to the director of financial management.

[1986 c 158 § 10; 1984 c 102 § 2; 1971 c 81 § 111; 1965 c 8 § 43.19.200. Prior: 1955 c 285 § 13; prior: 1921 c 7 § 37, part; RRS § 10795, part.]

Notes:

Findings--1984 c 102: "The legislature finds that the emergency purchasing provisions of state law are being more liberally construed than the legislature originally intended. Therefore, the legislature finds that it is necessary to clarify the law as it pertains to emergency purchases and to provide a mechanism for legislative oversight." [1984 c 102 § 1.]

RCW 43.19.450 Supervisor of engineering and architecture--Qualifications--Appointment--Powers and duties--Delegation of authority.

The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of engineering and architecture who shall have charge and supervision of the division of engineering and architecture. With the approval of the director, the supervisor may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division.

No person shall be eligible for appointment as supervisor of engineering and architecture unless he or she is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his or her appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, department of fish and wildlife, department of natural resources, or state parks and recreation commission.

The director of general administration, through the division of engineering and architecture shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any agency upon such terms and conditions as considered advisable.

The director may delegate the authority granted to the department under *RCW

39.04.150 to any agency upon such terms as considered advisable.

[1994 c 264 § 15; 1988 c 36 § 14; 1982 c 98 § 3; 1981 c 136 § 63; 1979 c 141 § 45; 1965 c 8 § 43.19.450. Prior: 1959 c 301 § 4.]

Notes:

***Reviser's note:** RCW 39.04.150 was repealed by 2000 c 138 § 301.

Effective date--1981 c 136: See RCW 72.09.900.

RCW 43.19.455 Purchase of works of art--Procedure.

Except as provided under RCW 43.17.210, the Washington state arts commission shall determine the amount to be made available for the purchase of art under RCW 43.17.200 in consultation with the director of general administration, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the director of general administration. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 28A.335.210, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose.

[1990 c 33 § 576; 1983 c 204 § 6; 1974 ex.s. c 176 § 3.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1983 c 204: See note following RCW 43.46.090.

Acquisition of works of art for public buildings and lands--Visual arts program established: RCW 43.46.090.

Allocation of moneys for acquisition of works of art--Expenditure by arts commission--Conditions: RCW 43.17.200.

State art collection: RCW 43.46.095.

RCW 43.19.500 General administration services account--Use.

The general administration services account shall be used by the department of general administration for the payment of certain costs, expenses, and charges, as specified in this section, incurred by it in the operation and administration of the department in the rendering of services, the furnishing or supplying of equipment, supplies and materials, and for providing or allocating facilities, including the operation, maintenance, rehabilitation, or furnishings thereof to other agencies, offices, departments, activities, and other entities enumerated in RCW 43.01.090 and including the rendering of services in acquiring real estate under RCW 43.82.010 and the operation and maintenance of nonassigned public spaces in Thurston county. The department shall treat the rendering of services in acquiring real estate and the operation and maintenance of nonassigned public spaces as separate operating entities within the account for financial accounting and control.

The schedule of services, facilities, equipment, supplies, materials, maintenance, rehabilitation, furnishings, operations, and administration to be so financed and recovered shall

be determined jointly by the director of general administration and the director of financial management, in equitable amounts which, together with any other income or appropriation, will provide the department of general administration with funds to meet its anticipated expenditures during any allotment period.

The director of general administration may adopt rules governing the provisions of RCW 43.01.090 and this section and the relationships and procedures between the department of general administration and such other entities.

[1998 c 105 § 9; 1994 c 219 § 17; 1982 c 41 § 2; 1979 c 151 § 101; 1971 ex.s. c 159 § 2.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

Findings--Purpose--1994 c 219: See note following RCW 43.01.090.

Finding--1994 c 219: See note following RCW 43.88.030.

Effective dates--1982 c 41: See note following RCW 43.82.010.

Agricultural commodity commissions exempt: RCW 15.04.200.

General administration services account--Approval of certain changes required: RCW 43.88.350.

RCW 43.19.501 Thurston county capital facilities account.

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department of general administration in Thurston county.

[1994 c 219 § 18.]

Notes:

Findings--Purpose--1994 c 219: See note following RCW 43.01.090.

Finding--1994 c 219: See note following RCW 43.88.030.

RCW 43.19.520 Purchase of products and services from sheltered workshops and programs--Intent.

It is the intent of the legislature to encourage state agencies and departments to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services which operate facilities serving the handicapped and disadvantaged.

[1974 ex.s. c 40 § 1.]

RCW 43.19.525 Purchase of products and services from sheltered workshops and programs--Definitions.

As used in RCW 43.19.520 and 43.19.530 the term "sheltered workshops" shall have the meaning ascribed to it by RCW 82.04.385 and "programs of the department of social and health services" shall mean the group training homes and day training centers defined in *RCW

72.33.800.

[1974 ex.s. c 40 § 2.]

Notes:

*Reviser's note: RCW 72.33.800 was repealed by 1988 c 176 § 1007. See Title 71A RCW.

RCW 43.19.530 Purchase of products and services from sheltered workshops and programs--Authorized--Fair market price.

The state agencies and departments are hereby authorized to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services. Such purchases shall be at the fair market price of such products and services as determined by the division of purchasing of the department of general administration. To determine the fair market price the division shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are additional cost factors which shall be considered in determining fair market price. Upon the establishment of the fair market price as provided for in this section the division is hereby empowered to negotiate directly with sheltered workshops or officials in charge of the programs of the department of social and health services for the purchase of the products or services.

[1977 ex.s. c 10 § 2; 1974 ex.s. c 40 § 3.]

RCW 43.19.534 Purchase of articles or products from inmate work programs--Replacement of goods and services obtained from outside the state--Rules.

State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (1) The department of general administration finds that the articles or products do not meet the reasonable requirements of the agency or department, (2) are not of equal or better quality, or (3) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (1), (2), and (3) of this section for purchasing goods and services from sources other than correctional industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and department of general administration shall adopt administrative rules that implement this section.

[1993 sp.s. c 20 § 1; 1986 c 94 § 2.]

Notes:

Severability--1993 sp.s. c 20: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not

affected." [1993 sp.s. c 20 § 9.]

RCW 43.19.535 Purchase of goods and services from inmate work programs.

Any person, firm, or organization which makes any bid to provide any goods or any services to any state agency shall be granted a preference over other bidders if (1) the goods or services have been or will be produced or provided in whole or in part by an inmate work program of the department of corrections and (2) an amount equal to at least fifteen percent of the total bid amount has been paid or will be paid by the person, firm, or organization to inmates as wages. The preference provided under this section shall be equal to ten percent of the total bid amount.

[1981 c 136 § 15.]

Notes:

Effective date--1981 c 136: See RCW 72.09.900.

RCW 43.19.536 Contracts subject to requirements established under office of minority and women's business enterprises.

All contracts entered into and purchases made, including leasing or renting, under this chapter on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW.

[1983 c 120 § 13.]

Notes:

Effective date--Applicability--Severability--Conflict with federal requirements--1983 c 120: See RCW 39.19.910, 39.19.920.

RCW 43.19.538 Purchase of products containing recycled material--Preference--Specifications and rules--Review.

(1) The director of general administration, through the state purchasing director, shall develop specifications and adopt rules for the purchase of products which will provide for preferential purchase of products containing recycled material by:

(a) The use of a weighting factor determined by the amount of recycled material in a product, where appropriate and known in advance to potential bidders, to determine the lowest responsible bidder. The actual dollars bid shall be the contracted amount. If the department determines, according to criteria established by rule that the use of this weighting factor does not encourage the use of more recycled material, the department shall consider and award bids without regard to the weighting factor. In making this determination, the department shall consider but not be limited to such factors as adequate competition, economics or environmental constraints, quality, and availability.

(b) Requiring a written statement of the percentage range of recycled content from the bidder providing products containing recycled [material]. The range may be stated in five percent increments.

(2) The director shall develop a directory of businesses that supply products containing

significant quantities of recycled materials. This directory may be combined with and made accessible through the data base of recycled content products to be developed under RCW 43.19A.060.

(3) The director shall encourage all parties using the state purchasing office to purchase products containing recycled materials.

(4) The rules, specifications, and bid evaluation shall be consistent with recycled content standards adopted under RCW 43.19A.020.

[1991 c 297 § 5; 1988 c 175 § 2; 1987 c 505 § 26; 1982 c 61 § 2.]

Notes:

Captions not law--1991 c 297: See RCW 43.19A.900.

Effective date--1988 c 175: "This act shall take effect July 1, 1988." [1988 c 175 § 4.]

Recycled product procurement: Chapter 43.19A RCW.

State purchasing and material control director: RCW 43.19.180.

RCW 43.19.540 Bonds of state officers and employees--Fixing amount--Additional bonds--Exemptions--Duties of director.

In addition to other powers and duties prescribed by this chapter, the director shall:

(1) Fix the amount of bond to be given by each appointive state officer and each employee of the state in all cases where it is not fixed by law;

(2) Require the giving of an additional bond, or a bond in a greater amount than provided by law, in all cases where in his judgment the statutory bond is not sufficient in amount to cover the liabilities of the officer or employee;

(3) Exempt subordinate employees from giving bond when in his judgment their powers and duties are such as not to require a bond.

[1975 c 40 § 13.]

RCW 43.19.558 Motor vehicle management programs--Costs.

Notes:

Reviser's note: RCW 43.19.558 was amended by 1998 c 105 § 10 without reference to its repeal by 1998 c 111 § 1. It has been decodified for publication purposes under RCW 1.12.025.

RCW 43.19.560 Motor vehicle transportation service--Definitions.

As used in RCW 43.19.565 through 43.19.635, 43.41.130 and 43.41.140, the following definitions shall apply:

(1) "Passenger motor vehicle" means any sedan, station wagon, bus, or light truck which is designed for carrying ten passengers or less and is used primarily for the transportation of persons;

(2) "State agency" shall include any state office, agency, commission, department, or institution financed in whole or in part from funds appropriated by the legislature. It shall also

include the Washington state school director's association and the state printer, but it shall not include (a) the state supreme court or any agency of the judicial branch or (b) the legislature or any of its statutory, standing, special, or interim committees, other than at the option of the judicial or legislative agency or committee concerned;

(3) "Employee commuting" shall mean travel by a state officer or employee to or from his or her official residence or other domicile to or from his or her official duty station or other place of work;

(4) "Motor vehicle transportation services" shall include but not be limited to the furnishing of motor vehicles for the transportation of persons or property, with or without drivers, and may also include furnishing of maintenance, storage, and other support services to state agencies for the conduct of official state business.

[1983 c 187 § 3; 1975 1st ex.s. c 167 § 2.]

Notes:

Effective date--1983 c 187: See RCW 28A.345.902.

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

Power to appoint or employ personnel does not include power to provide state owned or leased vehicle: RCW 43.01.150.

RCW 43.19.565 Motor vehicle transportation service--Powers and duties.

The department of general administration shall establish a motor vehicle transportation service which is hereby empowered to:

(1) Provide suitable motor vehicle transportation services to any state agency on either a temporary or permanent basis upon requisition from a state agency and upon such demonstration of need as the department may require;

(2) Provide motor pools for the use of state agencies located in the Olympia and Seattle areas and such additional motor pools at other locations in the state as may be necessary to provide economic, efficient, and effective motor vehicle transportation services to state agencies. Such additional motor pools may be under either the direct control of the department or under the supervision of another state agency by agreement with the department;

(3) Establish an equitable schedule of rental and mileage charges to agencies for motor vehicle transportation services furnished which shall be designed to provide funds to cover replacement of vehicles and to recover the actual total costs of motor pool operations including but not limited to vehicle operation expense, depreciation expense, overhead, and nonrecoverable collision or other damage to vehicles. Additions to capital such as the purchase of additional vehicles shall be budgeted and purchased from funds appropriated for such purposes under such procedures as may be provided by law; and

(4) Establish guidelines, procedures, and standards for fleet operations that other state agencies and institutions of higher education may adopt. The guidelines, procedures, and standards shall be consistent with and carry out the objectives of any general policies adopted by the office of financial management under RCW 43.41.130.

[1998 c 111 § 3; 1975 1st ex.s. c 167 § 3.]

Notes:

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.570 Motor vehicle transportation service--Responsibilities--Agreements with other agencies--Alternative fuels.

(1) The department shall direct and be responsible for the acquisition, operation, maintenance, storage, repair, and replacement of state motor vehicles under its control. The department shall utilize state facilities available for the maintenance, repair, and storage of such motor vehicles, and may provide directly or by contract for the maintenance, repair, and servicing of all motor vehicles, and other property related thereto and under its control.

(2) The department may arrange, by agreement with agencies, for the utilization by one of the storage, repair, or maintenance facilities of another, with such provision for charges and credits as may be agreed upon. The department may acquire and maintain storage, repair, and maintenance facilities for the motor vehicles under its control from such funds as may be appropriated by the legislature.

(3)(a) The legislature finds that a clean environment is important and that global warming effects may be offset by decreasing the emissions of harmful compounds from motor vehicles. The legislature further finds that the state is in a position to set an example of large scale use of alternative fuels in motor vehicles.

(b) The department shall consider the use of state vehicles to conduct field tests on alternative fuels in areas where air pollution constraints may be eased by these optional fuels. These fuels should include but are not limited to gas-powered and electric-powered vehicles.

(c) For planned purchases of vehicles using alternative fuels, the department and other state agencies shall explore opportunities to purchase these vehicles together with the federal government, agencies of other states, other Washington state agencies, local governments, or private organizations for less cost.

[1989 c 113 § 1; 1982 c 163 § 11; 1975 1st ex.s. c 167 § 4.]

Notes:

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

Alternative fuels: RCW 43.41.130.

RCW 43.19.575 Passenger motor vehicles owned or operated by state agencies--Duty of the office of financial management to establish policies as to acquisition, operation, authorized use, etc.

See RCW 43.41.130.

RCW 43.19.585 Motor vehicle transportation service--Supervisor of motor

transport--Powers and duties.

The director of general administration shall appoint a supervisor of motor transport, who shall have general charge and supervision of state motor pools and motor vehicle transportation services under departmental administration and control. The appointment of all personnel, except the supervisor, shall be made pursuant to chapter 41.06 RCW, the state civil service law, as now or hereafter amended.

With the approval of the director, the supervisor shall (1) appoint and employ such assistants and personnel as may be necessary, (2) acquire by purchase or otherwise a sufficient number of motor vehicles to fulfill state agency needs for motor vehicle transportation service, (3) provide for necessary storage, upkeep, and repair, and (4) provide for servicing motor pool vehicles with fuel, lubricants, and other operating requirements.

[1975 1st ex.s. c 167 § 7.]

Notes:

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.590 Motor vehicle transportation service--Transfer of employees--Retention of employment rights.

All employees of any state agency who are employed exclusively or principally in performing the powers, duties, and functions transferred pursuant to RCW 43.19.595 through 43.19.610 to the department of general administration shall, upon such transfer to employment with the department of general administration, continue to be governed by the provisions of chapter 41.06 RCW, the state civil service law, as now or hereafter amended, and shall automatically retain their permanent or probationary status together with all rights, privileges, and immunities attaching thereto.

[1975 1st ex.s. c 167 § 8.]

Notes:

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.595 Motor vehicle transportation service--Transfer of motor vehicles, property, etc., from motor pool to department.

All passenger motor vehicles, property, facilities, equipment, credits, funds, and all other assets and obligations of the automobile pool and pertaining to passenger motor vehicles currently operated by the department of highways and funded by that portion of the highway equipment fund known as "District No. 8 (Motor Pool)" shall be transferred to the department of general administration on July 1, 1975. The director of general administration may accept such property prior thereto if he deems it expedient to accomplish an orderly transition.

[1975 1st ex.s. c 167 § 9.]

Notes:

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.600 Motor vehicle transportation service--Transfer of passenger motor vehicles to department from other agencies--Studies.

(1) On or after July 1, 1975, any passenger motor vehicles currently owned or hereafter acquired by any state agency, except vehicles acquired from federal granted funds and over which the federal government retains jurisdiction and control, may be purchased by or transferred to the department of general administration with the consent of the state agency concerned. The director of general administration may accept vehicles subject to the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 prior to July 1, 1975, if he deems it expedient to accomplish an orderly transition.

(2) The department, in cooperation with the office of financial management, shall study and ascertain current and prospective needs of state agencies for passenger motor vehicles and shall recommend transfer to a state motor pool or other appropriate disposition of any vehicle found not to be required by a state agency.

(3) The department shall direct the transfer of passenger motor vehicles from a state agency to a state motor pool or other disposition as appropriate, based on a study under subsection (2) of this section, or after a public hearing held by the department, if a finding is made based on testimony and data therein submitted that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition of passenger motor vehicles. Any dispute over the accuracy of testimony and data submitted as to the benefits in state governmental economy, efficiency, and effectiveness to be gained by such transfer shall be resolved by the governor or the governor's designee.

[1982 c 163 § 12; 1979 c 151 § 102; 1975 1st ex.s. c 167 § 10.]

Notes:

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.605 Motor vehicle transportation service--Reimbursement for property transferred--Credits--Accounting--Disputes.

No cash reimbursement shall be made to agencies for property transferred under RCW 43.19.600 to the extent that such property was originally acquired without cost or was purchased from general fund appropriations. The value of such property shall be entered upon the accounts of the general administration services account as an amount due the agency from which the vehicle was transferred. For such property purchased from dedicated, revolving, or trust funds, the value at the time of transfer shall also be entered upon the accounts of the general administration services account as an amount due the agency and fund from which the vehicle transferred was purchased and maintained. If surplus funds associated with motor vehicle transportation services are available in the general administration services account, the agency may be paid all or part of the amount due to the dedicated, revolving, or trust fund concerned.

Otherwise, the credit for the amount due shall be applied proportionately over the remaining undepreciated life of such property. The prorated credits shall be applied monthly by the director of general administration against any monthly or other charges for motor vehicle transportation services rendered the agency.

To the extent surplus funds associated with motor vehicle transportation services are available in the general administration services account, the director of general administration may direct a cash reimbursement to a dedicated, revolving, or trust fund where an amount due such a fund will not be charged off to services rendered by the department of general administration within a reasonable time.

Any disagreement between the supervisor of motor transport and an agency as to the amount of reimbursement to which it may be entitled shall be resolved by the director of general administration.

[1998 c 105 § 11; 1989 c 57 § 6; 1975 1st ex.s. c 167 § 11.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

Effective date--1989 c 57: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 57 § 11.]

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.610 General administration services account--Sources--Disbursements.

All moneys, funds, proceeds, and receipts as provided in RCW 43.19.615 and as may otherwise be provided by law shall be paid into the general administration services account. Disbursements therefrom shall be made in accordance with the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 as authorized by the director or a duly authorized representative and as may be provided by law.

[1998 c 105 § 12; 1991 sp.s. c 13 § 35; 1986 c 312 § 902. Prior: 1985 c 405 § 507; 1985 c 57 § 28; 1975 1st ex.s. c 167 § 12.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability--1986 c 312: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 312 § 905.]

Severability--1985 c 405: See note following RCW 9.46.100.

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.615 Motor vehicle transportation service--Deposits--Disbursements.

The director of general administration shall deposit in the general administration services account all receipts, including the initial transfer of automobile pool capital from the highway

equipment fund and any other funds transferred, rentals or other fees and charges for transportation services furnished, proceeds from the sale of surplus or replaced property under the control of the supervisor of motor transport and other income, and from which shall be paid operating costs, including salaries and wages, administrative expense, overhead, the cost of replacement vehicles, additional passenger vehicles authorized pursuant to RCW 43.19.565, and any other expenses. If it is necessary at any time for the department to request any appropriation from the general fund or various dedicated, revolving, or trust funds to purchase additional vehicles, any appropriation therefor may provide that such advance shall be repaid together with reasonable interest from surpluses of the general administration services account.

[1998 c 105 § 13; 1975 1st ex.s. c 167 § 13.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.620 Motor vehicle transportation service--Rules and regulations.

The director of general administration, through the supervisor of motor transport, shall adopt, promulgate, and enforce such regulations as may be deemed necessary to accomplish the purpose of RCW 43.19.560 through 43.19.630, 43.41.130, and 43.41.140. Such regulations, in addition to other matters, shall provide authority for any agency director or his delegate to approve the use on official state business of personally owned or commercially owned rental passenger motor vehicles. Before such an authorization is made, it must first be reasonably determined that state owned passenger vehicles or other suitable transportation is not available at the time or location required or that the use of such other transportation would not be conducive to the economical, efficient, and effective conduct of business.

Such regulations shall be consistent with and shall carry out the objectives of the general policies and guidelines adopted by the office of financial management pursuant to RCW 43.41.130.

[1989 c 57 § 7; 1979 c 151 § 103; 1975 1st ex.s. c 167 § 14.]

Notes:

Effective date--1989 c 57: See note following RCW 43.19.605.

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.625 Employee commuting in state owned or leased vehicle--Policies and regulations.

See RCW 43.41.140.

RCW 43.19.630 Motor vehicle transportation service--Use of personal motor vehicle.

RCW 43.19.560 through 43.19.620, 43.41.130, and 43.41.140 shall not be construed to prohibit a state officer or employee from using his personal motor vehicle on state business and

being reimbursed therefor, where permitted under state travel policies, rules, and regulations promulgated by the office of financial management, and where such use is in the interest of economic, efficient, and effective management and performance of official state business.

[1989 c 57 § 8; 1979 c 151 § 104; 1975 1st ex.s. c 167 § 16.]

Notes:

Effective date--1989 c 57: See note following RCW 43.19.605.

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.635 Motor vehicle transportation service--Unauthorized use of state vehicles--Procedure--Disciplinary action.

(1) The governor, acting through the department of general administration and any other appropriate agency or agencies as he may direct, is empowered to utilize all reasonable means for detecting the unauthorized use of state owned motor vehicles, including the execution of agreements with the state patrol for compliance enforcement. Whenever such illegal use is discovered which involves a state employee, the employing agency shall proceed as provided by law to establish the amount, extent, and dollar value of any such use, including an opportunity for notice and hearing for the employee involved. When such illegal use is so established, the agency shall assess its full cost of any mileage illegally used and shall recover such amounts by deductions from salary or allowances due to be paid to the offending official or employee by other means. Recovery of costs by the state under this subsection shall not preclude disciplinary or other action by the appropriate appointing authority or employing agency under subsection (2) of this section.

(2) Any wilful and knowing violation of any provision of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 shall subject the state official or employee committing such violation to disciplinary action by the appropriate appointing or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay, or termination of employment in the case of repeated violations.

(3) Any casual or inadvertent violation of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 may subject the state official or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but need not be limited to, suspension without pay.

[1975 1st ex.s. c 167 § 17.]

Notes:

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.19.637 Clean-fuel vehicles--Purchasing requirements.

(1) At least thirty percent of all new vehicles purchased through a state contract shall be clean-fuel vehicles.

(2) The percentage of clean-fuel vehicles purchased through a state contract shall

increase at the rate of five percent each year.

(3) In meeting the procurement requirement established in this section, preference shall be given to vehicles designed to operate exclusively on clean fuels. In the event that vehicles designed to operate exclusively on clean fuels are not available or would not meet the operational requirements for which a vehicle is to be procured, conventionally powered vehicles may be converted to clean fuel or dual fuel use to meet the requirements of this section.

(4) Fuel purchased through a state contract shall be a clean fuel when the fuel is purchased for the operation of a clean-fuel vehicle.

(5)(a) Weight classes are established by the following motor vehicle types:

(i) Passenger cars;

(ii) Light duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of less than eight thousand five hundred pounds;

(iii) Heavy duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of eight thousand five hundred pounds or more.

(b) This subsection does not place an obligation upon the state or its political subdivisions to purchase vehicles in any number or weight class other than to meet the percent procurement requirement.

(6) For the purposes of this section, "clean fuels" and "clean-fuel vehicles" shall be those fuels and vehicles meeting the specifications provided for in RCW 70.120.210.

[1991 c 199 § 213.]

Notes:

Finding--1991 c 199: See note following RCW 70.94.011.

Effective dates--Severability--Captions not law--1991 c 199: See RCW 70.94.904 through 70.94.906.

RCW 43.19.668 Energy conservation--Legislative finding--Declaration.

The legislature finds and declares that the buildings, facilities, equipment, and vehicles owned or leased by state government consume significant amounts of energy and that energy conservation actions, including energy management systems, to provide for efficient energy use in these buildings, facilities, equipment, and vehicles will reduce the costs of state government. In order for the operations of state government to provide the citizens of this state an example of energy use efficiency, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce energy use in state buildings, facilities, equipment, and vehicles within a reasonable period of time. The use of appropriate tree plantings for energy conservation is encouraged as part of this program.

[2001 c 214 § 23; 1993 c 204 § 6; 1980 c 172 § 1.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

Findings--1993 c 204: See note following RCW 35.92.390.

RCW 43.19.669 Energy conservation--Purpose.

It is the purpose of RCW 43.19.670 through 43.19.685 to require energy audits in state-owned buildings, to require energy audits as a lease condition in all new, renewed, and renegotiated leases of buildings by the state, to undertake such modifications and installations as are necessary to maximize the efficient use of energy in these buildings, including but not limited to energy management systems, and to establish a policy for the purchase of state vehicles, equipment, and materials which results in efficient energy use by the state.

For a building that is leased by the state, energy audits and implementation of cost-effective energy conservation measures are required only for that portion of the building that is leased by the state when the state leases less than one hundred percent of the building. When implementing cost-effective energy conservation measures in buildings leased by the state, those measures must generate savings sufficient to finance the building modifications and installations over a loan period not greater than ten years and allow repayment during the term of the lease.

[2001 c 214 § 24; 1980 c 172 § 2.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

RCW 43.19.670 Energy conservation--Definitions.

As used in RCW 43.19.670 through 43.19.685, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Energy audit" means a determination of the energy consumption characteristics of a facility which consists of the following elements:

(a) An energy consumption survey which identifies the type, amount, and rate of energy consumption of the facility and its major energy systems. This survey shall be made by the agency responsible for the facility.

(b) A walk-through survey which determines appropriate energy conservation maintenance and operating procedures and indicates the need, if any, for the acquisition and installation of energy conservation measures and energy management systems. This survey shall be made by the agency responsible for the facility if it has technically qualified personnel available. The director of general administration shall provide technically qualified personnel to the responsible agency if necessary.

(c) An investment grade audit, which is an intensive engineering analysis of energy conservation and management measures for the facility, net energy savings, and a cost-effectiveness determination. This element is required only for those facilities designated in the schedule adopted under RCW 43.19.680(2).

(2) "Cost-effective energy conservation measures" means energy conservation measures that the investment grade audit concludes will generate savings sufficient to finance project loans of not more than ten years.

(3) "Energy conservation measure" means an installation or modification of an installation in a facility which is primarily intended to reduce energy consumption or allow the

use of an alternative energy source, including:

- (a) Insulation of the facility structure and systems within the facility;
 - (b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;
 - (c) Automatic energy control systems;
 - (d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;
 - (e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;
 - (f) Solar water heating systems;
 - (g) Furnace or utility plant and distribution system modifications including replacement burners, furnaces, and boilers which substantially increase the energy efficiency of the heating system; devices for modifying flue openings which will increase the energy efficiency of the heating system; electrical or mechanical furnace ignitions systems which replace standing gas pilot lights; and utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources;
 - (h) Caulking and weatherstripping;
 - (i) Replacement or modification of lighting fixtures which increase the energy efficiency of the lighting system;
 - (j) Energy recovery systems;
 - (k) Energy management systems; and
 - (l) Such other measures as the director finds will save a substantial amount of energy.
- (4) "Energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a facility, and any installations within the facility, which are designed to reduce energy consumption in the facility and which require no significant expenditure of funds.
- (5) "Energy management system" has the definition contained in RCW 39.35.030.
- (6) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a state agency to conduct no-cost energy audits, guarantee savings from energy efficiency, provide financing for energy efficiency improvements, install or implement energy efficiency improvements, and agree to be paid for its investment solely from savings resulting from the energy efficiency improvements installed or implemented.
- (7) "Energy service company" means a company or contractor providing energy savings performance contracting services.
- (8) "Facility" means a building, a group of buildings served by a central energy distribution system, or components of a central energy distribution system.
- (9) "Implementation plan" means the annual tasks and budget required to complete all acquisitions and installations necessary to satisfy the recommendations of the energy audit.

[2001 c 214 § 25; 1982 c 48 § 1; 1980 c 172 § 3.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

RCW 43.19.675 Energy audits of state-owned facilities required--Completion dates.

For each state-owned facility, the director of general administration, or the agency responsible for the facility if other than the department of general administration, shall conduct an energy audit of that facility. This energy audit may be conducted by contract or by other arrangement, including appropriate agency staff. Performance-based contracting shall be the preferred method for implementing and completing energy audits. For each state-owned facility, the energy consumption surveys shall be completed no later than October 1, 2001, and the walk-through surveys shall be completed no later than July 1, 2002.

[2001 c 214 § 26; 1982 c 48 § 2; 1980 c 172 § 4.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

Energy audits of school district buildings: RCW 28A.320.330.

RCW 43.19.680 Implementation of energy conservation and maintenance procedures after walk-through survey--Investment grade audit--Reports--Contracts with energy service companies, staffing.

(1) Upon completion of each walk-through survey required by RCW 43.19.675, the director of general administration or the agency responsible for the facility if other than the department of general administration shall implement energy conservation maintenance and operation procedures that may be identified for any state-owned facility. These procedures shall be implemented as soon as possible but not later than twelve months after the walk-through survey.

(2) If a walk-through survey has identified potentially cost-effective energy conservation measures, the agency responsible for the facility shall undertake an investment grade audit of the facility. Investment grade audits shall be completed no later than December 1, 2002. Installation of cost-effective energy conservation measures recommended in the investment grade audit shall be completed no later than June 30, 2004.

(3) For each biennium until all measures are installed, the director of general administration shall report to the governor and legislature installation progress, [and] measures planned for installation during the ensuing biennium. This report shall be submitted by December 31, 2004, or at the end of the following year whichever immediately precedes the capital budget adoption, and every two years thereafter until all measures are installed.

(4) Agencies may contract with energy service companies as authorized by chapter 39.35C RCW for energy audits and implementation of cost-effective energy conservation measures. The department shall provide technically qualified personnel to the responsible agency upon request. The department shall recover a fee for this service.

[2001 c 214 § 27; 1996 c 186 § 506; 1986 c 325 § 2; 1983 c 313 § 1; 1982 c 48 § 3; 1980 c 172 § 5.]

NOTES:

Severability--Effective date--2001 c 214: See notes following RCW 80.50.010.

Findings--2001 c 214: See note following RCW 39.35.010.

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Findings--1986 c 325: See note following RCW 43.41.170.

Budgeting process--Guidelines to ensure agencies implementing energy conservation retain cost savings: RCW 43.41.170.

RCW 43.19.682 Energy conservation to be included in landscape objectives.

The director of the department of general administration shall seek to further energy conservation objectives among other landscape objectives in planting and maintaining trees upon grounds administered by the department.

[1993 c 204 § 9.]

Notes:

Findings--1993 c 204: See note following RCW 35.92.390.

RCW 43.19.685 Lease covenants, conditions, and terms to be developed--Applicability.

The director of general administration shall develop lease covenants, conditions, and terms which:

(1) Obligate the lessor to conduct or have conducted a walk-through survey of the leased premises;

(2) Obligate the lessor to implement identified energy conservation maintenance and operating procedures upon completion of the walk-through survey; and

(3) Obligate the lessor to undertake technical assistance studies and subsequent acquisition and installation of energy conservation measures if the director of general administration, in accordance with rules adopted by the department, determines that these studies and measures will both conserve energy and can be accomplished with a state funding contribution limited to the savings which would result in utility expenses during the term of the lease.

These lease covenants, conditions, and terms shall be incorporated into all specified new, renewed, and renegotiated leases executed on or after January 1, 1983. This section applies to all leases under which state occupancy is at least half of the facility space and includes an area greater than three thousand square feet.

[1982 c 48 § 4; 1980 c 172 § 6.]

RCW 43.19.700 In-state preference clauses--Finding--Intent.

The legislature finds that in-state preference clauses used by other states in procuring goods and services have a discriminatory effect against Washington vendors with resulting harm to this state's revenues and the welfare of this state's citizens. Chapter 183, Laws of 1983 is

intended to promote fairness in state government procurement by requiring that, when appropriate, Washington exercise reciprocity with those states having in-state preferences, and it shall be liberally construed to that effect.

[1983 c 183 § 1.]

RCW 43.19.702 List of statutes and regulations of each state on state purchasing which grant preference to in-state vendors.

The director of general administration shall compile a list of the statutes and regulations, relating to state purchasing, of each state, which statutes and regulations the director believes grant a preference to vendors located within the state or goods manufactured within the state. At least once every twelve months the director shall update the list.

[1983 c 183 § 2.]

RCW 43.19.704 Rules for reciprocity in bidding.

The director of general administration shall adopt and apply rules designed to provide for some reciprocity in bidding between Washington and those states having statutes or regulations on the list under RCW 43.19.702. The director of general administration shall have broad discretionary power in developing these rules and the rules shall provide for reciprocity only to the extent and in those instances where the director considers it appropriate. For the purpose of determining the lowest responsible bidder pursuant to RCW 43.19.1911, such rules shall (1) require the director to impose a reciprocity increase on bids when appropriate under the rules and (2) establish methods for determining the amount of the increase. In no instance shall such increase, if any, be paid to a vendor whose bid is accepted.

[1983 c 183 § 3.]

RCW 43.19.710 Consolidated mail service--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.19.715.

(1) "Consolidated mail service" means incoming, outgoing, and internal mail processing.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Agency" means:

(a) The office of the governor; and

(b) Any office, department, board, commission, or other separate unit or division, however designated, of the state government, together with all personnel thereof: Upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature; and that has as its chief executive officer a person or combination of persons such as a commission, board, or council, by law empowered to operate

it, responsible either to: (i) No other public officer or (ii) the governor.

(5) "Incoming mail" means mail, packages, or similar items received by an agency, through the United States postal service, private carrier services, or other courier services.

(6) "Outgoing mail" means mail, packages, or similar items processed for agencies to be sent through the United States postal service, private carrier services, or other courier services.

(7) "Internal mail" means interagency mail, packages, or similar items that are delivered or to be delivered to a state agency, the legislature, the supreme court, or the court of appeals, and their officers and employees.

[1993 c 219 § 2.]

Notes:

Intent--1993 c 219: "It is the intent of the legislature to consolidate mail functions for state government in a manner that will provide timely, effective, efficient, and less-costly mail service for state government." [1993 c 219 § 1.]

Effective date--1993 c 219: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 219 § 6.]

RCW 43.19.715 Consolidated mail service--Area served.

The director shall establish a consolidated mail service to handle all incoming, outgoing, and internal mail in the 98504 zip code area or successor zip code areas for agencies in the Olympia, Tumwater, and Lacey area. The director may include additional geographic areas within the consolidated mail service, based upon his or her determination. The department shall also provide mail services to legislative and judicial agencies in the Olympia, Tumwater, and Lacey area upon request.

The director may bill state agencies and other entities periodically for mail services rendered.

[1993 c 219 § 3.]

Notes:

Intent--Effective date--1993 c 219: See notes following RCW 43.19.710.

RCW 43.19.720 Consolidated mail service--Review needs of state agencies.

The department, in cooperation with the office of financial management, shall review current and prospective needs of state agencies for any equipment to process mail throughout state government. If after such consultation, the department should find that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition, then the property shall be transferred or otherwise disposed.

After making such finding, the department shall direct the transfer of existing state property, facilities, and equipment pertaining to the consolidated mail service or United States postal service. Any dispute concerning the benefits in state governmental economy, efficiency, and effectiveness shall be resolved by the office of financial management.

[1993 c 219 § 5.]

Notes:

Intent--Effective date--1993 c 219: See notes following RCW 43.19.710.

**Chapter 43.19A RCW
RECYCLED PRODUCT PROCUREMENT**

Sections

43.19A.005	Purpose.
43.19A.010	Definitions.
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43.19A.030	Local government duties.
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43.19A.060	Data base of products and vendors.
43.19A.070	Education program--Product substitution list--Model procurement guidelines.
43.19A.080	Bid notification to state recycled content requirements.
43.19A.110	Local road projects--Compost products.
43.19A.900	Captions not law--1991 c 297.

NOTES:

Recycled material products purchase: RCW 43.19.538.

RCW 43.19A.005 Purpose.

It is the purpose of this chapter to:

- (1) Substantially increase the procurement of recycled content products by all local and state governmental agencies and public schools, and provide a model to encourage a comparable commitment by Washington state citizens and businesses in their purchasing practices;
- (2) Target government procurement policies and goals toward those recycled products for which there are significant market development needs or that may substantially contribute to solutions to the state's waste management problem;
- (3) Provide standards for recycled products for use in procurement programs by all governmental agencies;
- (4) Provide the authority for all governmental agencies to adopt preferential purchasing policies for recycled products;
- (5) Direct state agencies to develop strategies to increase recycled product purchases, and to provide specific goals for procurement of recycled paper products and organic recovered materials; and
- (6) Provide guidance and direction for local governments and other public agencies to develop plans for increasing the procurement of recycled content products.

[1991 c 297 § 1.]

RCW 43.19A.010 Definitions.

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

(1) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.

(5) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.

(6) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.

(7) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(8) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70.95J RCW.

(9) "Paper and paper products" means all items manufactured from paper or paperboard.

(10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.

(11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

(12) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

(13) "Recycled content product" or "recycled product" means a product containing recycled materials.

(14) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

(15) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the code of federal

regulations.

[1992 c 174 § 12; 1991 c 297 § 2.]

RCW 43.19A.020 Recycled product purchasing--Federal product standards.

(1) The federal product standards, adopted under 42 U.S.C. Sec. 6962(e) as it exists on July 1, 2001, are adopted as the minimum standards for the state of Washington. These standards shall be implemented for at least the products listed in this subsection, unless the director finds that a different standard would significantly increase recycled product availability or competition.

- (a) Paper and paper products;
- (b) Organic recovered materials;
- (c) Latex paint products;
- (d) Products for lower value uses containing recycled plastics;
- (e) Retread and remanufactured tires;
- (f) Lubricating oils;
- (g) Automotive batteries;
- (h) Building products and materials;
- (i) Panelboard; and
- (j) Compost products.

(2) By July 1, 2001, the director shall adopt product standards for strawboard manufactured using as an ingredient straw that is produced as a by-product in the production of cereal grain or turf or grass seed and product standards for products made from strawboard.

(3) The standards required by this section shall be applied to recycled product purchasing by the department, other state agencies, and state postsecondary educational institutions. The standards may be adopted or applied by any other local government in product procurement. The standards shall provide for exceptions under appropriate circumstances to allow purchases of recycled products that do not meet the minimum content requirements of the standards.

[2001 c 77 § 1; 1996 c 198 § 1; 1995 c 269 § 1406; 1991 c 297 § 3.]

NOTES:

Effective date--2001 c 77: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 77 § 2.]

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

RCW 43.19A.030 Local government duties.

(1) By January 1, 1993, each local government shall review its existing procurement policies and specifications to determine whether recycled products are intentionally or unintentionally excluded. The policies and specifications shall be revised to include such products unless a recycled content product does not meet an established performance standard of the agency.

(2) By fiscal year 1994, each local government shall adopt a minimum purchasing goal for recycled content as a percentage of the total dollar value of supplies purchased. To assist in achieving this goal each local government shall adopt a strategy by January 1, 1993, and shall submit a description of the strategy to the department. All public agencies shall respond to requests for information from the department for the purpose of its reporting requirements under this section.

(3) Each local government shall designate a procurement officer who shall serve as the primary contact with the department for compliance with the requirements of this chapter.

(4) This section shall apply only to local governments with expenditures for supplies exceeding five hundred thousand dollars for fiscal year 1989. Expenditures for capital goods and for electricity, water, or gas for resale shall not be considered a supply expenditure.

[1998 c 245 § 57; 1991 c 297 § 4.]

RCW 43.19A.040 Local government adoption of preferential purchase policy optional.

(1) Each local government shall consider the adoption of policies, rules, or ordinances to provide for the preferential purchase of recycled content products. Any local government may adopt the preferential purchasing policy of the department of general administration, or portions of such policy, or another policy that provides a preference for recycled content products.

(2) The department of general administration shall prepare one or more model recycled content preferential purchase policies suitable for adoption by local governments. The model policy shall be widely distributed and provided through the technical assistance and workshops under RCW 43.19A.070.

(3) A local government that is not subject to the purchasing authority of the department of general administration, and that adopts the preferential purchase policy or rules of the department, shall not be limited by the percentage price preference included in such policy or rules.

[1991 c 297 § 6.]

RCW 43.19A.050 Strategy for state agency procurement.

The department shall prepare a strategy to increase purchases of recycled-content products by the department and all state agencies, including higher education institutions. The strategy shall include purchases from public works contracts. The strategy shall address the purchase of plastic products, retread and remanufactured tires, motor vehicle lubricants, latex paint, and lead acid batteries having recycled content. In addition, the strategy shall incorporate actions to achieve the following purchase level goals of recycled content paper and compost products:

(1) Paper products as a percentage of the total dollar amount purchased on an annual basis:

- (a) At least sixty percent by 1996;
- (b) At least seventy percent by 1997;

- (c) At least eighty percent by 1998.
- (2) Compost products as a percentage of the total dollar amount on an annual basis:
 - (a) At least forty percent by 1996;
 - (b) At least sixty percent by 1997;
 - (c) At least eighty percent by 1998.

[1996 c 198 § 2; 1991 c 297 § 7.]

RCW 43.19A.060 Data base of products and vendors.

(1) The department shall develop a data base of available products with recycled-content products, and vendors supplying such products. The data base shall incorporate information regarding product consistency with the content standards adopted under RCW 43.19A.020. The data base shall incorporate information developed through state and local government procurement of recycled-content products.

(2) By December 1, 1992, the department shall report to the appropriate standing committees of the legislature on the cost of making the data base accessible to all state and local governments and to the private sector.

(3) The department shall compile information on purchases made by the department or pursuant to the department's purchasing authority, and information provided by local governments, regarding:

- (a) The percentage of recycled content and, if known, the amount of postconsumer waste in the products purchased;
- (b) Price;
- (c) Agency experience with the performance of recycled products and the supplier under the terms of the purchase; and
- (d) Any other information deemed appropriate by the department.

[1991 c 297 § 8.]

RCW 43.19A.070 Education program--Product substitution list--Model procurement guidelines.

(1) The department shall implement an education program to encourage maximum procurement of recycled products by state and local government entities. The program shall include at least the following:

- (a) Technical assistance to all state and local governments and their designated procurement officers on the requirements of this chapter, including preparation of model purchase contracts, the preparation of procurement plans, and the availability of recycled products;
- (b) Two or more workshops annually in which all state and local government entities are invited;
- (c) Information on intergovernmental agreements to facilitate procurement of recycled products.

(2) The director shall, in consultation with the department of ecology, make available to the public, local jurisdictions, and the private sector, a comprehensive list of substitutes for extremely hazardous, hazardous, toxic, and nonrecyclable products, and disposable products intended for a single use. The department and all state agencies exercising the purchasing authorities of the department shall include the substitute products on bid notifications, except where the department allows an exception based upon product availability, price, suitability for intended use, or similar reasons.

(3) The department shall prepare model procurement guidelines for use by local governments.

[1991 c 297 § 9.]

RCW 43.19A.080 Bid notification to state recycled content requirements.

A notification regarding a state or local government's intent to procure products with recycled content must be prominently displayed in the procurement solicitation or invitation to bid including:

- (1) A description of the postconsumer waste content or recycled content requirements;
- and
- (2) A description of the agency's recycled content preference program.

[1991 c 297 § 11.]

RCW 43.19A.110 Local road projects--Compost products.

(1) Each county and city required to prepare a strategy under RCW 43.19A.030 shall adopt specifications for compost products to be used in road projects. The specifications developed by the department of transportation under RCW 47.28.220 may be adopted by the city or county in lieu of developing specifications.

(2) After July 1, 1992, any contract awarded in whole or in part for applying soils, soil covers, or soil amendments to road rights of way shall specify that compost materials be purchased in accordance with the following schedule:

(a) For the period July 1, 1992, through June 30, 1994, at least twenty-five percent of the total dollar amount of purchases by the city or county;

(b) On and after July 1, 1994, at least fifty percent of the annual total dollar amount of purchases by the city or county.

(3) The city or county may depart from the schedule in subsection (2) of this section where it determines that no suitable product is available at a reasonable price.

[1991 c 297 § 17.]

RCW 43.19A.900 Captions not law--1991 c 297.

Captions as used in this act constitute no part of the law.

[1991 c 297 § 21.]

Chapter 43.20 RCW
STATE BOARD OF HEALTH

Sections

43.20.025	Definitions.
43.20.030	State board of health--Members--Chairman--Staff support--Executive director, confidential secretary--Compensation and travel expenses of members.
43.20.035	State board of health--Cooperation with environmental agencies.
43.20.050	Powers and duties of state board of health--State public health report--Delegation of authority--Enforcement of rules.
43.20.100	Annual report.
43.20.110	Federal act on maternal and infancy hygiene accepted.
43.20.140	Services to crippled children--Rules and regulations.
43.20.175	Violations--Injunctions and legal proceedings authorized.
43.20.185	Enforcement of health laws and state or local rules and regulations upon request of local health officer.
43.20.195	Reports of violations by secretary--Duty of attorney general, prosecuting attorney or city attorney to institute proceedings--Notice to alleged violator.
43.20.200	Grant-in-aid payments for local health departments.
43.20.215	Right of person to rely on prayer to alleviate ailments not abridged.
43.20.220	Cooperation with federal government--Construction of Title 70 RCW.
43.20.230	Water resource planning--Procedures, criteria, technical assistance.
43.20.235	Water conservation--Water delivery rate structures.
43.20.240	Public water systems--Complaint process.

Notes:

Cold storage food workers, health certificates: RCW 19.32.110.

Contagious diseases

abatement: RCW 70.05.070.

report of local officers and physicians: RCW 70.05.110.

Control of pet animals infected with diseases communicable to humans, state board of health duties: Chapter 16.70 RCW.

Death certificates: RCW 70.58.150 through 70.58.190.

Drinking water quality consumer complaints: RCW 80.04.110.

Food and beverage service workers' permits, prescribed by: RCW 69.06.010.

Health, department of: Chapter 43.70 RCW.

Hospitals

disclosure of information: RCW 70.41.150.

enforcement of board rules: RCW 70.41.040.

inspection: RCW 70.41.120.

Immunization program, state board of health participation: RCW 28A.210.060 through 28A.210.170.

Physicians, regulation of professional services: RCW 70.41.180.

Screening program for scoliosis, state board of health participation: RCW 28A.210.180 through 28A.210.250.

Sexually transmitted diseases: Chapter 70.24 RCW.

Social and health services, department created: RCW 43.17.010, 43.20A.030.

RCW 43.20.025 Definitions.

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

(1) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(2) "*Council" means the health care access and cost control council.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health, or the secretary's designee.

(5) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(6) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(7) "State board" means the state board of health created under chapter 43.20 RCW.

[1989 1st ex.s. c 9 § 208; 1984 c 243 § 1.]

Notes:

***Reviser's note:** RCW 70.170.030, which created the health care access and cost control council, was repealed by 1995 c 269 § 2204, effective July 1, 1995.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

RCW 43.20.030 State board of health--Members--Chairman--Staff support--Executive director, confidential secretary--Compensation and travel expenses of members.

The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, an elected city official who is a member of a local health board, an elected county official who is a member of a local health board, a local health officer, and two persons representing the consumers of health care. Before appointing the city official, the governor shall consider any recommendations submitted by the association of Washington cities. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chairman shall be selected by the governor from among the nine appointed members. The department of social and health services shall provide necessary technical staff support to the board. The board may employ an executive director and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and

shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

[1984 c 287 § 75; 1984 c 243 § 2; (1993 c 492 § 255 repealed by 1995 c 43 § 16); 1970 ex.s. c 18 § 11; 1965 c 8 § 43.20.030. Prior: 1921 c 7 § 56, part; RRS § 10814, part.]

Notes:

Reviser's note: This section was amended by 1984 c 287 § 75 and by 1984 c 243 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Effective date--Severability--1970 ex.s. c 18: See notes following RCW 43.20A.010.

RCW 43.20.035 State board of health--Cooperation with environmental agencies.

See RCW 43.70.310.

RCW 43.20.050 Powers and duties of state board of health--State public health report--Delegation of authority--Enforcement of rules.

(1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

(a) At least every five years, the state board shall convene regional forums to gather citizen input on public health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state public health report that outlines the health priorities of the ensuing biennium. The report shall:

(i) Consider the citizen input gathered at the forums;

(ii) Be developed with the assistance of local health departments;

(iii) Be based on the best available information collected and reviewed according to RCW 43.70.050 and recommendations from the *council;

(iv) Be developed with the input of state health care agencies. At least the following directors of state agencies shall provide timely recommendations to the state board on suggested health priorities for the ensuing biennium: The secretary of social and health services, the health care authority administrator, the insurance commissioner, the superintendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;

(v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;

(vi) Be submitted by the state board to the governor by January 1 of each even-numbered year for adoption by the governor. The governor, no later than March 1 of that year, shall approve, modify, or disapprove the state public health report.

(c) In fulfilling its responsibilities under this subsection, the state board may create ad

hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants.

(b) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;

(c) Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;

(d) Adopt rules for the imposition and use of isolation and quarantine;

(e) Adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule; and

(f) Adopt rules for accessing existing data bases for the purposes of performing health related research.

(3) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(4) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(5) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

[1993 c 492 § 489; 1992 c 34 § 4. Prior: 1989 1st ex.s. c 9 § 210; 1989 c 207 § 1; 1985 c 213 § 1; 1979 c 141 § 49; 1967 ex.s. c 102 § 9; 1965 c 8 § 43.20.050; prior: (i) 1901 c 116 § 1; 1891 c 98 § 2; RRS § 6001. (ii) 1921 c 7 § 58; RRS § 10816.]

Notes:

***Reviser's note:** RCW 70.170.030, which created the health care access and cost control council, was repealed by 1995 c 269 § 2204, effective July 1, 1995.

Findings--1993 c 492: "The legislature finds that our health and financial security are jeopardized by our ever increasing demand for health care and by current health insurance and health system practices. Current health system practices encourage public demand for unneeded, ineffective, and sometimes dangerous health treatments. These practices often result in unaffordable cost increases that far exceed ordinary inflation for essential care. Current total health care expenditure rates should be sufficient to provide access to essential health care interventions to all within a reformed, efficient system.

The legislature finds that too many of our state's residents are without health insurance, that each year many individuals and families are forced into poverty because of serious illness, and that many must leave gainful employment to be eligible for publicly funded medical services. Additionally, thousands of citizens are at risk of losing adequate health insurance, have had insurance canceled recently, or cannot afford to renew existing coverage.

The legislature finds that businesses find it difficult to pay for health insurance and remain competitive in a global economy, and that individuals, the poor, and small businesses bear an inequitable health insurance burden.

The legislature finds that persons of color have significantly higher rates of mortality and poor health outcomes, and substantially lower numbers and percentages of persons covered by health insurance than the general population. It is intended that chapter 492, Laws of 1993 make provisions to address the special health care needs of these racial and ethnic populations in order to improve their health status.

The legislature finds that uncontrolled demand and expenditures for health care are eroding the ability of families, businesses, communities, and governments to invest in other enterprises that promote health, maintain independence, and ensure continued economic welfare. Housing, nutrition, education, and the environment are all diminished as we invest ever increasing shares of wealth in health care treatments.

The legislature finds that while immediate steps must be taken, a long-term plan of reform is also needed."
[1993 c 492 § 101.]

Intent--1993 c 492: "(1) The legislature intends that state government policy stabilize health services costs, assure access to essential services for all residents, actively address the health care needs of persons of color, improve the public's health, and reduce unwarranted health services costs to preserve the viability of nonhealth care businesses.

(2) The legislature intends that:

(a) Total health services costs be stabilized and kept within rates of increase similar to the rates of personal income growth within a publicly regulated, private marketplace that preserves personal choice;

(b) State residents be enrolled in the certified health plan of their choice that meets state standards regarding affordability, accessibility, cost-effectiveness, and clinical efficaciousness;

(c) State residents be able to choose health services from the full range of health care providers, as defined in RCW 43.72.010(12), in a manner consistent with good health services management, quality assurance, and cost effectiveness;

(d) Individuals and businesses have the option to purchase any health services they may choose in addition to those included in the uniform benefits package or supplemental benefits;

(e) All state residents, businesses, employees, and government participate in payment for health services, with total costs to individuals on a sliding scale based on income to encourage efficient and appropriate utilization of services;

(f) These goals be accomplished within a reformed system using private service providers and facilities in a way that allows consumers to choose among competing plans operating within budget limits and other regulations that promote the public good; and

(g) A policy of coordinating the delivery, purchase, and provision of health services among the federal, state, local, and tribal governments be encouraged and accomplished by chapter 492, Laws of 1993.

(3) Accordingly, the legislature intends that chapter 492, Laws of 1993 provide both early implementation measures and a process for overall reform of the health services system." [1993 c 492 § 102.]

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Severability--1992 c 34: See note following RCW 69.07.170.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Savings--1985 c 213: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1985 c 213 § 31.]

Effective date--1985 c 213: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 213 § 33.]

Severability--1967 ex.s. c 102: See note following RCW 43.70.130.

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

RCW 43.20.100 Annual report.

The state board of health shall make an annual report to the governor including therein suggestions for such legislative action as it deems necessary.

[1977 c 75 § 44; 1965 c 8 § 43.20.100. Prior: 1891 c 98 § 11; RRS § 6007.]

RCW 43.20.110 Federal act on maternal and infancy hygiene accepted.

The provisions of the act of congress entitled "An Act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921, are hereby accepted by the state of Washington.

[1965 c 8 § 43.20.110. Prior: 1923 c 127 § 1; RRS § 10814-1.]

RCW 43.20.140 Services to crippled children--Rules and regulations.

The director of the state board of health shall be empowered to promulgate such rules and regulations as shall be necessary to effectuate and carry out the purposes of RCW 43.20A.635.

[1979 c 141 § 58; 1965 c 8 § 43.20.140. Prior: 1941 c 129 § 2; Rem. Supp. 1941 § 9992-107b. Formerly RCW 74.12.220.]

RCW 43.20.175 Violations--Injunctions and legal proceedings authorized.

See RCW 43.70.190.

RCW 43.20.185 Enforcement of health laws and state or local rules and regulations upon request of local health officer.

See RCW 43.70.200.

RCW 43.20.195 Reports of violations by secretary--Duty of attorney general, prosecuting attorney or city attorney to institute proceedings--Notice to alleged violator.

See RCW 43.20A.660.

RCW 43.20.200 Grant-in-aid payments for local health departments.

The state board of health is hereby authorized to provide grant-in-aid payments with state funds to assist in the cost of general operation of local health departments in accordance with standards established by the board.

[1967 ex.s. c 102 § 11.]

Notes:

Severability--1967 ex.s. c 102: See note following RCW 43.70.130.

RCW 43.20.215 Right of person to rely on prayer to alleviate ailments not abridged.

See RCW 43.70.210.

RCW 43.20.220 Cooperation with federal government--Construction of Title 70 RCW.

See RCW 70.01.010.

RCW 43.20.230 Water resource planning--Procedures, criteria, technical assistance.

Consistent with the water resource planning process of the department of ecology, the department of health shall:

(1) Develop procedures and guidelines relating to water use efficiency, as defined in *section 4(3), chapter 348, Laws of 1989, to be included in the development and approval of cost-efficient water system plans required under RCW 43.20.050;

(2) Develop criteria, with input from technical experts, with the objective of encouraging the cost-effective reuse of greywater and other water recycling practices, consistent with protection of public health and water quality;

(3) Provide advice and technical assistance upon request in the development of water use efficiency plans; and

(4) Provide advice and technical assistance on request for development of model conservation rate structures for public water systems. Subsections (1), (2), and (3) of this section are subject to the availability of funding.

[1993 sp.s. c 4 § 9; 1989 c 348 § 12.]

Notes:

***Reviser's note:** 1989 c 348 § 4 was vetoed.

Findings--Grazing lands--1993 sp.s. c 4: See RCW 79.01.2951.

Severability--1989 c 348: See note following RCW 90.54.020.

Rights not impaired--1989 c 348: See RCW 90.54.920.

RCW 43.20.235 Water conservation--Water delivery rate structures.

Water purveyors required to develop a water system plan pursuant to RCW 43.20.230 shall evaluate the feasibility of adopting and implementing water delivery rate structures that encourage water conservation. This information shall be included in water system plans submitted to the department of health for approval after July 1, 1993. The department shall evaluate the following:

- (1) Rate structures currently used by public water systems in Washington; and
- (2) Economic and institutional constraints to implementing conservation rate structures.

[1998 c 245 § 58; 1993 sp.s. c 4 § 10.]

Notes:

Findings--Grazing lands--1993 sp.s. c 4: See RCW 79.01.2951.

RCW 43.20.240 Public water systems--Complaint process.

(1) The department shall have primary responsibility among state agencies to receive complaints from persons aggrieved by the failure of a public water system. If the remedy to the complaint is not within the jurisdiction of the department, the department shall refer the complaint to the state or local agency that has the appropriate jurisdiction. The department shall take such steps as are necessary to inform other state agencies of their primary responsibility for such complaints and the implementing procedures.

(2) Each county shall designate a contact person to the department for the purpose of receiving and following up on complaint referrals that are within county jurisdiction. In the absence of any such designation, the county health officer shall be responsible for performing this function.

(3) The department and each county shall establish procedures for providing a reasonable response to complaints received from persons aggrieved by the failure of a public water system.

(4) The department and each county shall use all reasonable efforts to assist customers of public water systems in obtaining a dependable supply of water at all times. The availability of resources and the public health significance of the complaint shall be considered when determining what constitutes a reasonable effort.

(5) The department shall, in consultation with local governments, water utilities, water-sewer districts, public utility districts, and other interested parties, develop a booklet or other single document that will provide to members of the public the following information:

(a) A summary of state law regarding the obligations of public water systems in providing drinking water supplies to their customers;

(b) A summary of the activities, including planning, rate setting, and compliance, that are to be performed by both local and state agencies;

(c) The rights of customers of public water systems, including identification of agencies or offices to which they may address the most common complaints regarding the failures or inadequacies of public water systems.

This booklet or document shall be available to members of the public no later than January 1, 1991.

[1999 c 153 § 56; 1990 c 132 § 3.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Legislative findings--1990 c 132: "The legislature finds the best interests of the citizens of the state are served if:

(1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;

(2) There is improved coordination between state agencies engaged in water system planning and public health regulation and local governments responsible for land use planning and public health and safety; and

(3) Existing procedures and processes for water system planning are strengthened and fully implemented by state agencies, local government, and public water systems." [1990 c 132 § 1.]

Severability--1990 c 132: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 132 § 7.]

Chapter 43.20A RCW
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Sections

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43.20A.040	Secretary of social and health services--Appointment--Term--Salary--Temporary appointment if vacancy--As executive head and appointing authority.
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- 43.20A.165 Federal Safe Drinking Water Act--Department to participate in and administer in conjunction with other departments.
- 43.20A.167 Federal Older Americans Act of 1965--Department to participate in and administer.
- 43.20A.168 Community programs and projects for the aging.
- 43.20A.205 Denial, suspension, revocation, or modification of license.
- 43.20A.215 Assessment of civil fine.
- 43.20A.240 Veterans' rehabilitation council under department's jurisdiction--Secretary's duties.
- 43.20A.300 Department as state agency for receipt of federal funds for vocational rehabilitation--Exception.
- 43.20A.310 Vocational rehabilitation, powers and duties of secretary or designee.
- 43.20A.320 Consultation with coordinating council for occupational education.
- 43.20A.350 Committees and councils--Declaration of purpose.
- 43.20A.360 Committees and councils--Appointment--Memberships--Terms--Vacancies--Travel expenses.
- 43.20A.365 Drug reimbursement policy recommendations.
- 43.20A.390 Per diem or mileage--Limitation.
- 43.20A.400 Purchase of services from public or nonprofit agencies--Utilization of nonappropriated funds.
- 43.20A.405 Purchase of services from public or nonprofit agencies--Vendor rates--Establishment.
- 43.20A.410 Purchase of services from public or nonprofit agencies--Factors to be considered.
- 43.20A.415 Purchase of services from public or nonprofit agencies--Retention of basic responsibilities by secretary.
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- 43.20A.425 Purchase of services from public or nonprofit agencies--Qualifications of vendors.
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- 43.20A.445 State-operated workshops at institutions--Authorized--Standards.
- 43.20A.550 Federal programs--Rules and regulations--Internal reorganization to meet federal requirements--Statutes to be construed to meet federal law--Conflicting parts deemed inoperative.
- 43.20A.605 Authority to administer oaths and issue subpoenas--Provisions governing subpoenas.
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- 43.20A.610 Employment of deputies, experts, physicians, etc.
- 43.20A.635 Services to crippled children.
- 43.20A.637 Services to crippled children--Rules and regulations.
- 43.20A.660 Reports of violations by secretary--Duty of attorney general, prosecuting attorney or city attorney to institute proceedings--Notice to alleged violator.
- 43.20A.680 State council on aging established.
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- 43.20A.690 State council on aging--Meetings--Compensation of nonlegislative members.
- 43.20A.695 State council on aging--Powers and duties--Bylaws.
- 43.20A.710 Investigation of conviction records or pending charges of state employees and individual providers.
- 43.20A.720 Telecommunications devices and services for the hearing and speech impaired--Definitions.
- 43.20A.725 Telecommunications devices for the hearing and speech impaired--Program for provision of services and equipment--Telecommunications relay service excise tax--Rules.
- 43.20A.770 Administration of statutes applicable to runaway youth, at-risk youth, and families in conflict--Consistency required.
- 43.20A.780 Administration of family services and programs.
- 43.20A.790 Homeless families with children--Shelter and housing services.
- 43.20A.800 Vision services for the homeless--Coordination.
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43.20A.820	Vision services for the homeless--Use of used eyeglass frames by providers.
43.20A.830	Vision services for the homeless--Provider liability.
43.20A.840	Vision services for the homeless--Third party payers.
43.20A.845	Vision services for the homeless--Program name.
43.20A.850	Group homes--Availability of evaluations and data.
43.20A.860	Requirement to seek federal waivers and state law changes to medical assistance program.
43.20A.870	Children's services--Annual quality assurance report.
43.20A.930	Effective date--Severability--1970 ex.s. c 18.

NOTES:

Advisory committee on vendor rates--Created--Members--Chairman: RCW 74.32.100.

Air pollution

limitation on other governmental units or persons: RCW 70.94.370.

personnel, employment of: RCW 70.94.350.

Alcoholism

private establishments and institutions: Chapter 71.12 RCW.

treatment program, generally: Chapters 70.96, 70.96A, 74.50 RCW.

Birth certificates: RCW 70.58.080.

Boarding home licensing: Chapter 18.20 RCW.

Certificates for out-of-state marriage license requirements: RCW 70.58.380.

Child welfare agencies: RCW 74.15.060.

Children, expectant mothers, retarded adults, health protection as to agencies providing for, duties of secretary of health: RCW 74.15.060.

City sewerage systems, investigation: RCW 35.88.090.

Commission merchants, damaged or unfit products, certificate as to, issued by department: RCW 20.01.450.

Control of pet animals infected with diseases communicable to humans, secretary's duties: Chapter 16.70 RCW.

Council for the prevention of child abuse and neglect, secretary or designee as member: RCW 43.121.020.

County sewerage and water systems, approval by department: RCW 36.94.100.

Criminally insane, rights, responsibilities and duties: Chapter 10.77 RCW.

Displaced homemaker act, departmental participation: RCW 28B.04.080.

Drug-free workplace programs: Chapter 49.82 RCW.

Educational programs for residential school residents, departmental duties and authority: RCW 28A.190.020 through 28A.190.060.

Family preservation services: Chapter 74.14C RCW.

Fees for repository of vaccines and biologics: RCW 70.54.190.

Food stamps: RCW 74.04.500.

Health, department of, functions transferred to: RCW 43.70.900.

Hospital and medical facilities survey and construction

generally: Chapter 70.40 RCW.

secretary's duties: RCW 70.40.040.

state plan: RCW 70.40.090, 70.40.100.

Hospitals for mentally ill, private establishments

conferences with management: RCW 71.12.530.

examinations generally: RCW 71.12.510, 71.12.520.

Juvenile justice act of 1977, department and secretary's duties under: Chapter 13.40 RCW.

License

examination for compliance with: RCW 71.12.500.

examination of premises: RCW 71.12.480.

issuance: RCW 71.12.460.

Licensing of adult family homes: Chapter 70.128 RCW.

Medical assistance: Chapter 74.09 RCW.

Mental illness, department's duties relating to: Chapter 71.05 RCW.

Monitoring enrollee level in basic health plan and medicaid caseload of children--Funding levels adjustment: RCW 43.41.260.

Mosquito control, duties in regard to: Chapter 70.22 RCW.

Nursing homes licensing, duties concerning: Chapter 18.51 RCW.

Occupational and environmental research facility advisory committee, membership: RCW 28B.20.456.

Occupational forecast--Agency consultation: RCW 50.38.030.

Offices maintained at state capital: RCW 43.17.050.

Powers and duties, generally: RCW 43.17.030.

Public assistance: Chapters 74.08 and 74.09 RCW.

Purchase of products and services provided by sheltered workshops and group training centers: RCW 43.19.520 through 43.19.530.

Residential schools and/or homes for children with disabilities: RCW 28A.155.040.

Rules and regulations of department: RCW 43.17.060.

Sanitation advice to local authority: RCW 70.54.040.

Secretary

appointment: RCW 43.17.020.

chief assistants: RCW 43.17.040.

oath: RCW 43.17.030.

vacancy: RCW 43.17.020, 43.17.040.

Shellfish sanitation control: Chapter 69.30 RCW.

State otologist

appointment: RCW 70.50.010.

duties: RCW 70.50.020.

Temporary assistance for needy families: Chapter 74.12 RCW.

Victims of crimes, reimbursement by convicted person as condition of work release or parole: RCW 7.68.120.

Vital statistics: Chapter 70.58 RCW.

RCW 43.20A.005 Intent--Public involvement and outreach.

It is the intent of the legislature that the department of social and health services and the department of ecology, in consultation with affected constituent groups, continue appropriate public involvement and outreach mechanisms designed to provide cost-effective public input on their programs and policies.

[2001 c 291 § 1001.]

NOTES:

Part headings not law--Effective date--2001 c 291: See notes following RCW 43.20A.360.

RCW 43.20A.010 Purpose.

The department of social and health services is designed to integrate and coordinate all those activities involving provision of care for individuals who, as a result of their economic, social or health condition, require financial assistance, institutional care, rehabilitation or other social and health services. In order to provide for maximum efficiency of operation consistent with meeting the needs of those served or affected, the department will encompass substantially all of the powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the veterans' rehabilitation council and the

division of vocational rehabilitation of the coordinating council on occupational education. The department will concern itself with changing social needs, and will expedite the development and implementation of programs designed to achieve its goals. In furtherance of this policy, it is the legislative intent to set forth only the broad outline of the structure of the department, leaving specific details of its internal organization and management to those charged with its administration.

[1989 1st ex.s. c 9 § 211; 1979 c 141 § 60; 1970 ex.s. c 18 § 1.]

Notes:

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Effective date--1970 ex.s. c 18: *"Except as otherwise in this amendatory act provided, this 1970 amendatory act shall take effect on July 1, 1970." [1970 ex.s. c 18 § 69.]

***Reviser's note:** Phrase "Except as otherwise in this amendatory act provided" refers to 1970 ex.s. c 18 § 67, uncodified, which pertained to laws amended in existing education code and as the same were reenacted in the new education code, effective July 1, 1970, not otherwise pertinent hereto.

Severability--1970 ex.s. c 18: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application to other persons or circumstances, is not affected." [1970 ex.s. c 18 § 70.]

RCW 43.20A.020 Definitions.

As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of social and health services.
- (2) "Secretary" means the secretary of the department of social and health services.
- (3) "Deputy secretary" means the deputy secretary of the department of social and health services.
- (4) "Overpayment" means any department payment or department benefit to a recipient or to a vendor in excess of that to which the recipient or vendor is entitled by law, rule, or contract, including amounts in dispute pending resolution.
- (5) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions.

[1987 c 283 § 1; 1979 c 141 § 61; 1970 ex.s. c 18 § 2.]

Notes:

Severability--1987 c 283: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 283 § 17.]

Savings--1987 c 283: "The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, that is in existence on July 26, 1987." [1987 c 283 § 18.]

RCW 43.20A.025 "Appropriately trained professional person" defined by rule.

The department of social and health services shall adopt rules defining "appropriately trained professional person" for the purposes of conducting mental health and chemical dependency evaluations under RCW 71.34.052(3), 71.34.054(1), 70.96A.245(3), and 70.96A.250(1).

[1998 c 296 § 34.]

Notes:

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

RCW 43.20A.030 Department created--Powers and duties transferred to.

There is hereby created a department of state government to be known as the department of social and health services. All powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education are transferred to the department. Powers, duties and functions to be transferred shall include, but not be limited to, all those powers, duties and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs.

[1989 1st ex.s. c 9 § 212; 1979 c 141 § 62; 1970 ex.s. c 18 § 3.]

Notes:

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

RCW 43.20A.035 Inventory of charitable, educational, penal, and reformatory land.

The department shall conduct an inventory of real properties as provided in RCW 79.01.006.

[1991 c 204 § 2.]

RCW 43.20A.037 Affordable housing--Inventory of suitable housing.

(1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the department of community, trade, and economic development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land.

[1995 c 399 § 65; 1993 c 461 § 8.]

Notes:

Finding--1993 c 461: See note following RCW 43.63A.510.

RCW 43.20A.040 Secretary of social and health services--Appointment--Term--Salary--Temporary appointment if vacancy--As executive head and appointing authority.

The executive head and appointing authority of the department shall be the secretary of social and health services. He shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. He shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to that body his nomination for the office.

[1970 ex.s. c 18 § 4.]

RCW 43.20A.050 Secretary of social and health services--Powers and duties generally--Employment of assistants and personnel, limitation.

It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the secretary to institute the flexible, alert and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the secretary's authority is not specifically limited by law, he or she shall have complete charge and supervisory powers over the department. The secretary is authorized to create such administrative structures as deemed appropriate, except as otherwise specified by law. The secretary shall have the power to employ such assistants and personnel as may be necessary for the general administration of the department. Except as elsewhere specified, such employment shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW.

[1997 c 386 § 41; 1979 c 141 § 63; 1970 ex.s. c 18 § 5.]

RCW 43.20A.060 Departmental divisions--Plan establishing and organizing.

The department of social and health services shall be subdivided into divisions, including a division of vocational rehabilitation. Except as otherwise specified or as federal requirements may differently require, these divisions shall be established and organized in accordance with plans to be prepared by the secretary and approved by the governor. In preparing such plans, the secretary shall endeavor to promote efficient public management, to improve programs, and to take full advantage of the economies, both fiscal and administrative, to be gained from the consolidation of the departments of public assistance, institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education.

[1989 1st ex.s. c 9 § 213; 1979 c 141 § 64; 1970 ex.s. c 18 § 6.]

Notes:

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

RCW 43.20A.073 Rule making regarding sex offenders.

See RCW 72.09.337.

RCW 43.20A.075 Rule-making authority.

For rules adopted after July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule.

[1995 c 403 § 102.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 43.20A.080 Data sharing--Confidentiality--Penalties.

(1) The department shall provide the employment security department quarterly with the names and social security numbers of all clients in the WorkFirst program and any successor state welfare program.

(2) The information provided by the employment security department under RCW 50.13.060 for statistical analysis and welfare program evaluation purposes may be used only for statistical analysis, research, and evaluation purposes as provided in RCW 74.08A.410 and 74.08A.420. Through individual matches with accessed employment security department confidential employer wage files, only aggregate, statistical, group level data shall be reported. Data sharing by the employment security department may be extended to include the office of financial management and other such governmental entities with oversight responsibility for this program.

(3) The department and other agencies of state government shall protect the privacy of confidential personal data supplied under RCW 50.13.060 consistent with federal law, chapter 50.13 RCW, and the terms and conditions of a formal data-sharing agreement between the employment security department and agencies of state government, however the misuse or unauthorized use of confidential data supplied by the employment security department is subject to the penalties in RCW 50.13.080.

[1997 c 58 § 1005.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 43.20A.090 Deputy secretary--Department personnel director--Assistant secretaries--Appointment--Duties--Salaries.

The secretary shall appoint a deputy secretary, a department personnel director and such assistant secretaries as shall be needed to administer the department. The deputy secretary shall have charge and general supervision of the department in the absence or disability of the

secretary, and in case of a vacancy in the office of secretary, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting secretary. The secretary shall appoint an assistant secretary to administer the juvenile rehabilitation responsibilities required of the department by chapters 13.04, 13.40, and 13.50 RCW. The officers appointed under this section, and exempt from the provisions of the state civil service law by the terms of RCW 41.06.076, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law.

[1994 sp.s. c 7 § 515; 1970 ex.s. c 18 § 7.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

RCW 43.20A.100 Certain personnel exempted from state civil service law--Minimum qualifications for confidential secretaries.

See RCW 41.06.076.

RCW 43.20A.105 Social worker V employees--Implementation plan.

The secretary shall develop a plan for implementation for the social worker V employees. The implementation plan shall be submitted to the governor and the legislature by December 1, 1997. The department shall begin implementation of the plan beginning April 1, 1998. The department shall perform the duties assigned under *sections 3 through 5, chapter 386, Laws of 1997 and RCW 41.06.076 within existing personnel resources.

[1997 c 386 § 5.]

Notes:

***Reviser's note:** 1997 c 386 §§ 3 and 4 were vetoed by the governor. 1997 c 386 § 5 was codified as RCW 43.20A.105.

RCW 43.20A.110 Secretary's delegation of powers and duties.

The secretary may delegate any power or duty vested in or transferred to him by law, or executive order, to his deputy secretary or to any other assistant or subordinate; but the secretary shall be responsible for the official acts of the officers and employees of the department.

[1970 ex.s. c 18 § 9.]

RCW 43.20A.130 Secretary or designee as member of state board of health.

See RCW 43.20.030.

RCW 43.20A.158 Health protection for certain children, expectant mothers and adult retarded, powers and duties of secretary of health.

See RCW 74.15.060.

RCW 43.20A.160 Department as state radiation control agency.

See RCW 70.98.050.

RCW 43.20A.165 Federal Safe Drinking Water Act--Department to participate in and administer in conjunction with other departments.

See RCW 43.21A.445.

RCW 43.20A.167 Federal Older Americans Act of 1965--Department to participate in and administer.

See RCW 74.36.100.

RCW 43.20A.168 Community programs and projects for the aging.

See RCW 74.36.110 through 74.36.130.

RCW 43.20A.205 Denial, suspension, revocation, or modification of license.

This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in another manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(c) When the department has received certification pursuant to chapter 74.20A RCW from the division of child support that the licensee is a person who is not in compliance with a support order or an order from court stating that the licensee is in noncompliance with a residential or visitation order under *chapter 26.09 RCW, the department shall provide that the suspension is effective immediately upon receipt of the suspension notice by the licensee.

(3) Except for licensees suspended for noncompliance with a support order under chapter 74.20A RCW or a residential or visitation order under *chapter 26.09 RCW, a license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

[1997 c 58 § 841; 1989 c 175 § 95.]

Notes:

***Reviser's note:** 1997 c 58 § 887 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates--Intent--1997 c 58: See notes following RCW 74.20A.320.

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 43.20A.215 Assessment of civil fine.

This section governs the assessment of a civil fine against a person by the department.

(1) The department shall written give [written] notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause.

[1989 c 175 § 96.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 43.20A.240 Veterans' rehabilitation council under department's jurisdiction--Secretary's duties.

See chapter 43.61 RCW.

RCW 43.20A.300 Department as state agency for receipt of federal funds for vocational rehabilitation--Exception.

Except as provided in RCW 74.18.060, the department of social and health services shall serve as the sole agency of the state for the receipt of federal funds made available by acts of congress for vocational rehabilitation within this state.

[1983 c 194 § 28; 1977 ex.s. c 40 § 15; 1970 ex.s. c 18 § 40.]

Notes:

Severability--Effective dates--1983 c 194: See RCW 74.18.902 and 74.18.903.

Severability--1977 ex.s. c 40: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 40 § 25.]

RCW 43.20A.310 Vocational rehabilitation, powers and duties of secretary or designee.

In addition to his other powers and duties, the secretary or his designee, shall have the following powers and duties:

- (1) To prepare, adopt and certify the state plan for vocational rehabilitation;
- (2) With respect to vocational rehabilitation, to adopt necessary rules and regulations and do such other acts not forbidden by law necessary to carry out the duties imposed by state law and the federal acts;
- (3) To carry out the aims and purposes of the acts of congress pertaining to vocational rehabilitation.

[1979 c 141 § 65; 1970 ex.s. c 18 § 42.]

RCW 43.20A.320 Consultation with coordinating council for occupational education.

The secretary or his designee shall consult with the coordinating council for occupational education in order to maintain close contact with developing programs of vocational education, particularly as such programs may affect programs undertaken in connection with vocational rehabilitation.

[1970 ex.s. c 18 § 43.]

RCW 43.20A.350 Committees and councils--Declaration of purpose.

The legislature declares that meaningful citizen involvement with and participation in the planning and programs of the department of social and health services are essential in order that the public may better understand the operations of the department, and the department staff may obtain the views and opinions of concerned and affected citizens. As a result of the creation of the department of social and health services and the resulting restructuring of programs and organization of the department's components, and as a further result of the legislative mandate to the department to organize and deliver services in a manner responsive to changing needs and conditions, it is necessary to provide for flexibility in the formation and functioning of the various committees and councils which presently advise the department, to restructure the present committees and councils, and to provide for new advisory committees and councils, so that all such committees and councils will more appropriately relate to the changing programs and services of the department.

[1971 ex.s. c 189 § 1.]

RCW 43.20A.360 Committees and councils--Appointment--Memberships--Terms--Vacancies--Travel expenses.

(1) The secretary is hereby authorized to appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The secretary may appoint statewide committees or councils in the following subject areas: (a) Health facilities; (b) children and youth services; (c) blind services; (d) medical and health care; (e) drug abuse and alcoholism; (f) social services; (g) economic services; (h) vocational services; (i) rehabilitative services; and on such other subject matters as are or come within the department's responsibilities. The statewide councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the secretary in his or her discretion may determine. The members of the committees or councils shall hold office for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall

serve more than two consecutive terms.

(2) Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

[2001 c 291 § 101. Prior: 1989 1st ex.s. c 9 § 214; 1989 c 11 § 14; 1984 c 259 § 1; 1981 c 151 § 6; 1977 c 75 § 45; 1975-'76 2nd ex.s. c 34 § 98; 1971 ex.s. c 189 § 2.]

NOTES:

Part headings not law--2001 c 291: "Part headings used in this act are not any part of the law." [2001 c 291 § 1002.]

Effective date--2001 c 291: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 291 § 1003.]

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability--1989 c 11: See note following RCW 9A.56.220.

Effective date--1981 c 151: See note following RCW 43.20A.680.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.20A.365 Drug reimbursement policy recommendations.

A committee or council required by federal law, within the department of social and health services, that makes policy recommendations regarding reimbursement for drugs under the requirements of federal law or regulations is subject to chapters 42.30 and 42.32 RCW.

[1997 c 430 § 2.]

RCW 43.20A.390 Per diem or mileage--Limitation.

Notwithstanding any other provision of chapter 189, Laws of 1971 ex. sess., no person shall receive as compensation or reimbursement for per diem or mileage authorized in chapter 189, Laws of 1971 ex. sess. any amount that would exceed the per diem or mileage provided in RCW 43.03.050 and 43.03.060.

[1971 ex.s. c 189 § 16.]

RCW 43.20A.400 Purchase of services from public or nonprofit agencies--Utilization of nonappropriated funds.

Notwithstanding any other provisions of law, the secretary of the department of social and health services is authorized to utilize nonappropriated funds made available to the department, in order to compliment the social and health services programs of the department by purchase of services from public or nonprofit agencies. The purpose of this authorization is to augment the services presently offered and to achieve pooling of public and nonprofit resources.

[1971 ex.s. c 309 § 1.]

RCW 43.20A.405 Purchase of services from public or nonprofit agencies--Vendor rates--Establishment.

After obtaining the review and advice of the governor's advisory committee on vendor rates, the secretary shall establish rates of payment for services which are to be purchased: PROVIDED, That the secretary shall afford all interested persons reasonable opportunity to submit data, views, or arguments, and shall consider fully all submissions respecting the proposed rates. Prior to the establishment of such rates, the secretary shall give at least twenty days notice of such intended action by mail to such persons or agencies as have made timely request of the secretary for advance notice of establishment of such vendor rates. Such rates shall not exceed the amounts reasonable and necessary to assure quality services and shall not exceed the costs reasonably assignable to such services pursuant to cost finding and monitoring procedures to be established by the secretary. Information to support such rates of payment shall be maintained in a form accessible to the public.

[1971 ex.s. c 309 § 2.]

RCW 43.20A.410 Purchase of services from public or nonprofit agencies--Factors to be considered.

In determining whether services should be purchased from other public or nonprofit agencies, the secretary shall consider:

- (1) Whether the particular service or services is available or might be developed.
- (2) The probability that program and workload performance standards will be met, by means of the services purchased.
- (3) The availability of reasonably adequate cost finding and performance evaluation criteria.

Nothing in RCW 43.20A.400 through 43.20A.430 is to be construed to authorize reduction in state employment in service component areas presently rendering such services.

[1971 ex.s. c 309 § 3.]

RCW 43.20A.415 Purchase of services from public or nonprofit agencies--Retention of basic responsibilities by secretary.

When, pursuant to RCW 43.20A.400 through 43.20A.430, the secretary elects to purchase a service or services, he shall retain continuing basic responsibility for:

- (1) Determining the eligibility of individuals for services;
- (2) The selection, quality, effectiveness, and execution of a plan or program of services suited to the need of an individual or of a group of individuals; and
- (3) Measuring the cost effectiveness of purchase of services.

[1971 ex.s. c 309 § 4.]

RCW 43.20A.420 Purchase of services from public or nonprofit agencies--Secretary to provide consultative, technical and development services to suppliers--Review of services.

The secretary shall work with the suppliers of purchased services by:

- (1) Providing consultation and technical assistance;
- (2) Monitoring and periodically reviewing services in order to assure satisfactory performance including adherence to state prescribed workload and quality standards; and
- (3) Developing new and more effective and efficient approaches to and methods of delivering services.

[1971 ex.s. c 309 § 5.]

RCW 43.20A.425 Purchase of services from public or nonprofit agencies--Qualifications of vendors.

The secretary shall assure that sources from which services are purchased are: (1) Licensed, or (2) meet applicable accrediting standards, or (3) in the absence of licensing or accrediting standards, meet standards or criteria established by the secretary to assure quality of service: PROVIDED, That this section shall not be deemed to dispense with any licensing or accrediting requirement imposed by any other provision of law, by any county or municipal ordinance, or by rule or regulation of any public agency.

[1971 ex.s. c 309 § 6.]

RCW 43.20A.430 Purchase of services from public or nonprofit agencies--Retention of sums to pay departmental costs.

The secretary shall, if not otherwise prohibited by law, pursuant to agreement between the department and the agency in each contract, retain from such nonappropriated funds sufficient sums to pay for the department's administrative costs, monitoring and evaluating delivery of services, and such other costs as may be necessary to administer the department's responsibilities under RCW 43.20A.400 through 43.20A.430.

[1971 ex.s. c 309 § 7.]

RCW 43.20A.445 State-operated workshops at institutions--Authorized--Standards.

The department may establish and operate workshops for the training, habilitation, and rehabilitation of residents of institutions of the department. Products, goods, wares, articles, or merchandise manufactured or produced by the workshops may be sold to governmental agencies or on the open market at fair value. Prior to establishment of new state-operated workshops at institutions, the department shall consider the availability, appropriateness, and relative cost of contracting with and giving first preference to private nonprofit sheltered workshops, as defined in RCW 82.04.385, to provide workshop activities for residents of the institution.

The secretary shall credit the moneys derived from the sale of items from workshops

under this section to a revolving fund under the control of the superintendent of the institution or facility where the items were manufactured. These moneys shall be expended for the purchase of supplies and materials for use in the workshop, to provide pay and training incentives for residents, and for other costs of the operation of the workshop. Payment of residents for work performed on workshop projects shall take into account resident productivity in comparison to the productivity of a nondisabled person earning the minimum wage as well as other factors consistent with goals of rehabilitation and treatment. Institutional work training programs shall be operated in accordance with standards required by the department for private vendors for the same or similar service.

Workshop materials and supplies may be purchased through state purchasing or from private vendors. Each institution or facility shall maintain records to demonstrate that purchases are made at the fair market value or best available price.

[1983 1st ex.s. c 41 § 20.]

Notes:

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 43.20A.550 Federal programs--Rules and regulations--Internal reorganization to meet federal requirements--Statutes to be construed to meet federal law--Conflicting parts deemed inoperative.

In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, such rules and regulations as may become necessary to entitle the state to participate in federal funds may be adopted, unless the same be expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any law dealing with the department is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of chapter 18, Laws of 1970 ex. sess. is declared to be inoperative solely to the extent of the conflict.

[1979 c 141 § 66; 1970 ex.s. c 18 § 66.]

RCW 43.20A.605 Authority to administer oaths and issue subpoenas--Provisions governing subpoenas.

(1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before him together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under

investigation.

(2) Subpoenas issued in adjudicative proceedings are governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2).

[1989 c 175 § 97; 1983 1st ex.s. c 41 § 21; 1979 c 141 § 47; 1967 ex.s. c 102 § 2. Formerly RCW 43.20.015.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

Severability--1967 ex.s. c 102: See note following RCW 43.70.130.

RCW 43.20A.607 Authority to appoint a single executive officer for multiple institutions--Exception.

The secretary may appoint one individual to serve as chief executive officer, administrator, or superintendent for more than one facility or institution of the department where one or both facilities or institutions are required by law to have a chief executive officer, administrator, or superintendent. This section, however, shall not apply to RCW 72.40.020.

[1983 1st ex.s. c 41 § 25.]

Notes:

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

Chief executive officers--Appointment: RCW 72.01.060.

RCW 43.20A.610 Employment of deputies, experts, physicians, etc.

The secretary may appoint and employ such deputies, scientific experts, physicians, nurses, sanitary engineers, and other personnel including consultants, and such clerical and other assistants as may be necessary to carry on the work of the department of social and health services.

[1979 c 141 § 48; 1967 ex.s. c 102 § 8; 1965 c 8 § 43.20.040. Prior: 1961 ex.s. c 5 § 1; 1921 c 7 § 57; RRS § 10815. Formerly RCW 43.20.040.]

Notes:

Severability--1967 ex.s. c 102: See note following RCW 43.70.130.

RCW 43.20A.635 Services to crippled children.

It shall be the duty of the secretary of social and health services and he shall have the power to establish and administer a program of services for children who are crippled or who are suffering from physical conditions which lead to crippling, which shall provide for developing, extending, and improving services for locating such children, and for providing for medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and

after care; to supervise the administration of those services, included in the program, which are not administered directly by it; to extend and improve any such services, including those in existence on April 1, 1941; to cooperate with medical, health, nursing, and welfare groups and organizations, and with any agency of the state charged with the administration of laws providing for vocational rehabilitation of physically handicapped children; to cooperate with the federal government, through its appropriate agency or instrumentality in developing, extending, and improving such services; and to receive and expend all funds made available to the department by the federal government, the state or its political subdivisions or from other sources, for such purposes.

[1979 c 141 § 52; 1965 c 8 § 43.20.130. Prior: 1941 c 129 § 1; Rem. Supp. 1941 § 9992-107a; prior: 1937 c 114 § 7. Formerly RCW 74.12.210; 43.20.130.]

Notes:

Children's center for research and training in mental retardation, assistant secretaries as members of advisory committee: RCW 28B.20.412.

Handicapped children, copy of commitment order transmitted to department: RCW 26.40.060.

RCW 43.20A.637 Services to crippled children--Rules and regulations.

See RCW 43.20.140.

RCW 43.20A.660 Reports of violations by secretary--Duty of attorney general, prosecuting attorney or city attorney to institute proceedings--Notice to alleged violator.

(1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20A RCW, or regulations promulgated thereunder, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20A RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views to the secretary, either orally or in writing, with regard to such contemplated proceeding.

[1989 1st ex.s. c 9 § 215; 1979 c 141 § 57; 1967 ex.s. c 102 § 7. Formerly RCW 43.20.190.]

Notes:

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability--1967 ex.s. c 102: See note following RCW 43.70.130.

RCW 43.20A.680 State council on aging established.

The state council on aging is hereby established as an advisory council to the governor, the secretary of social and health services, and the office of aging or any other office solely designated as the state unit on aging. The state council on aging may be designated by the governor to serve as the state advisory council to the state unit on aging with respect to federally

funded programs as required by federal regulation. The director of the state unit on aging shall provide appropriate staff support.

[1981 c 151 § 1.]

Notes:

Effective date--1981 c 151: "This act shall take effect September 1, 1981." [1981 c 151 § 8.]

RCW 43.20A.685 State council on aging--Membership--Terms--Vacancies--Chairperson--Secretary--Compensation of legislative members.

(1) The initial members of the council shall be appointed by the governor to staggered terms such that approximately one-third of the members serve terms of one year, one-third serve terms of two years, and one-third serve terms of three years. Thereafter, members of the council shall be appointed by the governor to terms of three years, except in the case of a vacancy, in which event appointment shall be for the remainder of the unexpired term for which the vacancy occurs. No member of the council may serve more than two consecutive three-year terms. One member shall be appointed from each state-designated planning and service area from a list of names transmitted by each area agency on aging advisory council, such list including the names of all persons nominated within the planning and service area together with the area agency on aging advisory council's recommendations. The governor shall appoint one additional member from names submitted by the association of Washington cities and one additional member from names submitted by the Washington state association of counties. In addition, the governor may appoint not more than five at large members, in order to ensure that rural areas (those areas outside of a standard metropolitan statistical area), minority populations, and those individuals with special skills which could assist the state council are represented. The members of the state council on aging shall elect, at the council's initial meeting and at the council's first meeting each year, one member to serve as chairperson of the council and another member to serve as secretary of the council.

(2) The speaker of the house of representatives and the president of the senate shall each appoint two nonvoting members to the council; one from each of the two largest caucuses in each house. The terms of the members so appointed shall be for approximately two years and the terms shall expire before the first day of the legislative session in odd-numbered years. They shall be compensated by their respective houses as provided under RCW 44.04.120, as now or hereafter amended.

(3) With the exception of the members from the Washington state association of cities, the Washington state association of counties, and the nonvoting legislative members, all members of the council shall be at least fifty-five years old.

[1981 c 151 § 2.]

Notes:

Effective date--1981 c 151: See note following RCW 43.20A.680.

RCW 43.20A.690 State council on aging--Meetings--Compensation of nonlegislative

members.

The state council on aging shall meet monthly unless determined otherwise by a majority vote of the members, which vote shall be taken at a regular meeting of the council. Nonlegislative members shall serve without compensation but shall be reimbursed for travel expenses and per diem in the performance of their duties as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

[1981 c 151 § 3.]

Notes:

Effective date--1981 c 151: See note following RCW 43.20A.680.

RCW 43.20A.695 State council on aging--Powers and duties--Bylaws.

(1) The state council on aging has the following powers and duties:

(a) To serve in an advisory capacity to the governor, the secretary of social and health services, and the state unit on aging on all matters pertaining to policies, programs, and services affecting older persons;

(b) To create public awareness of the special needs and potentialities of older persons; and

(c) To provide for self-advocacy by older citizens of the state through sponsorship of training, legislative and other conferences, workshops, and such other methods as may be deemed appropriate.

(2) The council shall establish bylaws to aid in the performance of its powers and duties.

[1981 c 151 § 4.]

Notes:

Effective date--1981 c 151: See note following RCW 43.20A.680.

RCW 43.20A.710 Investigation of conviction records or pending charges of state employees and individual providers.

(1) The secretary shall investigate the conviction records, pending charges and disciplinary board final decisions of:

(a) Any current employee or applicant seeking or being considered for any position with the department who will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities. This includes, but is not limited to, positions conducting comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(b) Individual providers who are paid by the state and providers who are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW; and

(c) Individuals or businesses or organizations for the care, supervision, case management,

or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

(2) The investigation may include an examination of state and national criminal identification data. The secretary shall use the information solely for the purpose of determining the character, suitability, and competence of these applicants.

(3) An individual provider or home care agency provider who has resided in the state less than three years before applying for employment involving unsupervised access to a vulnerable adult as defined in chapter 74.34 RCW must be fingerprinted for the purpose of investigating conviction records both through the Washington state patrol and the federal bureau of investigation. This subsection applies only with respect to the provision of in-home services funded by medicaid personal care under RCW 74.09.520, community options program entry system waiver services under RCW 74.39A.030, or chore services under RCW 74.39A.110. However, this subsection does not supersede RCW 74.15.030(2)(b).

(4) An individual provider or home care agency provider hired to provide in-home care for and having unsupervised access to a vulnerable adult as defined in chapter 74.34 RCW must have no conviction for a disqualifying crime under RCW 43.43.830 and 43.43.842. An individual or home care agency provider must also have no conviction for a crime relating to drugs as defined in RCW 43.43.830. This subsection applies only with respect to the provision of in-home services funded by medicaid personal care under RCW 74.09.520, community options program entry system waiver services under RCW 74.39A.030, or chore services under RCW 74.39A.110.

(5) The secretary shall provide the results of the background check on individual providers to the persons hiring them or to their legal guardians, if any, for their determination of the character, suitability, and competence of the applicants. If the person elects to hire or retain an individual provider after receiving notice from the department that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, then the secretary shall deny payment for any subsequent services rendered by the disqualified individual provider.

(6) Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose.

[2001 c 296 § 5; 2000 c 87 § 2; 1999 c 336 § 7; 1997 c 392 § 525; 1993 c 210 § 1; 1989 c 334 § 13; 1986 c 269 § 1.]

NOTES:

Intent--2001 c 296: See note following RCW 9.96A.060.

Finding--Intent--1999 c 336: See note following RCW 74.39.007.

Short title--Findings--Construction--Conflict with federal requirements--Part headings and captions not law--1997 c 392: See notes following RCW 74.39A.009.

Prospective application--1993 c 210: "This act applies prospectively except individuals who currently employ individual providers paid by the state may be given the option to request a state background check during reassessment for services." [1993 c 210 § 2.]

Children or vulnerable adults: RCW 43.43.830 through 43.43.842.

State employment in the supervision, care, or treatment of children or developmentally disabled persons--Rules on background investigation: RCW 41.06.475.

State hospitals: RCW 72.23.035.

RCW 43.20A.720 Telecommunications devices and services for the hearing and speech impaired--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.20A.725.

(1) "Hearing impaired" means those persons who are certified to be deaf, deaf-blind, or hard of hearing, and those persons who are certified to have a hearing disability limiting their access to telecommunications.

(2) "Speech impaired" means persons who are certified to be unable to speak or who are certified to have a speech impairment limiting their access to telecommunications.

(3) "Department" means the department of social and health services.

(4) "Office" means the office of deaf and hard of hearing within the state department of social and health services.

[2001 c 210 § 1; 1992 c 144 § 2; 1990 c 89 § 2; 1987 c 304 § 2.]

NOTES:

Legislative findings--1992 c 144: "The legislature finds that the state of Washington has shown national leadership in providing telecommunications access for the hearing impaired and speech impaired communities. The legislature further finds that the federal Americans with Disabilities Act requires states to further enhance telecommunications access for disabled persons and that the state should be positioned to allow this service to be delivered with fairness, flexibility, and efficiency." [1992 c 144 § 1.]

Severability--1992 c 144: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 144 § 6.]

Legislative finding--1990 c 89: "The legislature finds that provision of telecommunications devices and relay capability for hearing impaired persons is an effective and needed service which should be continued. The legislature further finds that the same devices and relay capability can serve and should be extended to serve speech impaired persons." [1990 c 89 § 1.]

Legislative findings--1987 c 304: "The legislature finds that it is more difficult for hearing impaired people to have access to the telecommunications system than hearing persons. It is imperative that hearing impaired people be able to reach government offices and health, human, and emergency services with the same ease as other taxpayers. Regulations to provide telecommunications devices for the deaf with a relay system will help ensure that the hearing impaired community has equal access to the public accommodations and telecommunications system in the state of Washington in accordance with chapter 49.60 RCW." [1987 c 304 § 1.]

Relation to other telecommunications device systems--1987 c 304: "Nothing in RCW 43.20A.725 and 43.20A.730 is inconsistent with any telecommunications device systems created by county legislative authorities under RCW 70.54.180. To the extent possible, the office, utilities and transportation commission, the TDD advisory committee, and any other persons or organizations implementing the provisions of RCW 43.20A.725 and 43.20A.730 will use the telecommunications devices already in place and work with county governments in ensuring that no duplication of services occurs." [1987 c 304 § 5.]

Short title--1987 c 304: "This act shall be known as the "Clyde Randolph Ketchum Act"." [1987 c 304 § 6.]

RCW 43.20A.725 Telecommunications devices for the hearing and speech impaired--Program for provision of services and equipment--Telecommunications relay service excise tax--Rules.

(1) The department, through the sole authority of the office or its successor organization, shall maintain a program whereby an individual of school age or older who possesses a hearing or speech impairment is provided with telecommunications equipment, software, and/or peripheral devices, digital or otherwise, that is determined by the office to be necessary for such a person to access and use telecommunications transmission services effectively.

(2) The department, through the sole authority of the office or its successor organization, shall maintain a program where telecommunications relay services of a human or electronic nature will be provided to connect hearing impaired, deaf-blind, or speech impaired persons with persons who do not have a hearing or speech impairment. Such telecommunications relay services shall provide the ability for an individual who has a hearing or speech impairment to engage in voice, tactile, or visual communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice or visual communication services by wire or radio subject to subsection (4)(b) of this section.

(3) The telecommunications relay service and equipment distribution program may operate in such a manner as to provide communications transmission opportunities that are capable of incorporating new technologies that have demonstrated benefits consistent with the intent of this chapter and are in the best interests of the citizens of this state.

(4) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services according to this section. The relay service contract shall be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval. The relay system providers and telecommunications equipment vendors shall be selected on the basis of cost-effectiveness and utility to the greatest extent possible under the program and technical specifications established by the office.

(a) To the extent funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter, the office may award contracts for communications and related services and equipment for hearing impaired or speech impaired individuals accessing or receiving services provided by, or contracted for, the department to meet access obligations under Title 2 of the federal Americans with disabilities act or related federal regulations.

(b) The office shall perform its duties under this section with the goal of achieving functional equivalency of access to and use of telecommunications services similar to the enjoyment of access to and use of such services experienced by an individual who does not have

a hearing or speech impairment only to the extent that funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter.

(5) The program shall be funded by a telecommunications relay service (TRS) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine, in consultation with the office's program advisory committee, the budget needed to fund the program on an annual basis, including both operational costs and a reasonable amount for capital improvements such as equipment upgrade and replacement. The budget proposed by the office, together with documentation and supporting materials, shall be submitted to the office of financial management for review and approval. The approved budget shall be given by the department in an annual budget to the utilities and transportation commission no later than March 1 prior to the beginning of the fiscal year. The utilities and transportation commission shall then determine the amount of telecommunications relay service excise tax to be placed on each access line and shall inform each local exchange company of this amount no later than May 15. The utilities and transportation commission shall determine the amount of telecommunications relay service excise tax by dividing the total of the program budget, as submitted by the office, by the total number of access lines, and shall not exercise any further oversight of the program under this subsection. The telecommunications relay service excise tax shall not exceed nineteen cents per month per access line. Each local exchange company shall impose the amount of excise tax determined by the commission as of July 1, and shall remit the amount collected directly to the department on a monthly basis. The telecommunications relay service excise tax shall be separately identified on each ratepayer's bill with the following statement: "Funds federal ADA requirement." All proceeds from the telecommunications relay service excise tax shall be put into a fund to be administered by the office through the department.

(6) The telecommunications relay service program and equipment vendors shall provide services and equipment consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for ensuring compliance with federal requirements and shall provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

(7) The department shall adopt rules establishing eligibility criteria, ownership obligations, financial contributions, and a program for distribution to individuals requesting and receiving such telecommunications devices distributed by the office, and other rules necessary to administer programs and services consistent with this chapter.

[2001 c 210 § 2; 1998 c 245 § 59; 1993 c 425 § 1; 1992 c 144 § 3; 1990 c 89 § 3; 1987 c 304 § 3.]

NOTES:

Effective date--1993 c 425: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 425 § 2.]

Legislative findings--Severability--1992 c 144: See notes following RCW 43.20A.720.

Legislative finding--1990 c 89: See note following RCW 43.20A.720.

RCW 43.20A.770 Administration of statutes applicable to runaway youth, at-risk youth, and families in conflict--Consistency required.

The department shall ensure that the administration of chapter 13.32A RCW and applicable portions of chapter 74.13 RCW relating to runaway youth, at-risk youth, and families in conflict is consistent in all areas of the state and in accordance with statutory requirements.

[1991 c 364 § 6.]

Notes:

Conflict with federal requirements--1991 c 364: See note following RCW 70.96A.020.

RCW 43.20A.780 Administration of family services and programs.

The secretary shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025.

[1992 c 198 § 9.]

Notes:

Severability--Effective date--1992 c 198: See RCW 70.190.910 and 70.190.920.

RCW 43.20A.790 Homeless families with children--Shelter and housing services.

(1) The department shall collaborate with the department of community, trade, and economic development in the development of the coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650, which designates the department of community, trade, and economic development as the state agency with primary responsibility for providing shelter and housing services to homeless families with children. In fulfilling its responsibilities to collaborate with the department of community, trade, and economic development pursuant to RCW 43.63A.650, the department shall develop, administer, supervise, and monitor its portion of the plan. The department's portion of the plan shall contain at least the following elements:

- (a) Coordination or linkage of services with shelter and housing;
- (b) Accommodation and addressing the needs of homeless families in the design and administration of department programs;
- (c) Participation of the department's local offices in the identification, assistance, and referral of homeless families; and
- (d) Ongoing monitoring of the efficiency and effectiveness of the plan's design and implementation.

(2) The department shall include community organizations involved in the delivery of services to homeless families with children, and experts in the development and ongoing evaluation of the plan.

(3) The duties under this section shall be implemented within amounts appropriated for that specific purpose by the legislature in the operating and capital budgets.

[1999 c 267 § 2.]

Notes:

Findings--Intent--1999 c 267: "The legislature finds that homelessness for families with children is a serious, widespread problem that has a devastating effect on children, including significant adverse effects upon their growth and development. Planning for and serving the shelter and housing needs of homeless families with children has been and continues to be a responsibility of the department of community, trade, and economic development. The legislature further finds that the department of social and health services also plays an important role in addressing the service needs of homeless families with children. In order to adequately and effectively address the complex issues confronting homeless families with children, planning for, implementing, and evaluating such services must be a collaborative effort between the department of community, trade, and economic development and the department of social and health services, other local, state, and federal agencies, and community organizations. It is the intent of the legislature that the department of community, trade, and economic development and the department of social and health services jointly present the plan to the appropriate committees of the legislature as required in section 3 of this act. It is the intent of the legislature that children should not be placed or retained in the foster care system if family homelessness is the primary reason for placement or the continuation of their placement. It is the further intent of the legislature that services to homeless families with children shall be provided within funds appropriated for that specific purpose by the legislature in the operating and capital budgets. Nothing in this act is intended to prevent the court's review of the plan developed by the department of social and health services and the department of community, trade, and economic development under *Washington State Coalition for the Homeless v. Department of Social and Health Services*, King County Superior Court No. 91-2-15889-4. However, it is the intent of the legislature that the court's review in that proceeding be confined solely to review of the plan submitted under the order of February 4, 1998. Nothing in sections 1 through 10 of this act is intended to grant the court in this proceeding continuing review over the department of social and health services after July 25, 1999." [1999 c 267 § 1.]

Severability--1999 c 267: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1999 c 267 § 25.]

RCW 43.20A.800 Vision services for the homeless--Coordination.

The secretary of the department of social and health services shall coordinate the efforts of nonprofit agencies working with the homeless, the Washington academy of eye physicians and surgeons, the Washington optometric association, and the opticians association of Washington to deliver vision services to the homeless free of charge. The secretary shall enter into agreements identifying cooperating agencies and the circumstances under which specified services will be delivered.

[1993 c 96 § 2.]

Notes:

Findings--1993 c 96: "The legislature finds that many homeless people in the state of Washington have impaired eyesight that reduces their chances of obtaining employment or training for employment. The legislature finds that it is in the public interest to facilitate ophthalmologists, optometrists, and opticians in providing free vision services to homeless people of the state." [1993 c 96 § 1.]

RCW 43.20A.810 Vision services for the homeless--Funding.

To the extent consistent with the department's budget, the secretary shall pay for the eyeglasses hardware prescribed and dispensed pursuant to the program set up in RCW 43.20A.800 through 43.20A.840. The secretary shall also attempt to obtain private sector

funding for this program.

[1993 c 96 § 3.]

Notes:

Findings--1993 c 96: See note following RCW 43.20A.800.

RCW 43.20A.820 Vision services for the homeless--Use of used eyeglass frames by providers.

Ophthalmologists, optometrists, and dispensing opticians may utilize used eyeglass frames obtained through donations to this program.

[1993 c 96 § 4.]

Notes:

Findings--1993 c 96: See note following RCW 43.20A.800.

RCW 43.20A.830 Vision services for the homeless--Provider liability.

An ophthalmologist, optometrist, or dispensing optician who provides:

(1) Free vision services; or

(2) Eyeglasses, or any part thereof, including used frames, at or below retail cost to homeless people in the state of Washington

and who is not reimbursed for such services or eyeglasses as allowed for in RCW 43.20A.840, is not liable for civil damages for injury to a homeless person resulting from any act or omission in providing such services or eyeglasses, other than an act or omission constituting gross negligence or intentional conduct.

[1993 c 96 § 5.]

Notes:

Findings--1993 c 96: See note following RCW 43.20A.800.

RCW 43.20A.840 Vision services for the homeless--Third party payers.

Nothing in RCW 43.20A.800 through 43.20A.840 shall prevent ophthalmologists, optometrists, or dispensing opticians from collecting for either their goods or services, or both from third-party payers covering the goods or services for homeless persons.

[1993 c 96 § 6.]

Notes:

Findings--1993 c 96: See note following RCW 43.20A.800.

RCW 43.20A.845 Vision services for the homeless--Program name.

The program created in RCW 43.20A.800 through 43.20A.840 shall be known as the eye care for the homeless program in Washington.

[1993 c 96 § 7.]

Notes:

Findings--1993 c 96: See note following RCW 43.20A.800.

RCW 43.20A.850 Group homes--Availability of evaluations and data.

The secretary of social and health services shall make all of the department's evaluation and research materials and data on private nonprofit group homes available to group home contractors. The department may delete any information from the materials that identifies a specific client or contractor, other than the contractor requesting the materials.

[1994 sp.s. c 7 § 322.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

RCW 43.20A.860 Requirement to seek federal waivers and state law changes to medical assistance program.

The department of social and health services, in consultation with the health care authority, the office of financial management, and other appropriate state agencies, shall seek necessary federal waivers and state law changes to the medical assistance program of the department to achieve greater coordination in financing, purchasing, and delivering health services to low-income residents of Washington state in a cost-effective manner, and to expand access to care for these low-income residents. Such waivers shall include any waiver needed to require that point-of-service cost-sharing, based on recipient household income, be applied to medical assistance recipients. In negotiating the waiver, consideration shall be given to the degree to which benefits in addition to the minimum list of services should be offered to medical assistance recipients.

[1995 c 265 § 26.]

Notes:

Captions not law--Effective dates--Savings--Severability--1995 c 265: See notes following RCW 70.47.015.

RCW 43.20A.870 Children's services--Annual quality assurance report.

The department shall prepare an annual quality assurance report that shall include but is not limited to: (1) Performance outcomes regarding health and safety of children in the children's services system; (2) children's length of stay in out-of-home placement from each date of referral; (3) adherence to permanency planning timelines; and (4) the response time on child protective services investigations differentiated by risk level determined at intake.

[1999 c 372 § 7; 1997 c 386 § 47.]

RCW 43.20A.930 Effective date--Severability--1970 ex.s. c 18.

See notes following RCW 43.20A.010.

Chapter 43.20B RCW
REVENUE RECOVERY FOR DEPARTMENT OF SOCIAL AND HEALTH SERVICES

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GENERAL PROVISIONS

RCW 43.20B.010 Definitions.

The definitions in this section apply throughout this chapter:

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services.

(3) "License" means that exercise of regulatory authority by the secretary to grant permission, authority, or liberty to do or to forbear certain activities. The term includes licenses, permits, certifications, registrations, and other similar terms.

(4) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions.

(5) "Overpayment" means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute.

[1987 c 75 § 42.]

RCW 43.20B.020 Fees for services--Department of health and department of social and health services.

The department of social and health services and the department of health are authorized to charge fees for services provided unless otherwise prohibited by law. The fees may be sufficient to cover the full cost of the service provided if practical or may be charged on an ability-to-pay basis if practical. This section does not supersede other statutory authority enabling the assessment of fees by the departments. Whenever the department of social and health services is authorized by law to collect total or partial reimbursement for the cost of its providing care of or exercising custody over any person, the department shall collect the reimbursement to the extent practical.

[1991 c 3 § 295; 1981 1st ex.s. c 6 § 25. Formerly RCW 43.20A.670.]

Notes:

Effective date--Severability--1981 1st ex.s. c 6: See notes following RCW 74.04.005.

RCW 43.20B.030 Overpayments and debts due the department--Time limit--Write-offs and compromises--Report to legislative committees.

(1) Except as otherwise provided by law, there will be no collection of overpayments and other debts due the department after the expiration of six years from the date of notice of such overpayment or other debt unless the department has commenced recovery action in a court of law or unless an administrative remedy authorized by statute is in place. However, any amount due in a case thus extended shall cease to be a debt due the department at the expiration of ten years from the date of the notice of the overpayment or other debt unless a court-ordered remedy would be in effect for a longer period.

(2)(a) The department, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of any debt due the department if it is no longer cost-effective to pursue. The department shall adopt rules establishing the considerations to be made in the granting or denial of a partial or total write-off of debts.

(b) Beginning December 1, 1997, the department shall report by December 1 each year to the commerce and labor committees of the senate and house of representatives, the senate ways

and means committee, and the house appropriations committee, or successor committees, the following information:

- (i) The cumulative amount of debt due the department;
- (ii) The cumulative amount of debt that has been written off by the department as no longer cost-effective to pursue;
- (iii) The amount of debt due the department that has accrued in each of the previous five fiscal years; and
- (iv) The amount of debt that has been written off in each of the previous five fiscal years as no longer cost-effective to pursue.

[1997 c 130 § 5; 1989 c 78 § 4; 1987 c 283 § 6; 1979 c 141 § 308; 1965 ex.s. c 91 § 2. Formerly RCW 74.04.306.]

Notes:

Severability--Savings--1987 c 283: See notes following RCW 43.20A.020.

RCW 43.20B.040 Chapter does not apply where another party liable--Statement of lien--Form.

The form of the lien in RCW 43.20B.060 shall be substantially as follows:

STATEMENT OF LIEN

Notice is hereby given that the State of Washington, Department of Social and Health Services, has rendered assistance or provided residential care to, a person who was injured on or about the day of in the county of state of, and the said department hereby asserts a lien, to the extent provided in RCW 43.20B.060, for the amount of such assistance or residential care, upon any sum due and owing (name of injured person) from, alleged to have caused the injury, and/or his or her insurer and from any other person or insurer liable for the injury or obligated to compensate the injured person on account of such injuries by contract or otherwise.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES

By: (Title)

STATE OF WASHINGTON)
 |
 | ss.
 |
COUNTY OF |
)

I,, being first duly sworn, on oath state: That I am (title); that I have read the foregoing Statement of Lien, know the contents thereof, and believe the same to be

true.

.....
Signed and sworn to or affirmed before me this
day of, 19. . .
by
(name of person making statement).

(Seal or stamp)

.....
Notary Public in and for the State
of Washington
My appointment expires:

[1990 c 100 § 3; 1979 c 141 § 341; 1969 ex.s. c 173 § 9. Formerly RCW 74.09.182.]

RCW 43.20B.050 Liens--Compromise--Settlement or judgment.

(1) No settlement made by and between the recipient and tort feisor and/or insurer shall discharge or otherwise compromise the lien created in RCW 43.20B.060 without the express written consent of the secretary. Discretion to compromise such liens rests solely with the secretary or the secretary's designee.

(2) No settlement or judgment shall be entered purporting to compromise the lien created by RCW 43.20B.060 without the express written consent of the secretary or the secretary's designee.

[1990 c 100 § 4; 1969 ex.s. c 173 § 12. Formerly RCW 74.09.186.]

Notes:

Application--1990 c 100 §§ 2, 4, 7(1), 8(2): See note following RCW 43.20B.060.

RCW 43.20B.060 Reimbursement for medical care or residential care--Lien--Subrogation--Delegation of lien and subrogation rights.

(1) To secure reimbursement of any assistance paid under chapter 74.09 RCW or reimbursement for any residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the department shall be subrogated to the recipient's rights against a tort feisor or the tort feisor's insurer, or both.

(2) The department shall have a lien upon any recovery by or on behalf of the recipient from such tort feisor or the tort feisor's insurer, or both to the extent of the value of the assistance paid or residential care provided by the department, provided that such lien shall not be effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien shall become effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tort feisor or

insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the department's discretion, such alternate filing or service is necessary to secure the department's interest. The additional lien shall be effective upon filing or service.

(3) The lien of the department shall be upon any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tortfeasor or insurer of the tortfeasor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing coverage for the illness or injuries for which the assistance or residential care is paid or provided by the department.

(4) If recovery is made by the department under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the department shall bear its proportionate share of attorneys' fees and costs.

(a) The determination of the proportionate share to be borne by the department shall be based upon:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

(b) When fees and costs have been approved by a court, after notice to the department, the department shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share.

(c) When fees and costs have not been addressed by the court, the department shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The department may bring an action in superior court to void a settlement if it believes the attorneys' calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature.

(5) The rights and remedies provided to the department in this section to secure reimbursement for assistance, including the department's lien and subrogation rights, may be delegated to a managed health care system by contract entered into pursuant to RCW 74.09.522. A managed health care system may enforce all rights and remedies delegated to it by the department to secure and recover assistance provided under a managed health care system consistent with its agreement with the department.

[1997 c 236 § 2; 1990 c 100 § 7.]

Notes:

Application--1990 c 100 §§ 2, 4, 7(1), 8(2): "Sections 2, 4, 7(1), and 8(2) of this act apply to all existing claims against third parties for which settlements have not been reached or judgments entered by June 7, 1990."

[1990 c 100 § 13.]

RCW 43.20B.070 Torts committed against recipients of state assistance--Duties of attorney representing recipient--Trust account for departmental lien.

(1) An attorney representing a person who, as a result of injuries or illness sustained through the negligence or wrong of another, has received, is receiving, or has applied to receive assistance under chapter 74.09 RCW, or residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, shall:

(a) Notify the department at the time of filing any claim against a third party, commencing an action at law, negotiating a settlement, or accepting a settlement offer from the tortfeasor or the tortfeasor's insurer, or both; and

(b) Give the department thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or recipient to recover damages for such injuries or illness.

(2) The proceeds from any recovery made pursuant to any action or claim described in RCW 43.20B.060 that is necessary to fully satisfy the department's lien against recovery shall be placed in a trust account or in the registry of the court until the department's lien is satisfied.

[1999 c 55 § 1; 1990 c 100 § 8.]

Notes:

Application--1990 c 100 §§ 2, 4, 7(1), 8(2): See note following RCW 43.20B.060.

RCW 43.20B.080 Recovery for paid medical assistance--Rules--Disclosure of estate recovery costs, terms, and conditions.

(1) The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p.

(2) Liens may be adjusted by foreclosure in accordance with chapter 61.12 RCW.

(3) In the case of an individual who was fifty-five years of age or older when the individual received medical assistance, the department shall seek adjustment or recovery from the individual's estate, and from nonprobate assets of the individual as defined by RCW 11.02.005, but only for medical assistance consisting of nursing facility services, home and community-based services, other services that the department determines to be appropriate, and related hospital and prescription drug services. Recovery from the individual's estate, including foreclosure of liens imposed under this section, shall be undertaken as soon as practicable, consistent with 42 U.S.C. Sec. 1396p.

(4) The department shall apply the medical assistance estate recovery law as it existed on the date that benefits were received when calculating an estate's liability to reimburse the department for those benefits.

(5)(a) The department shall establish procedures consistent with standards established by the federal department of health and human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when such recovery would work an undue hardship.

(b) Recovery of medical assistance from a recipient's estate shall not include property made exempt from claims by federal law or treaty, including exemption for tribal artifacts that may be held by individual Native Americans.

(6) A lien authorized under subsections (1) through (5) of this section relates back to

attach to any real property that the decedent had an ownership interest in immediately before death and is effective as of that date.

(7) The department is authorized to adopt rules to effect recovery under this section. The department may adopt by rule later enactments of the federal laws referenced in this section.

(8) It is the responsibility of the department to fully disclose in advance verbally and in writing, in easy to understand language, the terms and conditions of estate recovery to all persons offered long-term care services subject to recovery of payments.

(9) In disclosing estate recovery costs to potential clients, and to family members at the consent of the client, the department shall provide a written description of the community service options.

(10) The department of social and health services shall develop an implementation plan for notifying the client or his or her legal representative at least quarterly of the types of services used and the cost of those services (debt) that will be charged against the estate. The estate planning implementation plan shall be submitted by December 12, 1999, to the appropriate standing committees of the house of representatives and the senate, and to the joint legislative and executive task force on long-term care.

[1999 c 354 § 2; 1997 c 392 § 302; 1995 1st sp.s. c 18 § 67; 1994 c 21 § 3.]

Notes:

Short title--Findings--Construction--Conflict with federal requirements--Part headings and captions not law--1997 c 392: See notes following RCW 74.39A.009.

Conflict with federal requirements--Severability--Effective date--1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

Conflict with federal requirements--1994 c 21: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1994 c 21 § 5.]

Effective date--1994 c 21: "This act shall take effect July 1, 1994." [1994 c 21 § 6.]
Legislative confirmation of effect of 1994 c 21: RCW 43.20B.090.

RCW 43.20B.090 Recovery for paid medical assistance and state-funded long-term care--Legislative intent--Legislative confirmation of effect of 1994 c 21.

(1) It is the intent of the legislature to ensure that needy individuals have access to basic long-term care without requiring them to sell their homes. In the face of rising medical costs and limited funding for social welfare programs, however, the state's medicaid and state-funded long-term care programs have placed an increasing financial burden on the state. By balancing the interests of individuals with immediate and future unmet medical care needs, surviving spouses and dependent children, adult nondependent children, more distant heirs, and the state, the estate recovery provisions of RCW 43.20B.080 and 74.39A.170 provide an equitable and reasonable method of easing the state's financial burden while ensuring the continued viability of the medicaid and state-funded long-term care programs.

(2) It is further the intent of the legislature to confirm that chapter 21, Laws of 1994, effective July 1, 1994, repealed and substantially reenacted the state's medicaid estate recovery laws and did not eliminate the department's authority to recover the cost of medical assistance paid prior to October 1, 1993, from the estates of deceased recipients regardless of whether they received benefits before, on, or after July 1, 1994.

[1997 c 392 § 301.]

Notes:

Short title--Findings--Construction--Conflict with federal requirements--Part headings and captions not law--1997 c 392: See notes following RCW 74.39A.009.

NONRESIDENTIAL FEES AND COSTS OF SERVICES

RCW 43.20B.110 License fees to be charged by secretary--Waiver--Review and comment.

(1) The secretary shall charge fees to the licensee for obtaining a license. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of social and health services advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

(4) Fees associated with the licensing or regulation of health professions or health facilities administered by the department of health, shall be in accordance with RCW 43.70.110 and 43.70.250.

[1991 c 3 § 296; 1989 1st ex.s. c 9 § 216; 1987 c 75 § 6; 1982 c 201 § 2. Formerly RCW 43.20A.055.]

Notes:

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

RCW 43.20B.120 Funeral assistance--Lien against assets.

If the department furnishes funeral assistance for deceased recipients under *RCW 74.08.120, the department shall have a lien against those assets left to a surviving spouse or minor children under those conditions defined in *RCW 74.08.120. The lien is valid for six years from the date of filing with the county auditor and has preference over the claims of all unsecured creditors. If the assets remain exempt or if no probate is commenced, the lien automatically terminates without further action six years after filing.

[1987 c 75 § 45.]

Notes:

***Reviser's note:** RCW 74.08.120 was repealed by 1997 c 58 § 1002.

RESIDENTIAL SERVICES

RCW 43.20B.310 Residential care payments by families, when not collected.

No payment may be collected by the department for residential care if the collection will reduce the income as defined in RCW 74.04.005 of the head of household and remaining dependents below one hundred percent of the need standard for temporary assistance for needy families.

[1997 c 59 § 6; 1983 1st ex.s. c 41 § 34. Formerly RCW 74.04.780.]

Notes:

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 43.20B.320 Mental illness--Treatment costs--Criminally insane--Liability.

Patients hospitalized at state hospitals as criminally insane shall be responsible for payment of hospitalization charges.

[1987 c 75 § 12; 1959 c 25 § 71.02.380. Prior: 1951 c 139 § 62. Formerly RCW 71.02.380.]

Notes:

Criminally insane, reimbursement for costs: RCW 10.77.250.

RCW 43.20B.325 Mental illness--Hospitalization charges--How computed.

Charges for hospitalization of patients in state hospitals are to be based on the actual cost of operating such hospitals for the previous year, taking into consideration the overhead expense of operating the hospital and expense of maintenance and repair, including in both cases all salaries of supervision and management as well as material and equipment actually used or expended in operation as computed by the department: PROVIDED, That a schedule of differing hospitalization charges may be computed, including a schedule of charges for outpatient services, considering the costs of care, treatment and maintenance in accordance with the classification of mental illness, type and intensity of treatment rendered, which may vary among and within the several state hospitals. Costs of transportation shall be computed by the department.

[1967 ex.s. c 127 § 1; 1959 c 25 § 71.02.410. Prior: 1951 c 139 § 52. Formerly RCW 71.02.410.]

RCW 43.20B.330 Mental illness--Treatment costs--Liability.

Any person admitted or committed to a state hospital for the mentally ill, and their estates and responsible relatives are liable for reimbursement to the state of the costs of hospitalization and/or outpatient services, as computed by the secretary, or his designee, in accordance with RCW 43.20B.325: PROVIDED, That such mentally ill person, and his or her estate, and the husband or wife of such mentally ill person and their estate shall be primarily responsible for

reimbursement to the state for the costs of hospitalization and/or outpatient services; and, the parents of such mentally ill person and their estates, until such person has attained the age of eighteen years, shall be secondarily liable.

[1987 c 75 § 13; 1971 ex.s. c 292 § 64; 1967 ex.s. c 127 § 4. Formerly RCW 71.02.411.]

Notes:

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

RCW 43.20B.335 Mental illness--Treatment costs--Determination of ability to pay--Standards--Rules and regulations.

The department is authorized to investigate the financial condition of each person liable under the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and is further authorized to make determinations of the ability of each such person to pay hospitalization charges and/or charges for outpatient services, in accordance with the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and, for such purposes, to set a standard as a basis of judgment of ability to pay, which standard shall be recomputed periodically to reflect changes in the costs of living, and other pertinent factors, and to make provisions for unusual and exceptional circumstances in the application of such standard. Such factors and circumstances shall include judgments owed by the person to any victim of an act that would have resulted in criminal conviction of the patient but for a finding of criminal insanity. A victim shall include a personal representative of an estate who has obtained judgment for wrongful death against the criminally insane patient.

In accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW, the department shall adopt appropriate rules and regulations relating to the standards to be applied in determining ability to pay such charges, the schedule of charges pursuant to RCW 43.20B.325, and such other rules and regulations as are deemed necessary to administer the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350.

[1996 c 125 § 2; 1987 c 75 § 14; 1979 c 141 § 126; 1967 ex.s. c 127 § 5. Formerly RCW 71.02.412.]

Notes:

Findings--Purpose--1996 c 125: "The legislature finds that laws and regulations relating to the rights of the state to collection from criminally insane patients for cost of their hospitalization are in need of clarification. The legislature previously directed the department of social and health services to set standards regarding ability of such patients to pay that would include pertinent factors, as well as unusual and exceptional circumstances. The legislature finds that the regulations established by the department fail to take into account a factor and circumstance that should be paramount: Compensation owed by the patient to victims of his or her criminally insane conduct. The state public policy recognizes the due dignity and respect to be accorded victims of crime and the need for victims to be compensated, as set forth in Article I, section 35 of the state Constitution and in chapter 7.68 RCW. The legislature did not intend, in enacting RCW 43.20B.320, that the department attempt to obtain funds for hospitalization of criminally insane patients that would otherwise have compensated the victims of the patient. The purpose of chapter 125, Laws of 1996 is to clarify legislative intent and existing law." [1996 c 125 § 1.]

RCW 43.20B.340 Mental illness--Treatment costs--Notice and finding of

responsibility--Period--Adjudicative proceedings.

In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the charges for hospitalization, and/or charges for outpatient services, a notice and finding of responsibility shall be served on such person or the court-appointed personal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay not to exceed the costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 43.20B.325, or as otherwise limited by the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350. The responsibility for the payment to the department shall commence twenty-eight days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible in the manner prescribed for the service of summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceeding may be filed with the secretary, or the secretary's designee within twenty-eight days from the date of service of such notice and finding of responsibility. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW.

[1989 c 175 § 98; 1987 c 75 § 15; 1985 c 245 § 3; 1981 c 67 § 33; 1971 c 81 § 133; 1969 ex.s. c 268 § 1; 1967 ex.s. c 127 § 6. Formerly RCW 71.02.413.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

Savings--1985 c 245 §§ 3 and 6: "Sections 3 and 6 of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, that is already in existence on May 10, 1985." [1985 c 245 § 11.]

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 43.20B.345 Mental illness--Treatment costs--Judgment for accrued amounts.

Whenever any notice and finding of responsibility, or appeal therefrom, shall have become final, the superior court, wherein such person or persons reside or have property either real or personal, shall, upon application of the secretary enter a judgment in the amount of the accrued monthly charges for the costs of hospitalization, and/or the costs of outpatient services, and such judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court; except, such judgment shall not be the subject of collection by the department unless and until any outstanding judgment for a victim referenced in RCW 43.20B.335 has been fully satisfied.

[1996 c 125 § 3; 1987 c 75 § 16; 1979 c 141 § 127; 1967 ex.s. c 127 § 7. Formerly RCW 71.02.414.]

Notes:

Findings--Purpose--1996 c 125: See note following RCW 43.20B.335.

RCW 43.20B.347 Mental illness--Treatment costs--Lien against real and personal property.

Whenever a notice and finding of responsibility, or appeal therefrom, has become final, the department may file a lien against the real and personal property of all persons found financially responsible under RCW 43.20B.330 with the county auditor of the county where the persons reside or own property.

[1993 c 272 § 1.]

Notes:

Savings--1993 c 272: "This act does not have the effect of terminating or in any way modifying any liability, civil or criminal, that is already in existence on the effective date of this act." [1993 c 272 § 6.]

Severability--1993 c 272: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 272 § 7.]

RCW 43.20B.350 Mental illness--Treatment costs--Modification or vacation of findings of responsibility.

The secretary, or the secretary's designee, upon application of the person responsible for payment of reimbursement to the state of the costs of hospitalization, and/or the costs of outpatient services, or the legal representative of such person, and, after investigation, or after investigation without application, the secretary, or the secretary's designee, if satisfied of the financial ability or inability of such person to reimburse the state in accordance with the original finding of responsibility, may, modify or vacate such original finding of responsibility and enter a new finding of responsibility. The determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedures for appeals of original findings of responsibility.

[1987 c 75 § 17; 1967 ex.s. c 127 § 8. Formerly RCW 71.02.415.]

RCW 43.20B.355 Mental illness--Hospitalization charges--Due date--Collection.

Hospitalization charges are payable on the tenth day of each calendar month, for services rendered during the preceding month, and the department may make all necessary rules and regulations relative to the billing and collection of such charges.

[1967 ex.s. c 127 § 2; 1959 c 25 § 71.02.320. Prior: 1951 c 139 § 56. Formerly RCW 71.02.320.]

RCW 43.20B.360 Mental illness--Hospitalization charges--Collection--Statutes of

limitation.

No statutes of limitations shall run against the state of Washington for hospitalization charges: PROVIDED, HOWEVER, That periods of limitations for the filing of creditors' claims against probate and guardianship estates shall apply against such claims.

[1959 c 25 § 71.02.360. Prior: 1951 c 139 § 61. Formerly RCW 71.02.360.]

Notes:

Period of limitation for claims against guardianship estate: RCW 11.92.035.

RCW 43.20B.370 Mental illness--Hospitalization charges--Collection--Prosecuting attorneys to assist.

The prosecuting attorneys of the various counties shall assist the department in the collection of hospitalization charges.

[1959 c 25 § 71.02.370. Prior: 1951 c 139 § 64. Formerly RCW 71.02.370.]

RCW 43.20B.410 Residential habilitation centers--Liability for costs of services--Declaration of purpose.

The purpose of RCW 43.20B.410 through 43.20B.455 is to place financial responsibility for cost of care, support and treatment upon those residents of residential habilitation centers operated under chapter 71A.20 RCW who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establishing such liability and the monthly rate thereof, and the process for appeal therefrom to the secretary of social and health services and the courts by any person deemed aggrieved thereby.

[1988 c 176 § 902; 1987 c 75 § 23; 1979 c 141 § 237; 1967 c 141 § 1. Formerly RCW 72.33.650.]

Notes:

Severability--1988 c 176: See RCW 71A.10.900.

Effective date--1967 c 141: "This 1967 amendatory act shall become effective July 1, 1967." [1967 c 141 § 13.]

RCW 43.20B.415 State residential schools--Liability for costs of services--Limitation.

The estates of all mentally or physically deficient persons who have been admitted to the state residential schools listed in *RCW 72.33.030 either by application of their parents or guardian or by commitment of court, or who may hereafter be admitted or committed to such institutions, shall be liable for their per capita costs of care, support and treatment: PROVIDED, That the estate funds may not be reduced as a result of such liability below an amount as set forth in *RCW 72.33.180.

[1971 ex.s. c 118 § 2; 1967 c 141 § 2. Formerly RCW 72.33.655.]

Notes:

***Reviser's note:** RCW 72.33.030 and 72.33.180 were repealed by 1988 c 176 § 1007. See Title 71A

RCW. The term "residential schools" was changed to "residential habilitation centers" by 1988 c 176.

Effective date--1967 c 141: See note following RCW 43.20B.410.

RCW 43.20B.420 Residential habilitation centers--Determination of costs of services--Establishment of rates--Collection.

The charges for services as provided in RCW 43.20B.425 shall be based on the rates established for the purpose of receiving federal reimbursement for the same services. For those services for which there is no applicable federal reimbursement-related rate, charges shall be based on the average per capita costs, adjusted for inflation, of operating each of the residential habilitation centers for the previous reporting year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: PROVIDED, That all expenses directly related to the cost of education for persons under the age of twenty-two years shall be excluded from the computation of the average per capita cost. The department shall establish rates on a per capita basis and promulgate those rates or the methodology used in computing costs and establishing rates as rules of the department in accordance with chapter 34.05 RCW. The department shall be charged with the duty of collection of charges incurred under RCW 43.20B.410 through 43.20B.455, which may be enforced by civil action instituted by the attorney general within or without the state.

[1988 c 176 § 903; 1987 c 75 § 24; 1984 c 200 § 1; 1979 c 141 § 238; 1967 c 141 § 3. Formerly RCW 72.33.660.]

Notes:

Severability--1988 c 176: See RCW 71A.10.900.

Effective date--1967 c 141: See note following RCW 43.20B.410.

RCW 43.20B.425 Residential habilitation centers--Costs of services--Investigation and determination of ability to pay--Exemptions.

The department shall investigate and determine the assets of the estates of each resident of a residential habilitation center and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a residential habilitation center as determined by the procedure set forth in RCW 43.20B.420: PROVIDED, That the sum as set forth in RCW 71A.20.100 shall be retained by the estate of the resident at all times for such personal needs as may arise: PROVIDED FURTHER, That where any person other than a resident or the guardian of the resident's estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants.

[1988 c 176 § 904; 1987 c 75 § 25; 1971 ex.s. c 118 § 3; 1967 c 141 § 4. Formerly RCW 72.33.665.]

Notes:

Severability--1988 c 176: See RCW 71A.10.900.

Effective date--1967 c 141: See note following RCW 43.20B.410.

RCW 43.20B.430 Residential habilitation centers--Costs of services--Notice and finding of responsibility--Service--Adjudicative proceeding.

In all cases where a determination is made that the estate of a resident of a residential

habilitation center is able to pay all or any portion of the charges, a notice and finding of responsibility shall be served on the guardian of the resident's estate, or if no guardian has been appointed then to the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident. The notice shall set forth the amount the department has determined that such estate is able to pay, not to exceed the charge as fixed in accordance with RCW 43.20B.420, and the responsibility for payment to the department shall commence twenty-eight days after personal service of such notice and finding of responsibility. Service shall be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceeding from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state school, within such twenty-eight day period. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW.

[1989 c 175 § 99; 1988 c 176 § 905; 1987 c 75 § 26; 1985 c 245 § 6; 1982 c 189 § 7; 1979 c 141 § 239; 1970 ex.s. c 75 § 1; 1967 c 141 § 5. Formerly RCW 72.33.670.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

Severability--1988 c 176: See RCW 71A.10.900.

Savings--1985 c 245: See note following RCW 43.20B.340.

Effective date--1982 c 189: See note following RCW 34.12.020.

Effective date--1967 c 141: See note following RCW 43.20B.410.

RCW 43.20B.435 State residential habilitation centers--Costs of services--Modification or vacation of finding of responsibility.

The secretary, upon application of the guardian of the estate of the resident, and after investigation, or upon investigation without application, may, if satisfied of the financial ability or inability of such person to make payments in accordance with the original finding of responsibility, modify or vacate such original finding of responsibility, and enter a new finding of responsibility. The secretary's determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedure for appeals of original findings of responsibility.

[1979 c 141 § 240; 1967 c 141 § 7. Formerly RCW 72.33.680.]

Notes:

Effective date--1967 c 141: See note following RCW 43.20B.410.

RCW 43.20B.440 Residential habilitation centers--Costs of services--Charges payable in advance.

The charges for care, support, maintenance and treatment of persons at residential habilitation centers as provided by RCW 43.20B.410 through 43.20B.455 shall be payable in advance on the first day of each and every month to the department.

[1988 c 176 § 906; 1987 c 75 § 27; 1979 c 141 § 241; 1967 c 141 § 8. Formerly RCW 72.33.685.]

Notes:

Severability--1988 c 176: See RCW 71A.10.900.

Effective date--1967 c 141: See note following RCW 43.20B.410.

RCW 43.20B.445 Residential habilitation centers--Costs of services--Reimbursement from property subsequently acquired--Placement outside school--Liability after death of resident.

The provisions of RCW 43.20B.410 through 43.20B.455 shall not be construed to prohibit or prevent the department of social and health services from obtaining reimbursement from any person liable under RCW 43.20B.410 through 43.20B.455 for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under RCW 43.20B.430: PROVIDED, That the estate of any resident of a residential habilitation center shall not be liable for such reimbursement subsequent to termination of services for that resident at the residential habilitation center: PROVIDED FURTHER, That upon the death of any person while a resident in a residential habilitation center, the person's estate shall become liable to the same extent as the resident's liability on the date of death.

[1988 c 176 § 907; 1987 c 75 § 28; 1979 c 141 § 242; 1967 c 141 § 9. Formerly RCW 72.33.690.]

Notes:

Severability--1988 c 176: See RCW 71A.10.900.

Effective date--1967 c 141: See note following RCW 43.20B.410.

RCW 43.20B.450 State residential habilitation centers--Costs of services--Liabilities created apply to care, support, and treatment after July 1, 1967.

The liabilities created by RCW 43.20B.410 through 43.20B.455 shall apply to the care, support and treatment occurring after July 1, 1967.

[1987 c 75 § 29; 1967 c 141 § 11. Formerly RCW 72.33.695.]

Notes:

Effective date--1967 c 141: See note following RCW 43.20B.410.

RCW 43.20B.455 Residential habilitation centers--Costs of services--Discretionary allowance in resident's fund.

Notwithstanding any other provision of RCW 43.20B.410 through 43.20B.455, the secretary may, if in the secretary's discretion any resident of a residential habilitation center can

be terminated from receiving services at the habilitation center more rapidly and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in RCW 43.20B.415.

[1988 c 176 § 908; 1987 c 75 § 30; 1979 c 141 § 243; 1967 c 141 § 12. Formerly RCW 72.33.700.]

Notes:

Severability--1988 c 176: See RCW 71A.10.900.

Effective date--1967 c 141: See note following RCW 43.20B.410.

RCW 43.20B.460 Guardianship fees and additional costs for incapacitated clients paying part of costs--Maximum amount--Rules.

The department of social and health services shall establish by rule the maximum amount of guardianship fees and additional compensation for administrative costs that may be allowed by the court as compensation for a guardian or limited guardian of an incapacitated person who is a department of social and health services client residing in a nursing facility or in a residential or home setting and is required by the department of social and health services to contribute a portion of their income towards the cost of residential or supportive services.

[1994 c 68 § 2.]

RECOVERY OF OVERPAYMENTS

RCW 43.20B.620 Overpayments of assistance--Lien against recipient's property--Recovery methods.

Overpayments of public assistance or food stamps or food stamp benefits transferred electronically under RCW 74.04.300 shall become a lien against the real and personal property of the recipient from the time of filing by the department with the county auditor of the county in which the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

Debts due the state for overpayments of public assistance or food stamps or food stamp benefits transferred electronically may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, or order to withhold and deliver, or may be recovered by civil action.

[1998 c 79 § 4; 1987 c 75 § 43.]

RCW 43.20B.630 Overpayments of assistance--Procedures--Adjudicative proceeding.

(1) Any person who owes a debt to the state for an overpayment of public assistance and/or food stamps or food stamp benefits transferred electronically shall be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the

debt owed. Service of the notice shall be in the manner prescribed for the service of a summons in a civil action. The notice shall include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from public assistance and/or food stamps or benefits; a statement that the property will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the overpayment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from public assistance and/or food stamps or benefits or the receipt of the notice of debt, whichever is later. This does not preclude the department from recovering overpayments by deduction from subsequent assistance payments, not exceeding deductions as authorized under federal law with regard to financial assistance programs: PROVIDED, That subject to federal legal requirement, deductions shall not exceed five percent of the grant payment standard if the overpayment resulted from error on the part of the department or error on the part of the recipient without willful or knowing intent of the recipient in obtaining or retaining the overpayment.

(2) A current or former recipient who is aggrieved by a claim that he or she owes a debt for an overpayment of public assistance or food stamps or food stamp benefits transferred electronically has the right to an adjudicative proceeding pursuant to RCW 74.08.080. If no application is filed, the debt will be subject to collection action as authorized under this chapter. If a timely application is filed, the execution of collection action on the debt shall be stayed pending the final adjudicative order or termination of the debtor from public assistance and/or food stamps or food stamp benefits transferred electronically, whichever occurs later.

[1998 c 79 § 5; 1989 c 175 § 100; 1982 c 201 § 18; 1981 c 163 § 1. Formerly RCW 74.04.700.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

Overpayments and debts due the state: RCW 74.04.300.

RCW 43.20B.635 Overpayments of assistance--Orders to withhold property of debtor--Procedures.

After service of a notice of debt for an overpayment as provided for in RCW 43.20B.630, stating the debt accrued, the secretary may issue to any person, firm, corporation, association, political subdivision, or department of the state, an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state property which is due, owing, or belonging to the debtor. The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors. The order to withhold and deliver shall be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any

person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein. The secretary may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state. If any such person, firm, corporation, association, political subdivision, or department of the state possesses any property which may be subject to the claim of the department of social and health services, such property shall be withheld immediately upon receipt of the order to withhold and deliver and shall, after the twenty-day period, upon demand, be delivered forthwith to the secretary. The secretary shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary. Delivery to the secretary, subject to the exemptions under RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves as full acquittance, and the state warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the secretary pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

[1990 c 100 § 1; 1987 c 75 § 37; 1981 c 163 § 2. Formerly RCW 74.04.710.]

RCW 43.20B.640 Overpayments of assistance--Failure to withhold property of debtor.

If any person, firm, corporation, association, political subdivision, or department of the

state fails to answer an order to withhold and deliver within the time prescribed in RCW 43.20B.635, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the debtor or any other person, or fails or refuses to surrender upon demand property distrained under RCW 43.20B.635, or fails or refuses to honor an assignment of wages presented by the secretary, such person, firm, corporation, association, political subdivision, or department of the state is liable to the department in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of wages, together with costs, interest, and reasonable attorney fees.

[1987 c 75 § 38; 1981 c 163 § 3. Formerly RCW 74.04.720.]

RCW 43.20B.645 Overpayments of assistance--Assignment of earnings.

Any person, firm, corporation, association, political subdivision, or department employing a person owing a debt for overpayment of public assistance received as defined in RCW 74.04.300, shall honor, according to its terms, a duly executed assignment of earnings presented to the employer by the secretary as a plan to satisfy or retire an overpayment debt. This requirement to honor the assignment of earnings is applicable whether the earnings are to be paid presently or in the future and continues in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented to the employer by the secretary serves as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to the assignment of earnings. The secretary is released from liability for improper receipt of moneys under assignment of earnings upon return of any moneys so received.

[1981 c 163 § 4. Formerly RCW 74.04.730.]

RCW 43.20B.660 Improper realty transfer--Suit to rescind--Recovery from recipient's estate.

If an improper real property transfer is made as defined in RCW 74.08.331 through 74.08.338, the department may request the attorney general to file suit to rescind the transaction except as to subsequent bona fide purchasers for value. If it is established by judicial proceedings that a fraudulent conveyance occurred, the value of any public assistance which has been furnished may be recovered in any proceedings from the recipient or the recipient's estate.

[1987 c 75 § 46.]

RCW 43.20B.670 Excess property assistance program--Lien--Department as creditor.

When the department provides grant assistance to persons who possess excess real property under *RCW 74.04.005(10)(f), the department may file a lien against, or otherwise

perfect its interest in such real property as a condition of granting such assistance, and the department shall have the status of a secured creditor.

[1985 c 245 § 10. Formerly RCW 74.04.007.]

Notes:

***Reviser's note:** RCW 74.04.005 was amended by 1997 c 58 § 309, changing subsection (10)(f) to subsection (10)(g).

RCW 43.20B.675 Vendor overpayments--Goods or services provided on or after July 1, 1998--Notice--Adjudicative proceeding--Enforcement--Collection--Rules.

(1) When the department determines that a vendor was overpaid by the department for either goods or services, or both, provided to department clients, except nursing homes under chapter 74.46 RCW, the department will give written notice to the vendor. The notice will include the amount of the overpayment, the basis for the claim, and the rights of the vendor under this section.

(2) The notice may be served upon the vendor in the manner prescribed for the service of a summons in civil action or be mailed to the vendor at the last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

(3) The vendor has the right to an adjudicative proceeding governed by the administrative procedure act, chapter 34.05 RCW, and the rules of the department. The vendor's application for an adjudicative proceeding must be in writing, state the basis for contesting the overpayment notice, and include a copy of the department's notice. The application must be served on and received by the department within twenty-eight days of the vendor's receipt of the notice of overpayment. The vendor must serve the department in a manner providing proof of receipt.

(4) Where an adjudicative proceeding has been requested, the presiding or reviewing office will determine the amount, if any, of the overpayment received by the vendor.

(5) If the vendor fails to attend or participate in the adjudicative proceeding, upon a showing of valid service, the presiding or reviewing officer may enter an administrative order declaring the amount claimed in the notice to be assessed against the vendor and subject to collection action by the department.

(6) Failure to make an application for an adjudicative proceeding within twenty-eight days of the date of notice will result in the establishment of a final debt against the vendor in the amount asserted by the department and that amount is subject to collection action. The department may also charge the vendor with any costs associated with the collection of any final overpayment or debt established against the vendor.

(7) The department may enforce a final overpayment or debt through lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, or other collection action available to the department to satisfy the debt due.

(8) Debts determined under this chapter are subject to collection action without further necessity of action by a presiding or reviewing officer. The department may collect the debt in accordance with RCW 43.20B.635, 43.20B.640, and 43.20B.680. In addition, a vendor lien may be subject to distraint and seizure and sale in the same manner as prescribed for support liens in

RCW 74.20A.130.

(9) Chapter 66, Laws of 1998 applies to overpayments for goods or services provided on or after July 1, 1998.

(10) The department may adopt rules consistent with this section.

[1998 c 66 § 2.]

Notes:

Findings--1998 c 66: "The legislature finds that more efficient and cost-effective means are available for the collection of vendor overpayments owed the state of Washington. The legislature further finds it desirable to provide vendors a uniform formal appeal process that will streamline the current process for both the department of social and health services and the vendor." [1998 c 66 § 1.]

RCW 43.20B.680 Vendor overpayments--Lien or other security--Setoff or recoupment--Exception.

(1) The department may, at the secretary's discretion, secure the repayment of any outstanding overpayment, plus interest, if any, through the filing of a lien against the vendor's real property, or by requiring the posting of a bond, assignment of deposit, or some other form of security acceptable to the department, or by doing both.

(a) Any lien shall be effective from the date of filing for record with the county auditor of the county in which the property is located and the lien claim shall have preference over the claims of all unsecured creditors.

(b) The department shall review and determine the acceptability of all other forms of security.

(c) Any bond must be issued by a company licensed as a surety in the state of Washington.

(d) This subsection does not apply to nursing homes licensed under chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41 RCW and operating as a nursing home, if those facilities are subject to chapter 74.46 RCW.

(2) The department may recover any overpayment, plus interest, if any, by setoff or recoupment against subsequent payments to the vendor.

[1987 c 283 § 10.]

Notes:

Severability--Savings--1987 c 283: See notes following RCW 43.20A.020.

RCW 43.20B.685 Vendor overpayments--Liens--Duration--Enforcement.

Liens created under RCW 43.20B.680 shall bind the affected property for a period of ten years after the lien has been recorded or ten years after the resolution of all good faith disputes as to the overpayment, whichever is later. Any civil action by the department to enforce such lien must be timely commenced before the ten-year period expires or the lien shall be released. A civil action to enforce such lien shall not be timely commenced unless the summons and complaint are filed within the ten-year period in a court having jurisdiction and service of the

summons and complaint is made upon all parties in the manner prescribed by appropriate civil court rules.

[1987 c 283 § 11.]

Notes:

Severability--Savings--1987 c 283: See notes following RCW 43.20A.020.

RCW 43.20B.688 Limitation on actions to enforce vendor overpayment debts.

Any action to enforce a vendor overpayment debt shall be commenced within six years from the date of the department's notice to the vendor.

[1987 c 283 § 15. Formerly RCW 43.20A.440.]

Notes:

Severability--Savings--1987 c 283: See notes following RCW 43.20A.020.

Vendor overpayments: RCW 43.20B.680 through 43.20B.695.

RCW 43.20B.690 Vendor overpayments--Remedies nonexclusive.

The remedies under RCW 43.20B.680 and 43.20B.685 are nonexclusive and nothing contained in this chapter may be construed to impair or affect the right of the department to maintain a civil action or to pursue any other remedies available to it under the laws of this state to recover such debt.

[1987 c 283 § 12.]

Notes:

Severability--Savings--1987 c 283: See notes following RCW 43.20A.020.

RCW 43.20B.695 Vendor overpayments--Interest--Exceptions.

(1) Except as provided in subsection (4) of this section, vendors shall pay interest on overpayments at the rate of one percent per month or portion thereof. Where partial repayment of an overpayment is made, interest accrues on the remaining balance. Interest will not accrue when the overpayment occurred due to department error.

(2) If the overpayment is discovered by the vendor prior to discovery and notice by the department, the interest shall begin accruing ninety days after the vendor notifies the department of such overpayment.

(3) If the overpayment is discovered by the department prior to discovery and notice by the vendor, the interest shall begin accruing as follows, whichever occurs first:

(a) Thirty days after the date of notice by the department to the vendor; or

(b) Ninety days after the date of overpayment to the vendor.

(4) This section does not apply to:

(a) Interagency or intergovernmental transactions;

(b) Contracts for public works, goods and services procured for the exclusive use of the

department, equipment, or travel; and

(c) Contracts entered into before September 1, 1979, for contracts with medical assistance funding, and August 23, 1983, for all other contracts.

[1987 c 283 § 2; 1983 1st ex.s. c 41 § 17. Formerly RCW 43.20A.435.]

Notes:

Severability--Savings--1987 c 283: See notes following RCW 43.20A.020.

Savings--1983 1st ex.s. c 41 § 17: "The enactment of section 17 of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on August 23, 1983." [1983 1st ex.s. c 41 § 18.]

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 43.20B.710 Medical assistance--Improper transfer or assignment of resources--Penalty--Presumption, rebuttal--Attorney's fees.

If cash or resources are improperly transferred or assigned under *RCW 74.09.538, a person who knowingly or willingly receives the assets for less than fair market value is liable for a civil penalty equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to the applicant or recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney's fees.

[1987 c 75 § 47.]

Notes:

***Reviser's note:** RCW 74.09.538 was repealed by 1989 c 87 § 11.

Transfer of spousal resources: RCW 74.09.530 through 74.09.595.

RCW 43.20B.720 Recipient receiving industrial insurance compensation--Subrogation rights of department--Lien--Withhold and deliver notice.

(1) To avoid a duplicate payment of benefits, a recipient of public assistance from the department of social and health services is deemed to have subrogated the department to the recipient's right to recover temporary total disability compensation due to the recipient and the recipient's dependents under Title 51 RCW, to the extent of such assistance or compensation, whichever is less. However, the amount to be repaid to the department of social and health services shall bear its proportionate share of attorney's fees and costs, if any, incurred under Title 51 RCW by the recipient or the recipient's dependents.

(2) The department of social and health services may assert and enforce a lien and notice to withhold and deliver to secure reimbursement. The department shall identify in the lien and notice to withhold and deliver the recipient of public assistance and temporary total disability compensation and the amount claimed by the department.

[1997 c 130 § 1; 1985 c 245 § 7; 1982 c 201 § 17; 1973 1st ex.s. c 102 § 1. Formerly RCW 74.04.530.]

RCW 43.20B.730 Recipient receiving industrial insurance compensation--Effective date of lien and notice--Service.

The effective date of the lien and notice to withhold and deliver provided in RCW 43.20B.720 is the day that it is received by the department of labor and industries or a self-insurer as defined in chapter 51.08 RCW. Service of the lien and notice to withhold and deliver may be made personally, by regular mail with postage prepaid, or by electronic means. A statement of lien and notice to withhold and deliver shall be mailed to the recipient at the recipient's last known address by certified mail, return receipt requested, no later than two business days after the department mails, delivers, or transmits the lien and notice to withhold and deliver to the department of labor and industries or a self-insurer.

[1997 c 130 § 2; 1987 c 75 § 34; 1985 c 245 § 9; 1973 1st ex.s. c 102 § 3. Formerly RCW 74.04.550.]

RCW 43.20B.735 Recipient receiving industrial insurance compensation--Duty to withhold and deliver--Amount.

The director of labor and industries or the director's designee, or a self-insurer as defined in chapter 51.08 RCW, following receipt of the lien and notice to withhold and deliver, shall deliver to the secretary of social and health services or the secretary's designee any temporary total disability compensation payable to the recipient named in the lien and notice to withhold and deliver up to the amount claimed. The director of labor and industries or self-insurer shall withhold and deliver from funds currently in the director's or self-insurer's possession or from any funds that may at any time come into the director's or self-insurer's possession on account of temporary total disability compensation payable to the recipient named in the lien and notice to withhold and deliver.

[1997 c 130 § 3; 1973 1st ex.s. c 102 § 4. Formerly RCW 74.04.560.]

RCW 43.20B.740 Recipient receiving industrial insurance compensation--Adjudicative proceeding--Collection pending final order.

A recipient feeling aggrieved by the action of the department of social and health services in recovering his or her temporary total disability compensation as provided in RCW 43.20B.720 through 43.20B.745 shall have the right to an adjudicative proceeding.

A recipient seeking an adjudicative proceeding shall file an application with the secretary within twenty-eight days after the statement of lien and notice to withhold and deliver was mailed to the recipient. If the recipient files an application more than twenty-eight days after, but within one year of, the date the statement of lien and notice to withhold and deliver was mailed, the recipient is entitled to a hearing if the recipient shows good cause for the recipient's failure to file a timely application. The filing of a late application does not affect prior collection action

pending the final adjudicative order. Until good cause for failure to file a timely application is decided, the department may continue to collect under the lien and notice to withhold and deliver.

The proceeding shall be governed by chapter 34.05 RCW, the Administrative Procedure Act.

[1997 c 130 § 4; 1989 c 175 § 101; 1987 c 75 § 35; 1973 1st ex.s. c 102 § 5. Formerly RCW 74.04.570.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 43.20B.745 Recipient receiving industrial insurance compensation--Application.

RCW 43.20B.720 through 43.20B.745 shall not apply to persons whose eligibility for benefits under Title 51 RCW, is based upon an injury or illness occurring prior to July 1, 1972.

[1987 c 75 § 36; 1973 1st ex.s. c 102 § 6. Formerly RCW 74.04.580.]

CONSTRUCTION

RCW 43.20B.900 Savings--1987 c 75.

The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on July 26, 1987.

[1987 c 75 § 48.]

RCW 43.20B.901 Severability--1987 c 75.

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

[1987 c 75 § 51.]

Chapter 43.21A RCW DEPARTMENT OF ECOLOGY

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NOTES:

Funding for radiation monitoring programs, department of ecology to seek: RCW 70.98.122.

Metals mining and milling operations, department of ecology responsibilities: Chapter 78.56 RCW.

Minimum flows and levels--Departmental authority exclusive--Other recommendations considered: RCW 90.03.247.

RCW 43.21A.005 Intent--Public involvement and outreach.

See RCW 43.20A.005.

RCW 43.21A.010 Legislative declaration of state policy on environment and utilization of natural resources.

The legislature recognizes and declares it to be the policy of this state, that it is a fundamental and inalienable right of the people of the state of Washington to live in a healthful and pleasant environment and to benefit from the proper development and use of its natural resources. The legislature further recognizes that as the population of our state grows, the need to provide for our increasing industrial, agricultural, residential, social, recreational, economic and other needs will place an increasing responsibility on all segments of our society to plan, coordinate, restore and regulate the utilization of our natural resources in a manner that will

protect and conserve our clean air, our pure and abundant waters, and the natural beauty of the state.

[1970 ex.s. c 62 § 1.]

Notes:

Savings--Other powers and rights not affected--Permits, standards, not affected--1970 ex.s. c 62:

"The provisions of this act shall not impair or supersede the powers or rights of any person, committee, association, public, municipal or private corporations, state or local governmental agency, federal agency, or political subdivision of the state of Washington under any other law except as specifically provided herein. Pollution control permits, water quality standards, air pollution permits, air quality standards, and permits for disposal of solid waste materials of this state are not changed hereby and the laws governing the same are to be protected and preserved."

[1970 ex.s. c 62 § 61.]

Effective date--1970 ex.s. c 62: "This 1970 amendatory act shall take effect on July 1, 1970." [1970 ex.s. c 62 § 64.]

Severability--1970 ex.s. c 62: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected." [1970 ex.s. c 62 § 65.]

RCW 43.21A.020 Purpose.

In recognition of the responsibility of state government to carry out the policies set forth in RCW 43.21A.010, it is the purpose of this chapter to establish a single state agency with the authority to manage and develop our air and water resources in an orderly, efficient, and effective manner and to carry out a coordinated program of pollution control involving these and related land resources. To this end a department of ecology is created by this chapter to undertake, in an integrated manner, the various water regulation, management, planning and development programs now authorized to be performed by the department of water resources and the water pollution control commission, the air regulation and management program now performed by the state air pollution control board, the solid waste regulation and management program authorized to be performed by state government as provided by chapter 70.95 RCW, and such other environmental, management protection and development programs as may be authorized by the legislature.

[1970 ex.s. c 62 § 2.]

RCW 43.21A.030 Definitions.

As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of ecology.
- (2) "Director" means the director of the department of ecology.
- (3) "Commission" means the ecological commission.

[1970 ex.s. c 62 § 3.]

RCW 43.21A.040 Department of ecology--Created.

There is created a department of state government to be known as the department of ecology.

[1970 ex.s. c 62 § 4.]

RCW 43.21A.050 Department of ecology--Director--Appointment--Powers and duties--Salary--Temporary appointment when vacancy.

The executive and administrative head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate. He shall have complete charge of and supervisory powers over the department. He shall be paid a salary fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he shall present to that body his nomination for the position.

[1970 ex.s. c 62 § 5.]

RCW 43.21A.061 Powers and duties--Reclamation.

The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to the reclamation and development of arid, swamp, overflow, and logged-off lands in the state and such other duties as may be prescribed by law.

[1987 c 109 § 26; 1965 c 8 § 43.21.110. Prior: 1921 c 7 § 70; RRS § 10828. Formerly RCW 43.21.110.]

Notes:

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

RCW 43.21A.064 Powers and duties--Water resources.

Subject to RCW 43.21A.068, the director of the department of ecology shall have the following powers and duties:

(1) The supervision of public waters within the state and their appropriation, diversion, and use, and of the various officers connected therewith;

(2) Insofar as may be necessary to assure safety to life or property, the director shall inspect the construction of all dams, canals, ditches, irrigation systems, hydraulic power plants, and all other works, systems, and plants pertaining to the use of water, and may require such necessary changes in the construction or maintenance of said works, to be made from time to time, as will reasonably secure safety to life and property;

(3) The director shall regulate and control the diversion of water in accordance with the rights thereto;

(4) The director shall determine the discharge of streams and springs and other sources of water supply, and the capacities of lakes and of reservoirs whose waters are being or may be

utilized for beneficial purposes;

(5) The director shall, if requested, provide assistance to an applicant for a water right in obtaining or developing an adequate and appropriate supply of water consistent with the land use permitted for the area in which the water is to be used and the population forecast for the area under RCW 43.62.035. If the applicant is a public water supply system, the supply being sought must be used in a manner consistent with applicable land use, watershed and water system plans, and the population forecast for that area provided under RCW 43.62.035;

(6) The director shall keep such records as may be necessary for the recording of the financial transactions and statistical data thereof, and shall procure all necessary documents, forms, and blanks. The director shall keep a seal of the office, and all certificates covering any of the director's acts or the acts of the director's office, or the records and files of that office, under such seal, shall be taken as evidence thereof in all courts;

(7) The director shall render when required by the governor, a full written report of the office's work with such recommendations for legislation as the director deems advisable for the better control and development of the water resources of the state;

(8) The director and duly authorized deputies may administer oaths;

(9) The director shall establish and promulgate rules governing the administration of chapter 90.03 RCW;

(10) The director shall perform such other duties as may be prescribed by law.

[1997 c 443 § 2; 1995 c 8 § 3; 1977 c 75 § 46; 1965 c 8 § 43.21.130. Prior: 1961 c 19 § 1; prior: (i) 1951 c 57 § 3; 1921 c 7 § 72; RRS § 10830. (ii) 1951 c 57 § 3; 1917 c 117 § 8; RRS § 7358. Formerly RCW 43.21.130.]

Notes:

Finding--Intent--1997 c 443: "The legislature finds that there is a need for development of additional water resources to meet the forecasted population growth in the state. It is the intent of chapter 443, Laws of 1997 to direct the responsible agencies to assist applicants seeking a safe and reliable water source for their use. Providing this assistance for public water supply systems can be accomplished through assistance in the creation of municipal interties and transfers, additional storage capabilities, enhanced conservation efforts, and added efficiency standards for using existing supplies." [1997 c 443 § 1.]

Findings--1995 c 8: "The legislature finds and declares:

(1) The federal energy regulatory commission, under the federal power act, licenses hydropower projects in navigable waters and regularly and extensively inspects facilities for safety; and

(2) Nothing in this act alters or affects the department of ecology's authority to: (a) Participate in the federal process of licensing hydropower projects; or (b) ensure that hydropower projects comply with federal statutes such as the coastal zone management act and the clean water act and, subject to RCW 43.21A.068, all applicable state law." [1995 c 8 § 1.]

Review of permit applications to divert and store water, water flow policy: RCW 77.55.050.

Water power development, license fees: RCW 90.16.050, 90.16.060, 90.16.090.

RCW 43.21A.067 Water resources--"Basic data fund" created.

The director of ecology may create within his department a fund to be known as the "basic data fund."

Into such fund shall be deposited all moneys contributed by persons for stream flow, ground water and water quality data or other hydrographic information furnished by the

department in cooperation with the United States geological survey, and the fund shall be expended on a matching basis with the United States geological survey for the purpose of obtaining additional basic information needed for an intelligent inventory of water resources in the state.

Disbursements from the basic data fund shall be on vouchers approved by the department and the district engineer of the United States geological survey.

[1987 c 109 § 27; 1967 c 53 § 1; 1965 c 8 § 43.21.140. Prior: 1951 c 57 § 4; 1943 c 30 § 1; Rem. Supp. 1943 § 5505-1. Formerly RCW 43.21.140.]

Notes:

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

RCW 43.21A.068 Federal power act licensees--Exemption from state requirements.

(1) With respect to the safety of any dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act, no licensee shall be required to:

(a) Submit proposals, plans, specifications, or other documents for approval by the department;

(b) Seek a permit, license, or other form, permission, or authorization from the department;

(c) Submit to inspection by the department; or

(d) Change the design, construction, modification, maintenance, or operation of such facilities at the demand of the department.

(2) For the purposes of this section, "licensee" means an owner or operator, or any employee thereof, of a dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act.

[1995 c 8 § 2.]

Notes:

Findings--1995 c 8: See note following RCW 43.21A.064.

RCW 43.21A.069 Powers and duties--Flood control.

The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to flood control.

[1987 c 109 § 28; 1965 c 8 § 43.21.160. Prior: 1941 c 204 § 2, part; Rem. Supp. 1941 § 9663F-2, part. Formerly RCW 43.21.160.]

Notes:

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

RCW 43.21A.070 Application of administrative procedure act to the review of decisions by director.

The administrative procedure act, chapter 34.05 RCW, shall apply to the review of decisions by the director to the same extent as it applied to decisions issued by the directors of the various departments whose powers, duties and functions are transferred by chapter 62, Laws of 1970 ex. sess. to the department of ecology. The administrative procedure act shall further apply to all other decisions of the director as in chapter 34.05 RCW provided.

[1970 ex.s. c 62 § 7.]

RCW 43.21A.080 Rule-making authority.

The director of the department of ecology is authorized to adopt such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter: PROVIDED, That the director may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt the rule.

[1995 c 403 § 103; 1970 ex.s. c 62 § 8.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 43.21A.085 Technical assistance officer and units--Coordination of voluntary compliance with regulatory laws.

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

[1992 c 19 § 1.]

RCW 43.21A.087 Technical assistance officer and units--Authority to issue orders or assess penalties.

(1) An employee designated by the department as a technical assistance officer or as a member of a technical assistance unit may not, during the period of the designation, have authority to issue orders or assess penalties on behalf of the department. Such an employee who provides on-site consultation at an industrial or commercial facility and who observes violations of the law shall inform the owner or operator of the facility of the violations. On-site consultation visits by such an employee may not be regarded as inspections or investigations and

no notices or citations may be issued or civil penalties assessed during such a visit. However, violations of the law must be reported to the appropriate officers within the department. If the owner or operator of the facility does not correct the observed violations within a reasonable time, the department may reinspect the facility and take appropriate enforcement action. If a technical assistance officer or member of a technical assistance unit observes a violation of the law that places a person in danger of death or substantial bodily harm, or has caused or is likely to cause physical damage to the property of others in an amount exceeding one thousand dollars, the department may initiate enforcement action immediately upon observing the violation.

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

[1992 c 19 § 2.]

RCW 43.21A.090 Powers, duties and functions transferred to department to be performed by director--Delegation by director, limitations.

All powers, duties and functions transferred to the department by the terms of chapter 62, Laws of 1970 ex. sess. shall be performed by the director: PROVIDED, That the director may delegate, by appropriate rule or regulation, the performance of such of his powers, duties, and functions, other than those relating to the adoption, amendment or rescission of rules and regulations, to employees of the department whenever it appears desirable in fulfilling the policy and purposes of this chapter.

[1970 ex.s. c 62 § 9.]

RCW 43.21A.100 Departmental administrative divisions--Deputy director, duties--Assistant directors, duties--As exempt from state civil service law--Salaries.

In order to obtain maximum efficiency and effectiveness within the department, the director may create such administrative divisions within the department as he deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The deputy director shall have charge and general supervision of the department in the absence or disability of the director. In the case of a vacancy in the office of director, the deputy director shall administer the department until the governor appoints a successor to the director or an acting director. The officers appointed under this section and exempt from the provisions of the state civil service law as provided in RCW 41.06.073, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law.

[1970 ex.s. c 62 § 10.]

RCW 43.21A.120 Director to employ personnel--Application of state civil service law.

The director shall have the power to employ such personnel as may be necessary for the general administration of this chapter: PROVIDED, That except as specified in RCW 41.06.073, such employment shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW.

[1970 ex.s. c 62 § 12.]

RCW 43.21A.130 Studies by director--Limitation.

In addition to any other powers granted the director, the director may undertake studies dealing with all aspects of environmental problems involving land, water, or air: PROVIDED, That in the absence of specific legislative authority, such studies shall be limited to investigations of particular problems, and shall not be implemented by positive action.

[1987 c 505 § 28; 1980 c 87 § 22; 1970 ex.s. c 62 § 13.]

RCW 43.21A.140 Director to consult with department, state board of health.

The director in carrying out his powers and duties under this chapter shall consult with the department of social and health services and the state board of health, or their successors, insofar as necessary to assure that those agencies concerned with the preservation of life and health may integrate their efforts to the fullest extent possible and endorse policies in common.

[1979 c 141 § 67; 1970 ex.s. c 62 § 14.]

RCW 43.21A.150 Director to consult with other states, federal government and Canadian provinces--Authority to receive and disburse grants, funds and gifts.

The director, whenever it is lawful and feasible to do so, shall consult and cooperate with the federal government, as well as with other states and Canadian provinces, in the study and control of environmental problems. On behalf of the department, the director is authorized to accept, receive, disburse, and administer grants or other funds or gifts from any source, including private individuals or agencies, the federal government, and other public agencies, for the purpose of carrying out the provisions of this chapter.

[1970 ex.s. c 62 § 15.]

RCW 43.21A.155 Environmental excellence program agreements--Effect on chapter.

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.21K RCW.

[1997 c 381 § 20.]

Notes:

Purpose--1997 c 381: See RCW 43.21K.005.

RCW 43.21A.160 Request for certification of records as confidential--Procedure.

Whenever any records or other information furnished under the authority of this chapter to the director, the department, or any division of the department, relate to the processes of production unique to the owner or operator thereof, or may affect adversely the competitive position of such owner or operator if released to the public or to a competitor, the owner or operator of such processes or production may so certify, and request that such information or records be made available only for the confidential use of the director, the department, or the appropriate division of the department. The director shall give consideration to the request, and if such action would not be detrimental to the public interest and is otherwise within accord with the policies and purposes of this chapter, may grant the same.

[1970 ex.s. c 62 § 16.]

RCW 43.21A.165 Environmental technology--Review of certification programs--Demonstration activities.

- (1) The legislature finds that:
 - (a) New and innovative environmental technologies can help improve environmental quality at lower costs;
 - (b) Current regulatory processes often include permits or approvals that require applicants to duplicate costly technical analysis;
 - (c) The commercialization of innovative environmental technologies can be discouraged due to the costs of repeated environmental analysis;
 - (d) The regulatory process can be improved by sharing and relying on information generated through demonstration projects and technical certification programs; and
 - (e) Other states have developed programs to certify environmental technologies in order to streamline the permitting process and to encourage use of environmental technologies.
- (2) The legislature therefore declares that the department shall:
 - (a) Review environmental technology certification programs established by other states or federal agencies, and enter into agreements to use the information from these programs if the department finds that this information will improve the efficiency and effectiveness of the state's environmental regulatory process; and
 - (b) Participate in technology demonstration activities that support the state's needs for environmental technology.

[1997 c 419 § 1.]

RCW 43.21A.175 Environmental certification programs--Fees--Rules--Liability.

(1) At the request of a project proponent, the department shall consider information developed through a certification program when making permit or other regulatory decisions. The department may not require duplicative demonstration of such information, but may require additional information as necessary to assure that state requirements are met. A local government that has a regulatory authority delegated by the department may use information developed through a certification program when making permit or other regulatory decisions.

(2) The department shall develop a certification program for technologies for remediation of radioactive and mixed waste, as those terms are defined in chapter 70.105 RCW, if all program development and operational costs are paid by the federal government or persons seeking certification of the technologies.

(3) Following the development of the certification program in subsection (2) of this section, the department may use the policies and procedures of that program on a pilot basis to evaluate the use of certification for site remediation technologies and other environmental technologies, if the operational costs of the certification are paid by the federal government or persons seeking certification of such technologies.

(4) The department shall charge a reasonable fee to recover the operational costs of certifying a technology.

(5) Subsections (1), (3), and (4) of this section apply to permit and other regulatory decisions made under the following: Chapters 70.94, 70.95, 70.105, 70.105D, 70.120, 70.138, 90.48, 90.54, and 90.56 RCW.

(6) For the purposes of this section, "certification program" means a program, developed or approved by the department, to certify the quantitative performance of an environmental technology over a specified range of parameters and conditions. Certification of a technology does not imply endorsement of a specific technology by the department, or a guarantee of the performance of a technology.

(7) The department may adopt rules as necessary to implement the requirements of subsections (2) and (3) of this section, and establish requirements and procedures for evaluation and certification of environmental technologies.

(8) The state, the department, and officers and employees of the state shall not be liable for damages resulting from the utilization of information developed through a certification program, or from a decision to certify or deny certification to an environmental technology. Actions of the department under this section are not decisions reviewable under RCW 43.21B.110.

[1997 c 419 § 2.]

RCW 43.21A.230 Certification of environmental laboratories authorized--Fees--Use of certified laboratories by persons submitting data or results to department.

The director of ecology may certify environmental laboratories which conduct tests or prepare data for submittal to the department. Fees for certification may be charged by the

department to cover the department's costs. Such certification may consider:

- (1) Evaluating protocols and procedures;
- (2) Determining the accuracy and reliability of test results, including internal quality assurance and quality control procedures and proficiency at analyzing test samples supplied by the department;
- (3) Certifying laboratories based on prior certification by another state or federal agency whose certification requirements are deemed satisfactory by the director; and
- (4) Such other factors as the director considers appropriate.

The director of ecology may require that any person submitting laboratory data or test results to the department use laboratories certified by the department or laboratories which participate in quality assurance programs administered by the federal environmental protection agency.

Persons receiving a federal permit for wastewater discharge who operate a lab solely for their own use and who require certification for only conventional pollutants shall not be charged an annual certification fee in excess of the actual costs of providing the certification or four thousand dollars, whichever is less. Conventional pollutants as used in this subsection means those conventional pollutants regulated under the federal clean water act (33 U.S.C. Sec. 1314).

Fees and lab quality control requirements for persons receiving state or federal wastewater discharge permits shall not be implemented before September 30, 1988. The department shall not duplicate any laboratory quality control requirements imposed by the United States environmental protection agency.

[1987 c 481 § 1.]

RCW 43.21A.235 Exemption from laboratory certification and fee requirements.

Laboratories owned by persons holding wastewater discharge permits and operated solely for their own use which participate in quality assurance programs administered by the federal environmental protection agency shall be exempt from certification and fee requirements for the specific methods and tests which are the subject of such quality assurance programs.

[1987 c 481 § 2.]

RCW 43.21A.250 Pollution control hearings board of the state as affecting department, director and commission.

See chapter 43.21B RCW.

RCW 43.21A.350 Master plan of development.

The department of ecology shall prepare and perfect from time to time a state master plan for flood control, state public reservations, financed in whole or in part from moneys collected by the state, sites for state public buildings and for the orderly development of the natural and agricultural resources of the state. The plan shall address how the department will expedite the

completion of industrial projects of state-wide significance. The plan shall be a guide in making recommendations to the officers, boards, commissions, and departments of the state.

Whenever an improvement is proposed to be established by the state, the state agency having charge of the establishment thereof shall request of the director a report thereon, which shall be furnished within a reasonable time thereafter. In case an improvement is not established in conformity with the report, the state agency having charge of the establishment thereof shall file in its office and with the department a statement setting forth its reasons for rejecting or varying from such report which shall be open to public inspection.

The department shall insofar as possible secure the cooperation of adjacent states, and of counties and municipalities within the state in the coordination of their proposed improvements with such master plan.

[1997 c 369 § 6; 1987 c 109 § 29; 1965 c 8 § 43.21.190. Prior: 1957 c 215 § 22; 1933 ex.s. c 54 § 3; RRS § 10930-3. Formerly RCW 43.21.190.]

Notes:

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

Industrial project of state-wide significance--Defined: RCW 43.157.010.

RCW 43.21A.355 Master plan of development--Public hearings.

The director may hold public hearings, in connection with any duty prescribed in RCW 43.21A.350 and may compel the attendance of witnesses and the production of evidence.

[1988 c 127 § 7; 1965 c 8 § 43.21.200. Prior: 1957 c 215 § 23; 1933 ex.s. c 54 § 4; RRS § 10930-4. Formerly RCW 43.21.200.]

RCW 43.21A.405 Marine pollution--Baseline study program--Legislative finding and declaration.

The legislature recognizes that there exists a great risk of potential damage from oil pollution of the waters of the state of Washington and further declares that immediate steps must be undertaken to reduce this risk. The legislature also is aware that such danger is expected to increase in future years in proportion to the increase in the size and cargo capacity of ships, barges, and other waterborne carriers, the construction and operational characteristics of these carriers, the density of waterborne traffic, and the need for a greater supply of petroleum products.

A program of systematic baseline studies to be conducted by the department of ecology has been recognized as a vital part of the efforts to reduce the risk of oil pollution of marine waters, and the legislature recognizes that many factors combine to make this effort one of considerable magnitude and difficulty. The marine shoreline of the state is about two thousand seven hundred miles long, a greater length than the combined coastlines of Oregon and California. There are some three million acres of submerged land and more than three hundred islands in these marine waters. The average depth of Puget Sound is two hundred twenty feet.

There is a great diversity of animal life in the waters of the state. These waters have a multitude of uses by both humans and nonhumans, and the interaction between man's activities and natural processes in these waters varies greatly with locale.

[1973 2nd ex.s. c 30 § 1.]

Notes:

Oil and hazardous substances pollution: RCW 90.56.010 through 90.56.280.

RCW 43.21A.410 Marine pollution--Baseline study program established--Utilization of related programs--Coordination--Contracts.

As part of the state effort to prevent and control oil pollution, a continuing, comprehensive program of systematic baseline studies for the waters of the state shall be established by the department of ecology. Full utilization of related historical data shall be made in planning these studies. Data from these and other scientific investigations made pursuant to RCW 43.21A.405 through 43.21A.420 should, whenever possible, have multiple use, including use as supporting evidence of environmental damage resulting from oil pollution, as indicators of the potential or existing risks and impacts of oil pollution, as aids to developing a methodology for implementing the reduction of risks, and as aids to maintaining water quality standards.

A baseline study program shall take full advantage of the data and information produced by related programs, such as the marine ecosystems analysis (MESA) program of the national oceanic and atmospheric administration, studies and inventories made pursuant to the state shorelines management act of 1971, and others. All phases of the program, including planning, operations, data analysis, interpretation, storage, retrieval, and dissemination phases, shall be coordinated to the greatest possible extent with appropriate governmental, academic, and industrial organizations. Whenever possible, the department shall contract with existing state agencies, boards, commissions, and institutions of higher education for the scientific investigation programs to be conducted.

[1973 2nd ex.s. c 30 § 2.]

RCW 43.21A.415 Marine pollution--Baseline study program--Scope of data base produced.

The data base produced by such studies should include chemical, physical, and biological parameters of the waters, complete information on marine pollution accidents, and an economic evaluation of the marine resources and shoreline properties that may be damaged or impaired by oil pollution. Where oceanographic and water quality instrumentation is used to gather data, such instruments shall be standardized and intercalibrated.

[1973 2nd ex.s. c 30 § 3.]

RCW 43.21A.420 Marine pollution--Baseline study program--Priority factors.

In planning the state baseline studies program, priority shall be given to those waters (1) in which the greatest risk of damage from oil spills exists; (2) which contain marine and fresh water life that is particularly sensitive to toxins contained in crude oil, oil products, and oil wastes; and (3) which are used or may be used for the harvesting, gathering, or production of food or food products.

[1973 2nd ex.s. c 30 § 4.]

RCW 43.21A.430 Catalytic converters in police, ambulance or emergency aid vehicles--Department's powers restricted in respect thereto.

The department of ecology may not adopt, maintain in effect, or enforce any rule requiring the installation or maintenance of a catalytic converter in the exhaust system of any motor vehicle used as a police vehicle, or ambulance, an emergency aid vehicle, or a fire department vehicle, and any catalytic converter in the exhaust system of any such vehicle may be lawfully removed.

[1977 ex.s. c 264 § 1.]

RCW 43.21A.440 Department authorized to participate in and administer federal Comprehensive Environmental Response, Compensation and Liability Act.

The department of ecology is authorized to participate fully in and is empowered to administer all programs of the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), as it exists on July 24, 1983, contemplated for state participation and administration under that act.

[1983 c 270 § 3.]

Notes:

Severability--1983 c 270: See note following RCW 90.48.260.

RCW 43.21A.445 Departments authorized to participate in and administer federal Safe Drinking Water Act--Agreements with other departments.

The department of ecology, the department of natural resources, the department of health, and the *oil and gas conservation committee are authorized to participate fully in and are empowered to administer all programs of Part C of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it exists on June 19, 1986, contemplated for state participation in administration under the act.

The department of ecology, in the implementation of powers provided herein shall enter into agreements of administration with the departments of health and natural resources and the *oil and gas conservation committee to administer those portions of the state program, approved under the federal act, over which the said departments and committee have primary subject-matter authority under existing state law. The departments of health and natural

resources and the *oil and gas conservation committee are empowered to enter into such agreements and perform the administration contained therein.

[1989 1st ex.s. c 9 § 218; 1988 c 279 § 1; 1983 c 270 § 4.]

Notes:

***Reviser's note:** The duties of the oil and gas conservation committee were transferred to the department of natural resources by 1994 sp.s. c 9.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability--1983 c 270: See note following RCW 90.48.260.

Adoption of rules for on-site sewage disposal systems adjacent to marine waters: RCW 90.48.264.

Drinking water quality consumer complaints: RCW 80.04.110.

RCW 43.21A.450 Control of outflow and level of Lake Osoyoos--Lake Osoyoos International Water Control Structure authorized.

(1) The legislature recognizes the need for the state of Washington to implement an understanding reached with the Province of British Columbia in relation to a joint venture with British Columbia for controlling the outflow and level of Lake Osoyoos, an international lake, and in connection therewith to replace an existing lake control structure on the Okanogan river in Washington state which has been classified as deteriorated and unsafe.

(2) For the purpose of implementing subsection (1) of this section, the department of ecology may acquire, design, construct, own, operate, and maintain a project to be known as the Lake Osoyoos International Water Control Structure and may acquire all real property interests necessary thereto by purchase, grant, gift, or eminent domain; provided that the authority of eminent domain as granted to the department under this section is limited to acquiring property necessary for access to the control structure, location of abutments for the control structure, and flowage easements if necessary.

(3) The department may accept and administer grants or gifts from any source for the purpose of carrying out subsection (2) of this section.

(4) The department may exercise its powers under subsection (2) of this section directly or through contracts, except that it may not delegate its authority of eminent domain. The department may also enter into agreements with any public or municipal corporation with respect to operation and maintenance of the project authorized under subsection (2) of this section.

[1985 c 27 § 1; 1982 c 76 § 1.]

Notes:

Intent--1985 c 27; 1982 c 76: "It is the intent of this legislature in enacting RCW 43.21A.450 that total capital costs for the said project be shared equally by Washington state and British Columbia." [1985 c 27 § 2; 1982 c 76 § 2.]

RCW 43.21A.470 Yakima enhancement project--Duties--Request for congressional authorization for pipeline.

(1) The director of the department of ecology shall:

(a) Continue to participate with the federal government in its studies of the Yakima enhancement project and of options for future development of the second half of the Columbia Basin project;

(b) Vigorously represent the state's interest in said studies, particularly as they relate to protection of existing water rights and resolution of conflicts in the adjudication of the Yakima river within the framework of state water rights law and propose means of resolving the conflict that minimize adverse effects on the various existing uses;

(c) As a cooperative federal and nonfederal effort, work with members of the congressional delegation to identify and advance, subject to the limitations in subsection (2) of this section, for federal authorization elements of the Yakima enhancement project which: Have general public support and acceptable cost-sharing arrangements, meet study objectives, and otherwise have potential for early implementation; and

(d) In developing acceptable cost-sharing arrangements, request federal recognition of state credit for expenditures of moneys from Washington state utility ratepayers.

(2) In the interest of promoting cooperation between all interested parties and to effectuate the efficient and satisfactory implementation of the Yakima enhancement project, the state requests that Congress authorize the construction of a pipeline between Keechelus Lake and Kachess Lake as one of the elements of early implementation of the Yakima enhancement project for the purpose of supplying the water which is demanded for and caused by the operation of the fish passage facilities at the Easton Dam. The department, in concert with other state agencies, shall work diligently to assure that the pipeline element is included in the federal legislation.

[1987 c 517 § 1; 1986 c 316 § 3.]

RCW 43.21A.510 State environmental profile.

In order to assist the department of community, trade, and economic development in providing information to businesses interested in locating in Washington state, the department shall develop an environmental profile of the state. This profile shall identify the state's natural resources and describe how these assets are valuable to industry. Examples of information to be included are water resources and quality, air quality, and recreational opportunities related to natural resources.

[1995 c 399 § 66; 1985 c 466 § 51; 1984 c 94 § 2.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

Findings--1984 c 94: "The legislature finds (1) that a locality's natural environment is an important factor in determining where new businesses will locate, (2) that environmental regulations that preserve the quality of the environment can enhance economic development and the determination by new businesses where to locate and can lead to the creation of jobs and new industries, and (3) that some areas of the state have been and might be handicapped in their economic development efforts because of perceived environmental problems. Thus, the legislature declares that it is the policy of this state to recognize and emphasize the importance of the state's natural

environment in its economic development efforts in attracting and maintaining businesses." [1984 c 94 § 1.]

RCW 43.21A.515 Assistance to businesses interested in locating in Washington required--Information on environmental laws and regulations to be provided.

In order to emphasize the importance of the state's environmental laws and regulations and to facilitate compliance with them, the department of ecology shall provide assistance to businesses interested in locating in Washington state. When the department of community, trade, and economic development receives a query from an interested business through its industrial marketing activities, it shall arrange for the department of ecology to provide information on the state's environmental laws and regulations and methods of compliance. This section shall facilitate compliance with state environmental laws and regulations and shall not weaken their application or effectiveness.

[1995 c 399 § 67; 1985 c 466 § 52; 1984 c 94 § 3.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

Findings--1984 c 94: See note following RCW 43.21A.510.

RCW 43.21A.520 Environmental excellence awards program for products.

(1) The department of ecology shall develop and implement an environmental excellence awards program that recognizes products that are produced, labeled, or packaged in a manner that helps ensure environmental protection. The award shall be in recognition of products that are made from recycled materials, easy to recycle, substitute for more hazardous products, or otherwise help protect the environment. Application for the award shall be voluntary. The awards may be made in a variety of product categories including, but not limited to:

- (a) Paint products;
- (b) Cleaning products;
- (c) Pest control products;
- (d) Automotive, marine, and related maintenance products;
- (e) Hobby and recreation products; and
- (f) Any other product available for retail or wholesale sale.

(2) The state solid waste advisory committee shall establish an environmental excellence product award subcommittee to develop and recommend criteria for awarding environmental excellence awards for products. The subcommittee shall also review award applications and make recommendations to the department. The subcommittee shall consist of equal representation of: (a) Product manufacturing or other business representatives; (b) environmental representatives; (c) labor or consumer representatives; and (d) independent technical experts. Members of the subcommittee need not necessarily be regular members of the state solid waste advisory committee.

(3) Products receiving an environmental excellence award pursuant to this section shall be entitled to display a logo or other symbol developed by the department to signify the award. Awards shall be given each year to as many products as qualify. The award logo may be displayed for a period to be determined by the department.

[1989 c 431 § 47; 1987 c 67 § 1.]

Notes:

Severability--Section captions not law--1989 c 431: See RCW 70.95.901 and 70.95.902.

RCW 43.21A.600 Powers and duties--Electric power resources.

The department shall make studies and surveys, collect, compile and disseminate information and statistics to facilitate development of the electric power resources of the state by public utility districts, municipalities, electric cooperatives, joint operating agencies and public utility companies. The director may cause studies to be made relating to the construction of steam generating plants using any available fuel and their integration with hydro-electric facilities. He may cause designs for any such plant to be prepared. He shall employ such engineers and other experts and assistants as may be necessary to carry out his power resources functions.

[1988 c 127 § 8; 1965 c 8 § 43.21.220. Prior: 1957 c 284 § 2. Formerly RCW 43.21.220.]

Notes:

Joint operating agencies: Chapter 43.52 RCW.

RCW 43.21A.605 Development of electric power resources--Cooperation with governmental units.

The director may represent the state and aid and assist the public utilities therein to the end that its resources shall be properly developed in the public interest insofar as they affect electric power and to this end he shall cooperate and may negotiate with Canada, the United States, the states thereof and their agencies to develop and integrate the resources of the region.

[1988 c 127 § 9; 1965 c 8 § 43.21.230. Prior: 1957 c 284 § 3. Formerly RCW 43.21.230.]

RCW 43.21A.610 Steam electric generating plant--Study--Construction.

The director shall continue the study of the state power commission made in 1956 relating to the construction of a steam power electric generating plant, and if the construction of a steam electric generating plant is found to be feasible by the director, the director may construct such plant at a site determined by him to be feasible and operate it as a state owned facility.

[1988 c 127 § 10; 1965 c 8 § 43.21.250. Prior: 1957 c 275 § 3. Formerly RCW 43.21.250]

RCW 43.21A.612 Steam electric generating plant--Statement of intention--Construction by public utility, operating agency, or the department, procedure--Powers of director of community, trade, and economic development.

Before the director shall construct said steam generating facility within the state, or make

application for any permit, license or other right necessary thereto, the director shall give notice thereof by publishing once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is located a statement of intention setting forth the general nature, extent and location of the project. If any public utility in the state or any operating agency desires to construct such facility, such utility or operating agency shall notify the director thereof within ten days after the last date of publication of such notice. If the director determines that it is in the best public interest that the director proceed with such construction rather than the public utility or operating agency, the director shall so notify the director of community, trade, and economic development, who shall set a date for hearing thereon. If after considering the evidence introduced the director of community, trade, and economic development finds that the public utility or operating agency making the request intends to immediately proceed with such construction and is financially capable of carrying out such construction and further finds that the plan of such utility or operating agency is equally well adapted to serve the public interest, the director shall enter an order so finding and such order shall divest the director of authority to proceed further with such construction or acquisition until such time as the other public utility or agency voluntarily causes an assignment of its right or interest in the project to the director or fails to procure any further required governmental permit, license or authority or having procured such, has the same revoked or withdrawn, in accordance with the laws and regulations of such governmental entity, in which event the director shall have the same authority to proceed as though the director had originally entered an order so authorizing the director to proceed. If, after considering the evidence introduced, the director of community, trade, and economic development finds that the public utility or agency making the request does not intend to immediately proceed with such construction or acquisition or is not financially capable of carrying out such construction or acquisition, or finds that the plan of such utility or operating agency is not equally well adapted to serve the public interest, the director shall then enter an order so finding and authorizing the director to proceed with the construction or acquisition of the facility.

[1995 c 399 § 68; 1988 c 127 § 11; 1985 c 466 § 49; 1965 c 8 § 43.21.260. Prior: 1957 c 275 § 4. Formerly RCW 43.21.260.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

RCW 43.21A.614 Steam electric generating plant--Powers of director in constructing, operating and maintaining.

In order to construct, operate and maintain the single steam power electric generating plant provided for in RCW 43.21A.610 the director shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate such steam electric power plant, work and facilities for the generation and/or transmission of electric energy and to take, condemn, purchase, lease and

acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of such work, plant and facilities; providing that the director shall not be authorized to acquire by condemnation any plant, work and facility owned and operated by any city or district, or by a privately owned public utility.

(3) To apply to the appropriate agencies of the state of Washington, the United States or any state thereof, or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(4) To establish rates for electric energy sold or transmitted by the director. When any revenue bonds or warrants are outstanding the director shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy furnished or supplied by the director which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the director is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the director and all necessary repairs, replacements and renewals thereof.

(5) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the director may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the director shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the director.

[1988 c 127 § 12; 1965 c 8 § 43.21.270. Prior: 1957 c 275 § 5. Formerly RCW 43.21.270.]

RCW 43.21A.616 Steam electric generating plant--Eminent domain.

For the purpose of carrying out any or all of the powers herein granted the director shall have the power of eminent domain for the acquisition of either real or personal property used or useful in connection with the construction of facilities authorized hereunder. Actions in eminent domain pursuant to RCW 43.21A.610 through 43.21A.642 shall be brought in the name of the state in any court of competent jurisdiction under the procedure set out in chapter 8.04 RCW. The director may institute condemnation proceedings in the superior court of any county in which any of the property sought to be condemned is located or in which the owner thereof does business, and the court in any such action shall have jurisdiction to condemn property wherever located within the state. It shall not be necessary to allege or prove any offer to purchase or inability to agree with the owners thereof for the purchase of any such property in said proceedings. Upon the filing of a petition for condemnation, as provided in this section, the court may issue an order restraining the removal from the jurisdiction of the state of any personal property sought to be acquired by the proceedings during the pendency thereof. The court shall further have the power to issue such orders or process as shall be necessary to place the director

into possession of any property condemned.

[1988 c 127 § 13; 1965 c 8 § 43.21.280. Prior: 1957 c 275 § 6. Formerly RCW 43.21.280.]

RCW 43.21A.618 Steam electric generating plant--State not financially obligated--Separation and expenditure of funds.

The director shall have no right or power to impose any debt nor to suffer or create any financial obligation upon the state of Washington or its subdivisions in the execution of RCW 43.21A.610 through 43.21A.642.

No revenues received by the director for the sale of electricity or otherwise, shall be expended except for the payment of lawful obligations of the director and all such revenues and receipts shall be kept and maintained in a separate fund.

[1988 c 127 § 14; 1965 c 8 § 43.21.290. Prior: 1957 c 275 § 7. Formerly RCW 43.21.290.]

RCW 43.21A.620 Steam electric generating plant--Revenue bonds and warrants.

For the purposes provided for in RCW 43.21A.610 through 43.21A.642, the state finance committee shall, upon being notified to do so by the director, issue revenue bonds or warrants payable from the revenues from the steam electric plant provided for in RCW 43.21A.610. When the director deems it advisable that he acquire or construct said steam electric plant or make additions or betterments thereto, he shall so notify the state finance committee and he shall also notify the state finance committee as to the plan proposed, together with the estimated cost thereof. The state finance committee, upon receiving such notice, shall provide for the construction thereof and the issuance of revenue bonds or warrants therefor by a resolution which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as nearly as may be, including as part of the cost, funds necessary for working capital for the operation of such utility and the payment of the expenses incurred in the acquisition or construction thereof. Such resolution shall specify that utility revenue bonds are to be issued to defray the cost thereof and the amount of such bonds to be issued. Bonds issued under the provisions of RCW 43.21A.610 through 43.21A.642 shall distinctly state that they are not a general obligation of the state.

[1988 c 127 § 15; 1965 c 8 § 43.21.300. Prior: 1957 c 275 § 8. Formerly RCW 43.21.300.]

RCW 43.21A.622 Steam electric generating plant--Special funds--Payment of bonds, interest.

When the state finance committee issues revenue bonds as provided in RCW 43.21A.620, it shall, as a part of the plan and system, request the state treasurer to establish a special fund or funds to defray the cost of the steam electric utility, or additions or betterments thereto or extensions thereof. The state finance committee may obligate and bind the director to set aside and pay to the state treasurer for deposit into such fund or funds a fixed proportion of the gross

revenue of the steam electric utility and all additions or betterments thereto or extensions thereof, or any fixed amount out of, and not exceeding the fixed proportion of such revenue, or a fixed amount without regard to any fixed proportion, or an amount of the revenue equal to a fixed percentage of the aggregate principal amount of revenue bonds at any time issued against the special fund or funds. It may issue and sell utility bonds payable as to both principal and interest only out of such fund or funds.

The revenue bonds shall be payable at such places and times, both as to principal and interest, and bear interest at such rates payable semiannually as the state finance committee shall determine.

[1988 c 127 § 16; 1965 c 8 § 43.21.310. Prior: 1957 c 275 § 9. Formerly RCW 43.21.310.]

RCW 43.21A.624 Steam electric generating plant--Considerations in issuance of bonds, limitations.

In the issuance of any bonds hereunder the state finance committee shall have due regard to the cost of operation and maintenance of the steam electric utility as acquired, constructed or added to, and to any proportion or amount of the revenue previously pledged as a fund for the payment of revenue bonds. It shall not require to be set aside into the fund a greater amount or proportion of the revenue than in its judgment and as agreed to by the director will be available over and above the cost of maintenance and operation and any amount or proportion of the revenue so previously pledged. Revenue bonds and interest thereon issued against such fund shall be a valid claim of the holder thereof only as against the fund and the proportion or amount of the revenue pledged thereto, but shall constitute a prior charge over all other charges or claims whatsoever against the fund and the proportion or amount of the revenues pledged thereto. Each revenue bond shall state on its face that it is payable from a special fund, naming the fund and the resolution creating it.

[1988 c 127 § 17; 1965 c 8 § 43.21.320. Prior: 1957 c 275 § 10. Formerly RCW 43.21.320.]

RCW 43.21A.626 Steam electric generating plant--Resolution authorizing issuance of bonds, contents, covenants.

The resolution of the state finance committee authorizing the issuance of revenue bonds shall specify the title of the bonds as determined by the state finance committee, and may contain covenants by the committee to protect and safeguard the security and the rights of the holders thereof, including covenants as to, among other things:

(1) The purpose or purposes to which the proceeds of the sale of the revenue bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the gross revenue of the steam electric utility and any additions or betterments thereto or extensions thereof, the cost of which is to be defrayed with such proceeds, including the creation and maintenance of funds for working capital to be used in the operation of the steam electric utility and for renewals and replacements thereof;

(3) The amount, if any, of additional revenue bonds payable from such fund which may

be issued and the terms and conditions on which such additional revenue bonds or warrants may be issued;

(4) The establishment and maintenance of adequate rates and charges for electric power and energy and other services, facilities, and commodities, sold, furnished or supplied by the steam electric utility;

(5) The operation, maintenance, management, accounting and auditing of the electric utility;

(6) The terms upon which the revenue bonds, or any of them, may be redeemed at the election of the agency;

(7) Limitations upon the right to dispose of the steam electric utility or any part thereof without providing for the payment of the outstanding revenue bonds; and

(8) The appointment of trustees, depositaries, and paying agents to receive, hold, disburse, invest, and reinvest all or any part of the income, revenue, receipts and profits derived by the director from the operation, ownership, and management of its steam electric utility.

[1988 c 127 § 18; 1965 c 8 § 43.21.330. Prior: 1957 c 275 § 11. Formerly RCW 43.21.330.]

RCW 43.21A.628 Steam electric generating plant--Sale of bonds.

All bonds issued under or by authority of RCW 43.21A.610 through 43.21A.642 shall be sold to the highest and best bidder after such advertising for bids as the state finance committee may deem proper. The state finance committee may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as the state finance committee may deem most advantageous to its own interests.

[1988 c 127 § 19; 1970 ex.s. c 56 § 61; 1969 ex.s. c 232 § 32; 1965 c 8 § 43.21.340. Prior: 1957 c 275 § 12. Formerly RCW 43.21.340.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 43.21A.630 Steam electric generating plant--Examination, registration of bonds by state auditor--Defects, irregularities.

Prior to the issuance and delivery of any revenue bonds, such bonds and a certified copy of the resolution authorizing them shall be delivered to the state auditor together with any additional information that he may require. When the bonds have been examined they shall be registered by the auditor in books to be kept by him for that purpose, and a certificate of registration shall be endorsed upon each bond and signed by the auditor or a deputy appointed by him for the purpose. The bonds shall then be prima facie valid and binding obligations of the state finance committee in accordance with their terms, notwithstanding any defects or irregularities in the authorization and issuance of the bonds, or in the sale, execution or delivery thereof.

[1965 c 8 § 43.21.350. Prior: 1957 c 275 § 13. Formerly RCW 43.21.350.]

RCW 43.21A.632 Steam electric generating plant--Rates or charges.

When revenue bonds are outstanding the director shall establish, maintain, and collect rates or charges for electric power and energy, and other services, facilities and commodities sold and supplied by the director which shall be fair and nondiscriminatory and adequate to provide revenue sufficient to pay the principal of and interest on revenue bonds outstanding, and all payments which the director is obligated to make to the state treasurer for deposit in any special fund or funds created for such purpose, and for the proper operation and maintenance of the utility and all necessary repairs, replacements and renewals thereof.

[1988 c 127 § 20; 1965 c 8 § 43.21.360. Prior: 1957 c 275 § 14. Formerly RCW 43.21.360.]

RCW 43.21A.634 Steam electric generating plant--Refunding revenue bonds.

When the state finance committee has outstanding revenue bonds, the state finance committee, with the concurrence of the director, may by resolution provide for the issuance of refunding revenue bonds with which to refund the outstanding revenue bonds, or any part thereof at maturity, or before maturity if they are by their terms or by other agreement, subject to call for prior redemption, with the right in the state finance committee to combine various series and issues of the outstanding revenue bonds by a single issue of refunding revenue bonds. The refunding bonds shall be payable only out of a special fund created out of the gross revenue of the steam electric utility, and shall only be a valid claim as against such special fund and the amount or proportion of the revenue of the utility pledged to said fund. The rate of interest on refunding revenue bonds shall not exceed the rate of interest on revenue bonds refunded thereby. The state finance committee may exchange the refunding revenue bonds for the revenue bonds which are being refunded, or it may sell them in such manner as it deems for its best interest. Except as specifically provided in this section, the refunding revenue bonds shall be issued in accordance with the provisions contained in RCW 43.21A.610 through 43.21A.642 with respect to revenue bonds.

[1988 c 127 § 21; 1965 c 8 § 43.21.370. Prior: 1957 c 275 § 15. Formerly RCW 43.21.370.]

RCW 43.21A.636 Steam electric generating plant--Signatures on bonds.

All revenue bonds, including refunding revenue bonds, shall be signed by the governor and the state auditor under the seal of the state, one of which signatures shall be made manually and the other signature may be in printed facsimile, and any coupons may have printed or lithographic facsimile of the signatures of such officers.

[1965 c 8 § 43.21.380. Prior: 1957 c 275 § 16. Formerly RCW 43.21.380.]

RCW 43.21A.638 Steam electric generating plant--Provisions of law, resolution, a contract with bondholder--Enforcement.

The provisions of RCW 43.21A.610 through 43.21A.642 and any resolution providing for the issuance of revenue bonds shall constitute a contract with the holder or holders from time to time of the revenue bonds of the state finance committee. Such provisions of RCW 43.21A.610 through 43.21A.642 and of any such resolution shall be enforceable by any such bondholders by appropriate action in any court of competent jurisdiction.

[1988 c 127 § 22; 1965 c 8 § 43.21.390. Prior: 1957 c 275 § 17. Formerly RCW 43.21.390.]

RCW 43.21A.640 Steam electric generating plant--Bonds are legal security, investment, negotiable.

All revenue bonds issued hereunder shall be legal securities, which may be used by a bank or trust company for deposit with the state treasurer, or by a county or city or town treasurer, as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. They shall constitute legal investments for trustees and other fiduciaries other than corporations doing a trust business in this state, and for savings and loan associations, banks and insurance companies doing business in this state. All revenue bonds and all coupons appertaining thereto shall be negotiable instruments within the meaning and for all purposes of the negotiable instruments law.

[1965 c 8 § 43.21.400. Prior: 1957 c 275 § 18. Formerly RCW 43.21.400.]

RCW 43.21A.642 Steam electric generating plant--Director not authorized to acquire other facilities or engage in retail distribution.

Nothing in RCW 43.21A.610 through 43.21A.642 shall authorize or empower the director to purchase or acquire any transmission or distribution system or facilities or to engage in the retail distribution of electric energy, or to purchase or acquire any operating hydroelectric generating plant owned by any city or district, or by a privately owned public utility, or which hereafter may be acquired by any city or district by condemnation.

[1988 c 127 § 23; 1965 c 8 § 43.21.410. Prior: 1957 c 275 § 19. Formerly RCW 43.21.410.]

RCW 43.21A.650 Freshwater aquatic weeds account.

The freshwater aquatic weeds account is hereby created in the state treasury. Expenditures from this account may only be used as provided in RCW 43.21A.660. Moneys in the account may be spent only after appropriation.

[1991 c 302 § 2.]

Notes:

Findings--1991 c 302: "The legislature hereby finds that Eurasian water milfoil and other freshwater aquatic weeds can adversely affect fish populations, reduce habitat for desirable plant and wildlife species, and decrease public recreational opportunities. The legislature further finds that the spread of freshwater aquatic weeds is a state-wide problem and requires a coordinated response among state agencies, local governments, and the

public. It is therefore the intent of the legislature to establish a funding source to reduce the propagation of Eurasian water milfoil and other freshwater aquatic weeds and to manage the problems created by such freshwater aquatic plants." [1991 c 302 § 1.]

Effective date--1991 c 302: See note following RCW 46.16.670.

RCW 43.21A.660 Freshwater aquatic weeds management program.

Funds in the freshwater aquatic weeds account may be appropriated to the department of ecology to develop a freshwater aquatic weeds management program. Funds shall be expended as follows:

(1) No less than two-thirds of the appropriated funds shall be issued as grants to (a) cities, counties, tribes, special purpose districts, and state agencies to prevent, remove, reduce, or manage excessive freshwater aquatic weeds; (b) fund demonstration or pilot projects consistent with the purposes of this section; and (c) fund hydrilla eradication activities in waters of the state. Except for hydrilla eradication activities, such grants shall only be issued for lakes, rivers, or streams with a public boat launching ramp or which are designated by the department of fish and wildlife for fly-fishing. The department shall give preference to projects having matching funds or in-kind services; and

(2) No more than one-third of the appropriated funds shall be expended to:

(a) Develop public education programs relating to preventing the propagation and spread of freshwater aquatic weeds; and

(b) Provide technical assistance to local governments and citizen groups.

[1999 c 251 § 1; 1996 c 190 § 1; 1991 c 302 § 4.]

Notes:

Findings--1991 c 302: See note following RCW 43.21A.650.

Effective date--1991 c 302: See note following RCW 46.16.670.

RCW 43.21A.662 Freshwater aquatic weeds management program--Advisory committee.

(1) The department shall appoint an advisory committee to oversee the freshwater aquatic weeds management program.

(2) The advisory committee shall include representatives from the following groups:

(a) Recreational boaters interested in freshwater aquatic weed management;

(b) Residents adjacent to lakes, rivers, or streams with public boat launch facilities;

(c) Local governments;

(d) Scientific specialists;

(e) Pesticide registrants, as defined in *RCW 15.58.030(34);

(f) Certified pesticide applicators, as defined in **RCW 17.21.020(5), who specialize in the use of aquatic pesticides; and

(g) If ***chapter . . ., Laws of 1999 (Senate Bill No. 5315) is enacted by June 30, 1999, the aquatic nuisance species coordinating committee.

(3) The advisory committee shall review and provide recommendations to the department on freshwater aquatic weeds management program activities and budget and establish criteria for

grants funded from the freshwater aquatic weeds account.

[1999 c 251 § 2.]

NOTES:

Reviser's note: *(1) RCW 15.58.030 was amended by 2000 c 96 § 1, changing subsection (34) to subsection (35).

***(2) RCW 17.21.020 was amended by 2001 c 333 § 1, changing subsection (5) to subsection (6), effective July 1, 2002.

****(3) Senate Bill No. 5315 (1999) was not enacted into law by June 30, 1999.

RCW 43.21A.670 Senior environmental corps--Department powers and duties.

(1) The department of ecology shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;

Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps approved projects; and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

[1992 c 63 § 9.]

Notes:

Severability--1992 c 63: See note following RCW 43.63A.240.

RCW 43.21A.680 Solid waste plan advisory committee abolished.

The director of ecology shall abolish the solid waste plan advisory committee effective July 1, 1994.

[1994 sp.s. c 9 § 804.]

Notes:

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

RCW 43.21A.690 Cost-reimbursement agreements for complex projects.

(1) The department may enter into a written cost-reimbursement agreement with a permit applicant for a complex project to recover from the applicant the reasonable costs incurred by the

department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, and permit processing. The cost-reimbursement agreement shall identify the specific tasks, costs, and schedule for work to be conducted under the agreement. For purposes of this section, a complex project is a project for which an environmental impact statement is required under chapter 43.21C RCW.

(2) The written cost-reimbursement agreement shall be negotiated with the permit applicant. Under the provisions of a cost-reimbursement agreement, funds from the applicant shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits, and shall contract with consultants to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments. Use of cost-reimbursement agreements shall not reduce the current level of staff available to work on permits not covered by cost-reimbursement agreements. The department may not use any funds under a cost-reimbursement agreement to replace or supplant existing funding. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement.

(3) The department may not enter into any new cost-reimbursement agreements on or after July 1, 2005. The department may continue to administer any cost-reimbursement agreement which was entered into before July 1, 2005, until the project is completed.

[2000 c 251 § 2.]

Notes:

Intent--2000 c 251: "It is the intent of the legislature to allow applicants for environmental permits for complex projects to compensate permitting agencies for providing environmental review through the voluntary negotiation of cost-reimbursement agreements with the permitting agency. It is the further intent of the legislature that cost-reimbursement agreements for complex projects free permitting agency resources to focus on the review of small projects permits." [2000 c 251 § 1.]

Captions not law--2000 c 251: "Captions used in this act are not any part of the law." [2000 c 251 § 8.]

Effective date--2000 c 251: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2000]." [2000 c 251 § 9.]

RCW 43.21A.900 Chapter to be liberally construed.

The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out the broad purposes set forth in RCW 43.21A.020.

[1970 ex.s. c 62 § 27.]

RCW 43.21A.910 Savings--Permits, standards not affected--Severability--Effective date--1970 ex.s. c 62.

See notes following RCW 43.21A.010.

**Chapter 43.21B RCW
ENVIRONMENTAL HEARINGS OFFICE--POLLUTION CONTROL HEARINGS
BOARD**

Sections

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- 43.21B.320 Stays of orders.
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- 43.21B.900 Savings--Other powers and duties not affected--Permits, standards not affected--Severability--Effective date--1970 ex.s. c 62.

RCW 43.21B.001 Definitions.

As used in this chapter, "department" means the department of ecology, and "director" means the director of ecology.

[1987 c 109 § 4.]

Notes:

Purpose--1987 c 109: "The purposes of this act are to:

(1) Simplify and clarify existing statutory and administrative procedures for appealing decisions of the department of ecology and air pollution control authorities in order to (a) expedite those appeals, (b) insure that those appeals are conducted with a minimum of expense to save state and private resources, and (c) allow the appellate authorities to decide cases on their merits rather than on procedural technicalities.

(2) Clarify existing statutes relating to the environment but which refer to numerous agencies no longer in existence.

(3) Eliminate provisions no longer effective or meaningful and abbreviate statutory provisions which are unnecessarily long and confusing." [1987 c 109 § 1.]

Short title--1987 c 109: "This act may be referred to as the "ecology procedures simplification act of 1987." [1987 c 109 § 2.]

Construction--1987 c 109: "Unless otherwise specifically intended, this act shall not be construed to change existing substantive or procedural law; it should only clarify and standardize existing procedures." [1987 c 109 § 3.]

Rules--1987 c 109: "The department of ecology shall amend its rules by June 30, 1988, to effect the purposes of this act." [1987 c 109 § 160.]

Severability--1987 c 109: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 109 § 161.]

Captions--1987 c 109: "As used in this act, bill headings and section captions constitute no part of the law." [1987 c 109 § 162.]

RCW 43.21B.005 Environmental hearings office created--Composition--Administrative appeals judges--Contracts for services.

(1) There is created an environmental hearings office of the state of Washington. The environmental hearings office shall consist of the pollution control hearings board created in RCW 43.21B.010, the forest practices appeals board created in RCW 76.09.210, the shorelines hearings board created in RCW 90.58.170, and the hydraulic appeals board created in *RCW 75.20.130. The chairman of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board, the forest practices appeals board, the shorelines hearings board, and the hydraulic appeals board shall be as provided by law.

(2) The chief executive officer of the environmental hearings office may appoint an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional

administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.

(3) The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the chief executive officer. Upon written request by the person so disciplined or terminated, the chief executive officer shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The chief executive officer may also contract for required services.

[1999 c 125 § 1; 1990 c 65 § 1; 1986 c 173 § 3; 1979 ex.s. c 47 § 2.]

Notes:

***Reviser's note:** RCW 75.20.130 was recodified as RCW 77.55.170 pursuant to 2000 c 107 § 129.

Intent--1979 ex.s. c 47: "It is the intent of the legislature to consolidate administratively the pollution control hearings board, the forest practices appeals board, and the shorelines hearings board into one agency of state government with minimum disturbance to these boards. It is not the intent of the legislature in consolidating these boards to change the existing membership of these boards.

All full-time employees of the pollution control hearings board and the full-time employee of the forest practices appeals board shall be full-time employees of the environmental hearings office without loss of rights. Property and obligations of these boards and the shorelines hearings board shall be property and obligations of the environmental hearings office." [1979 ex.s. c 47 § 1.]

RCW 43.21B.010 Pollution control hearings board created--Purpose.

There is hereby created within the environmental hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of appeals with respect to the decisions and orders of the department and director and with respect to all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW.

[1979 ex.s. c 47 § 3; 1970 ex.s. c 62 § 31.]

Notes:

Intent--1979 ex.s. c 47: See note following RCW 43.21B.005.

RCW 43.21B.020 Members--Qualifications--Appointment.

The hearings board shall consist of three members qualified by experience or training in pertinent matters pertaining to the environment, and at least one member of the hearings board shall have been admitted to practice law in this state and engaged in the legal profession at the time of his appointment. The hearings board shall be appointed by the governor with the advice and consent of the senate, and no more than two of whom at the time of appointment or during

their term shall be members of the same political party.

[1970 ex.s. c 62 § 32.]

RCW 43.21B.030 Members--Terms--Filling vacancies, term.

Members of the hearings board shall be appointed for a term of six years and until their successors are appointed and have qualified. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs: PROVIDED, That the terms of the first three members of the hearings board shall be staggered so that one member shall be appointed to serve until July 1, 1972, one member until July 1, 1974, and one member until July 1, 1976.

[1970 ex.s. c 62 § 33.]

RCW 43.21B.040 Removal of member, procedure--As disqualification for reappointment.

Any member of the hearings board may be removed for inefficiency, malfeasance and misfeasance in office, under specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the hearings board by the tribunal shall disqualify such member for reappointment.

[1970 ex.s. c 62 § 34.]

RCW 43.21B.050 Governor to determine basis for operation--Compensation if part time basis, limitation--Reimbursement of travel expenses.

The hearings board shall operate on either a part time or a full time basis, as determined by the governor. If it is determined that the hearings board shall operate on a full time basis, each member of the hearings board shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined the hearings board shall operate on a part time basis, each member of the hearings board shall receive compensation on the basis of seventy-five dollars for each day spent in performance of his duties but such compensation shall not exceed ten thousand dollars in a fiscal year. Each hearings board member shall receive reimbursement for travel expenses incurred in the discharge of his duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

[1975-'76 2nd ex.s. c 34 § 101; 1970 ex.s. c 62 § 35.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.21B.060 Restrictions upon conduct while member and upon termination of membership.

Each member of the hearings board: (1) Shall not be a candidate for nor hold any other public office or trust, and shall not engage in any occupation or business interfering with or inconsistent with his duty as a member of the hearings board, nor shall he serve on or under any committee of any political party; and (2) shall not for a period of one year after the termination of his membership on the hearings board, act in a representative capacity before the hearings board on any matter.

[1970 ex.s. c 62 § 36.]

RCW 43.21B.080 Chairman, biennial election of.

The hearings board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chairman, and shall at least biennially thereafter meet and elect such a chairman.

[1970 ex.s. c 62 § 38.]

RCW 43.21B.090 Principal office--Quorum--Hearings--Board powers and duties.

The principal office of the hearings board shall be at the state capitol, but it may sit or hold hearings at any other place in the state. A majority of the hearings board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position of the hearings board be vacant. One or more members may hold hearings and take testimony to be reported for action by the hearings board when authorized by rule or order of the hearings board. The hearings board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

[1990 c 65 § 2; 1974 ex.s. c 69 § 1; 1970 ex.s. c 62 § 39.]

RCW 43.21B.100 Board to make findings of fact and written decisions on each case considered--Effective upon signing and filing--Public information.

The hearings board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decisions shall be effective upon being signed by two or more members of the hearings board and upon being filed at the hearings board's principal office, and shall be open for public inspection at all reasonable times.

[1970 ex.s. c 62 § 40.]

RCW 43.21B.110 Pollution control hearings board jurisdiction.

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, and the air

pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings conducted by the department, or the department's designee, under RCW 90.03.160 through 90.03.210 or 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

[2001 c 220 § 2. Prior: 1998 c 262 § 18; 1998 c 156 § 8; 1998 c 36 § 22; 1993 c 387 § 22; prior: 1992 c 174 § 13; 1992 c 73 § 1; 1989 c 175 § 102; 1987 c 109 § 10; 1970 ex.s. c 62 § 41.]

NOTES:

Intent--2001 c 220: "The legislature intends to assure that appeals of department of ecology decisions regarding changes or transfers of water rights that are the subject of an ongoing general adjudication of water rights

are governed by an appeals process that is efficient and eliminates unnecessary duplication, while fully preserving the rights of all affected parties. The legislature intends to address only the judicial review process for certain decisions of the pollution control hearings board when a general adjudication is being actively litigated. The legislature intends to fully preserve the role of the pollution control hearings board, except as specifically provided in this act." [2001 c 220 § 1.]

Construction--2001 c 220: "Nothing in this act shall be construed to affect or modify any treaty or other federal rights of an Indian tribe, or the rights of any federal agency or other person or entity arising under federal law. Nothing in this act is intended or shall be construed as affecting or modifying any existing right of a federally recognized Indian tribe to protect from impairment its federally reserved water rights in federal court." [2001 c 220 § 6.]

Effective date--2001 c 220: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 9, 2001]." [2001 c 220 § 7.]

Effective date--1998 c 262: See RCW 90.64.900.

Intent--1998 c 36: See RCW 15.54.265.

Short title--1998 c 36: See note following RCW 15.54.265.

Effective date--1993 c 387: See RCW 18.104.930.

Effective dates--Severability--1992 c 73: See RCW 82.23B.902 and 90.56.905.

Effective date--1989 c 175: See note following RCW 34.05.010.

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

Order for compliance with oil spill contingency or prevention plan not subject to review by pollution control hearings board: RCW 90.56.270.

RCW 43.21B.130 Administrative procedure act to apply to appeal of board rules and regulations--Scope of board action on decisions and orders of others.

The administrative procedure act, chapter 34.05 RCW, shall apply to the appeal of rules and regulations adopted by the board to the same extent as it applied to the review of rules and regulations adopted by the directors and/or boards or commissions of the various departments whose powers, duties and functions were transferred by section 6, chapter 62, Laws of 1970 ex. sess. to the department. All other decisions and orders of the director and all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW shall be subject to review by the hearings board as provided in this chapter.

[1990 c 65 § 3; 1970 ex.s. c 62 § 43.]

RCW 43.21B.160 Appeals--Generally.

In all appeals, the hearings board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies in chapter 34.05 RCW, the Administrative Procedure Act. The hearings board, and each member thereof, shall be subject to all duties imposed upon, and shall have all powers granted to, an agency by those provisions of chapter 34.05 RCW relating to adjudicative proceedings. In the case of appeals within the jurisdiction of the hearings board, the hearings board, or any member thereof, may obtain such assistance, including the making of field investigations, from the staff of the director as the hearings board, or any member thereof, may deem necessary or appropriate. Any communication, oral or written, from the staff of the director to the hearings board shall be

presented only in an open hearing.

[1995 c 382 § 2; 1990 c 65 § 5; 1989 c 175 § 103; 1974 ex.s. c 69 § 3; 1970 ex.s. c 62 § 46.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 43.21B.170 Proceedings conducted in accordance with published board rules and regulations.

All proceedings before the hearings board or any of its members shall be conducted in accordance with such rules of practice and procedure as the hearings board may prescribe. The hearings board shall publish such rules and arrange for the reasonable distribution thereof.

[1995 c 382 § 3; 1970 ex.s. c 62 § 47.]

RCW 43.21B.180 Judicial review--Director's right of review of decisions pursuant to RCW 43.21B.110.

Judicial review of a decision of the hearings board may be obtained only pursuant to RCW 34.05.510 through 34.05.598. The director shall have the same right of review from a decision made pursuant to RCW 43.21B.110 as does any person.

[1994 c 253 § 6; 1989 c 175 § 104; 1970 ex.s. c 62 § 48.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 43.21B.190 Judicial review--Appeal from board's order.

Within thirty days after the final decision and order of the hearings board upon such an appeal has been communicated to the interested parties, such interested party aggrieved by the decision and order of the hearings board may appeal to the superior court.

[1995 c 382 § 4; 1994 c 253 § 7; 1988 c 202 § 43; 1970 ex.s. c 62 § 49.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 43.21B.230 Appeals of agency actions.

Any person having received notice of a denial of a petition, a notice of determination, notice of or an order made by the department may appeal to the hearings board, within thirty days from the date the notice of such denial, order, or determination is posted in the United States mail, properly addressed, postage prepaid, to the appealing party. The appeal shall be perfected by serving a copy of the notice of appeal upon the department or air pollution authority established pursuant to chapter 70.94 RCW, as the case may be, within the time specified herein and by filing the original thereof with proof of service with the clerk of the hearings board.

[1997 c 125 § 2; 1994 c 253 § 8; 1990 c 65 § 6; 1970 ex.s. c 62 § 53.]

RCW 43.21B.240 Department--Air authorities--Adjudicative proceedings, may not conduct.

The department and air authorities shall not have authority to hold adjudicative proceedings pursuant to the Administrative Procedure Act, chapter 34.05 RCW. Such hearings shall be held by the pollution control hearings board.

[1989 c 175 § 105; 1987 c 109 § 9; 1970 ex.s. c 62 § 54.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

RCW 43.21B.250 Challenges to consistency of rules adopted pursuant to RCW 43.21C.110 and 43.21C.120--Procedure--Finality.

(1) All challenges in regard to the consistency of the rules adopted pursuant to RCW 43.21C.120 and with the rules and guidelines adopted pursuant to RCW 43.21C.110 shall be initiated by filing a petition for review with the pollution control hearings board in accordance with rules of practice and procedures promulgated by the hearings board.

(2) All challenges to the hearings board provided under this section shall be decided on the basis of conformance of rules, with the applicable rules and guidelines adopted pursuant to RCW 43.21C.110. The board may in its discretion require briefs, testimony, and oral arguments.

(3) The decisions of the hearings board authorized under this section shall be final.

[1974 ex.s. c 179 § 9.]

Notes:

Purpose--1974 ex.s. c 179: See note following RCW 43.21C.080.

Severability--1974 ex.s. c 179: See RCW 43.21C.910.

RCW 43.21B.260 Regulations and amendments of activated air pollution control authorities--Filing with hearings board authorized--Evidence.

Activated air pollution control authorities, established under chapter 70.94 RCW, may file certified copies of their regulations and amendments thereto with the pollution control hearings board of the state of Washington, and the hearings board shall take judicial note of the copies so filed and the said regulations and amendments shall be received and admitted, by reference, in all hearings before the board, as prima facie evidence that such regulations and amendments on file are in full force and effect.

[1974 ex.s. c 69 § 5.]

RCW 43.21B.300 Penalty procedures.

(1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330 shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department or the authority for the remission or mitigation of the penalty. Upon receipt of the application, the department or authority may remit or mitigate the penalty upon whatever terms the department or the authority in its discretion deems proper. The department or the authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after receipt by the person penalized of the notice imposing the penalty or thirty days after receipt of the notice of disposition of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account, created by RCW 70.105.180, and RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390.

[2001 c 36 § 2; 1993 c 387 § 23; 1992 c 73 § 2; 1987 c 109 § 5.]

NOTES:

Effective date--1993 c 387: See RCW 18.104.930.

Effective dates--Severability--1992 c 73: See RCW 82.23B.902 and 90.56.905.

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

RCW 43.21B.305 Appeals involving penalties of five thousand dollars or less.

In an appeal that involves a penalty of five thousand dollars or less, the appeal may be heard by one member of the board, whose decision shall be the final decision of the board. The board shall define by rule alternative procedures to expedite small appeals. These alternatives may include: Mediation, upon agreement of all parties; submission of testimony by affidavit; or other forms that may lead to less formal and faster resolution of appeals.

[1994 c 253 § 5.]

RCW 43.21B.310 Appeal of orders, permits, and licenses.

(1) Except as provided in RCW 90.03.210(2), any order issued by the department or local air authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, 88.46.070, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after receipt of the order. Except as provided under chapter 70.105D RCW and RCW 90.03.210(2), this is the exclusive means of appeal of such an order.

(2) The department or the authority in its discretion may stay the effectiveness of an order during the pendency of such an appeal.

(3) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

(4) Any appeal must contain the following in accordance with the rules of the hearings board:

- (a) The appellant's name and address;
- (b) The date and docket number of the order, permit, or license appealed;
- (c) A description of the substance of the order, permit, or license that is the subject of the appeal;
- (d) A clear, separate, and concise statement of every error alleged to have been committed;
- (e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and
- (f) A statement setting forth the relief sought.

(5) Upon failure to comply with any final order of the department, the attorney general, on request of the department, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to insure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(6) An appealable decision or order shall be identified as such and shall contain a

conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the department within thirty days of receipt.

[2001 c 220 § 4; 2001 c 36 § 3; 1992 c 73 § 3; 1989 c 2 § 14 (Initiative Measure No. 97, approved November 8, 1988); (1987 3rd ex.s. c 2 § 49 repealed by 1989 c 2 § 24, effective March 1, 1989); 1987 c 109 § 6.]

NOTES:

Reviser's note: This section was amended by 2001 c 36 § 3 and by 2001 c 220 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent--Construction--Effective date--2001 c 220: See notes following RCW 43.21B.110.

Effective dates--Severability--1992 c 73: See RCW 82.23B.902 and 90.56.905.

Short title--Construction--Existing agreements--Effective date--Severability--1989 c 2: See RCW 70.105D.900 and 70.105D.910 through 70.105D.921, respectively.

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

RCW 43.21B.320 Stays of orders.

(1) A person appealing to the hearings board an order of the department or an authority, not stayed by the issuing agency, may obtain a stay of the effectiveness of that order only as set forth in this section.

(2) An appealing party may request a stay by including such a request in the appeal document, in a subsequent motion, or by such other means as the rules of the hearings board shall prescribe. The request must be accompanied by a statement of grounds for the stay and evidence setting forth the factual basis upon which request is based. The hearings board shall hear the request for a stay as soon as possible. The hearing on the request for stay may be consolidated with the hearing on the merits.

(3) The applicant may make a prima facie case for stay if the applicant demonstrates either a likelihood of success on the merits of the appeal or irreparable harm. Upon such a showing, the hearings board shall grant the stay unless the department or authority demonstrates either (a) a substantial probability of success on the merits or (b) likelihood of success on the merits and an overriding public interest which justifies denial of the stay.

(4) Unless otherwise stipulated by the parties, the hearings board, after granting or denying an application for a stay, shall expedite the hearing and decision on the merits.

(5) Any party or other person aggrieved by the grant or denial of a stay by the hearings board may petition the superior court for Thurston county for review of that decision pursuant to chapter 34.05 RCW pending the appeal on the merits before the board. The superior court shall expedite its review of the decision of the hearings board.

[1987 c 109 § 7.]

Notes:

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

RCW 43.21B.330 Summary procedures.

The hearings board shall develop procedures for summary procedures, consistent with the rules of civil procedure for superior court on summary judgment, to decide cases before it. Such procedures may include provisions for determinations without an oral hearing or hearing by telephonic means.

[1987 c 109 § 8.]

Notes:

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

RCW 43.21B.900 Savings--Other powers and duties not affected--Permits, standards not affected--Severability--Effective date--1970 ex.s. c 62.

See notes following RCW 43.21A.010.

**Chapter 43.21C RCW
STATE ENVIRONMENTAL POLICY**

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43.21C.914	Effective dates--1983 c 117.

NOTES:

Economic policy: Chapter 43.21H RCW.

RCW 43.21C.010 Purposes.

The purposes of this chapter are: (1) To declare a state policy which will encourage productive and enjoyable harmony between man and his environment; (2) to promote efforts which will prevent or eliminate damage to the environment and biosphere; (3) and stimulate the health and welfare of man; and (4) to enrich the understanding of the ecological systems and natural resources important to the state and nation.

[1971 ex.s. c 109 § 1.]

RCW 43.21C.020 Legislative recognitions--Declaration--Responsibility.

(1) The legislature, recognizing that man depends on his biological and physical surroundings for food, shelter, and other needs, and for cultural enrichment as well; and

recognizing further the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource utilization and exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the state of Washington, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to: (a) Foster and promote the general welfare; (b) to create and maintain conditions under which man and nature can exist in productive harmony; and (c) fulfill the social, economic, and other requirements of present and future generations of Washington citizens.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

[1971 ex.s. c 109 § 2.]

RCW 43.21C.030 Guidelines for state agencies, local governments--Statements--Reports--Advice--Information.

The legislature authorizes and directs that, to the fullest extent possible: (1) The policies, regulations, and laws of the state of Washington shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all branches of government of this state, including state agencies, municipal and public corporations, and counties shall:

(a) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision

making which may have an impact on man's environment;

(b) Identify and develop methods and procedures, in consultation with the department of ecology and the ecological commission, which will insure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations;

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:

(i) the environmental impact of the proposed action;

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) alternatives to the proposed action;

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any public agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, province, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the department of ecology, the ecological commission, and the public, and shall accompany the proposal through the existing agency review processes;

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(f) Recognize the world-wide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(g) Make available to the federal government, other states, provinces of Canada, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(h) Initiate and utilize ecological information in the planning and development of natural resource-oriented projects.

[1971 ex.s. c 109 § 3.]

RCW 43.21C.031 Significant impacts.

(1) An environmental impact statement (the detailed statement required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact. The environmental impact statement may be

combined with the recommendation or report on the proposal or issued as a separate document. The substantive decisions or recommendations shall be clearly identifiable in the combined document. Actions categorically exempt under RCW 43.21C.110(1)(a) do not require environmental review or the preparation of an environmental impact statement under this chapter. In a county, city, or town planning under RCW 36.70A.040, a planned action, as provided for in subsection (2) of this section, does not require a threshold determination or the preparation of an environmental impact statement under this chapter, but is subject to environmental review and mitigation as provided in this chapter.

An environmental impact statement is required to analyze only those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The responsible official shall consult with agencies and the public to identify such impacts and limit the scope of an environmental impact statement. The subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate sections of an environmental impact statement. Discussions of significant short-term and long-term environmental impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation measures, and significant environmental impacts which cannot be mitigated should be consolidated or included, as applicable, in those sections of an environmental impact statement where the responsible official decides they logically belong.

(2)(a) For purposes of this section, a planned action means one or more types of project action that:

(i) Are designated planned actions by an ordinance or resolution adopted by a county, city, or town planning under RCW 36.70A.040;

(ii) Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with (A) a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or (B) a fully contained community, a master planned resort, a master planned development, or a phased project;

(iii) Are subsequent or implementing projects for the proposals listed in (a)(ii) of this subsection;

(iv) Are located within an urban growth area, as defined in RCW 36.70A.030;

(v) Are not essential public facilities, as defined in RCW 36.70A.200; and

(vi) Are consistent with a comprehensive plan adopted under chapter 36.70A RCW.

(b) A county, city, or town shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the county, city, or town and may limit a planned action to a time period identified in the environmental impact statement or the ordinance or resolution adopted under this subsection.

[1995 c 347 § 203; 1983 c 117 § 1.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 43.21C.033 Threshold determination to be made within ninety days after application is complete.

(1) Except as provided in subsection (2) of this section, the responsible official shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination. The governmental entity responsible for making the threshold determination shall by rule, resolution, or ordinance adopt standards, consistent with rules adopted by the department to implement this chapter, for determining when an application and supporting documentation are complete.

(2) This section shall not apply to a city, town, or county that:

(a) By ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with the requirements of this chapter; or

(b) Is planning under RCW 36.70A.040 and is subject to the requirements of *RCW 36.70B.090.

[1995 c 347 § 422; 1992 c 208 § 1.]

Notes:

***Reviser's note:** RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Effective date--1992 c 208 § 1: "Section 1 of this act shall take effect September 1, 1992." [1992 c 208 § 2.]

RCW 43.21C.034 Use of existing documents.

Lead agencies are authorized to use in whole or in part existing environmental documents for new project or nonproject actions, if the documents adequately address environmental considerations set forth in RCW 43.21C.030. The prior proposal or action and the new proposal or action need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences such as timing, types of impacts, alternatives, or geography. The lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate. If necessary, the lead agency may require additional documentation to ensure that all environmental impacts have been adequately addressed.

[1993 c 23 § 1.]

RCW 43.21C.035 Certain irrigation projects decisions exempt from RCW 43.21C.030(2)(c).

Decisions pertaining to applications for appropriation of fifty cubic feet of water per second or less for irrigation projects promulgated by any person, private firm, private corporation or private association without resort to subsidy by either state or federal government pursuant to RCW 90.03.250 through 90.03.340, as now or hereafter amended, to be used for

agricultural irrigation shall not be subject to the requirements of RCW 43.21C.030(2)(c), as now or hereafter amended.

[1974 ex.s. c 150 § 1.]

RCW 43.21C.036 Hazardous substance remedial actions--Procedural requirements and documents to be integrated.

In conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or if conducted by the department of ecology, the department of ecology to the maximum extent practicable shall integrate the procedural requirements and documents of this chapter with the procedures and documents under chapter 70.105D RCW. Such integration shall at a minimum include the public participation procedures of chapter 70.105D RCW and the public notice and review requirements of this chapter.

[1994 c 257 § 21.]

Notes:

Severability--1994 c 257: See note following RCW 36.70A.270.

RCW 43.21C.037 Application of RCW 43.21C.030(2)(c) to forest practices.

(1) Decisions pertaining to applications for Class I, II, and III forest practices, as defined by rule of the forest practices board under RCW 76.09.050, are not subject to the requirements of RCW 43.21C.030(2)(c) as now or hereafter amended.

(2) When the applicable county, city, or town requires a license in connection with any proposal involving forest practices (a) on lands platted after January 1, 1960, as provided in chapter 58.17 RCW, (b) on lands that have or are being converted to another use, or (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, then the local government, rather than the department of natural resources, is responsible for any detailed statement required under RCW 43.21C.030(2)(c).

(3) Those forest practices determined by rule of the forest practices board to have a potential for a substantial impact on the environment, and thus to be Class IV practices, require an evaluation by the department of natural resources as to whether or not a detailed statement must be prepared pursuant to this chapter. The evaluation shall be made within ten days from the date the department receives the application. A Class IV forest practice application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. This section shall not be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an

action regarding a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted.

[1997 c 173 § 6; 1983 c 117 § 2; 1981 c 290 § 1.]

RCW 43.21C.038 Application of RCW 43.21C.030(2)(c) to school closures.

Nothing in RCW 43.21C.030(2)(c) shall be construed to require the preparation of an environmental impact statement or the making of a threshold determination for any decision or any action commenced subsequent to September 1, 1982, pertaining to a plan, program, or decision for the closure of a school or schools or for the school closure portion of any broader policy, plan or program by a school district board of directors.

[1983 c 109 § 1.]

RCW 43.21C.0381 Application of RCW 43.21C.030(2)(c) to decisions pertaining to air operating permits.

Decisions pertaining to the issuance, renewal, reopening, or revision of an air operating permit under RCW 70.94.161 are not subject to the requirements of RCW 43.21C.030(2)(c).

[1995 c 172 § 1.]

RCW 43.21C.0382 Application of RCW 43.21C.030(2)(c) to watershed restoration projects--Fish habitat enhancement projects.

Decisions pertaining to watershed restoration projects as defined in RCW 89.08.460 are not subject to the requirements of RCW 43.21C.030(2)(c). Decisions pertaining to fish habitat enhancement projects meeting the criteria of *RCW 75.20.350(1) and being reviewed and approved according to the provisions of *RCW 75.20.350 are not subject to the requirements of RCW 43.21C.030(2)(c).

[1998 c 249 § 12; 1995 c 378 § 12.]

Notes:

***Reviser's note:** RCW 75.20.350 was recodified as RCW 77.55.290 pursuant to 2000 c 107 § 129.

Findings--Purpose--Report--Effective date--1998 c 249: See notes following RCW 77.55.290.

RCW 43.21C.0383 Application of RCW 43.21C.030(2)(c) to waste discharge permits.

The issuance, reissuance, or modification of a waste discharge permit that contains conditions no less stringent than federal effluent limitations and state rules is not subject to the requirements of RCW 43.21C.030(2)(c). This exemption applies to existing discharges only and does not apply to new source discharges.

[1996 c 322 § 1.]

RCW 43.21C.0384 Application of RCW 43.21C.030(2)(c) to personal wireless services facilities.

(1) Decisions pertaining to applications to site personal wireless service facilities are not subject to the requirements of RCW 43.21C.030(2)(c), if those facilities meet the following requirements:

(a)(i) The facility to be sited is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school; or (ii) the facility includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or a school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agricultural zone; or (iii) the siting project involves constructing a personal wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone; and

(b) The project is not in a designated environmentally sensitive area; and

(c) The project does not consist of a series of actions: (i) Some of which are not categorically exempt; or (ii) that together may have a probable significant adverse environmental impact.

(2) The department of ecology shall adopt rules to create a categorical exemption for microcells and other personal wireless service facilities that meet the conditions set forth in subsection (1) of this section.

(3) For the purposes of this section:

(a) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) "Personal wireless service facilities" means facilities for the provision of personal wireless services.

(c) "Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

[1996 c 323 § 2.]

Notes:

Findings--1996 c 323: See note following RCW 43.70.600.

RCW 43.21C.039 Metals mining and milling operations--Environmental impact statements required.

Notwithstanding any provision in RCW 43.21C.030 and 43.21C.031 to the contrary, an environmental impact statement shall be prepared for any proposed metals mining and milling operation as required by RCW 78.56.050.

[1994 c 232 § 25.]

Notes:

Severability--1994 c 232: See RCW 78.56.900.

Effective date--1994 c 232 §§ 1-5, 9-17, and 23-31: See RCW 78.56.901.

Disclosures required with SEPA checklist, metals mining and milling operations: RCW 78.56.040.

RCW 43.21C.040 Examination of laws, regulations, policies by state agencies and local authorities--Report of deficiencies and corrective measures.

All branches of government of this state, including state agencies, municipal and public corporations, and counties shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the governor not later than January 1, 1972, such measures as may be necessary to bring their authority and policies in conformity with the intent, purposes, and procedures set forth in this chapter.

[1971 ex.s. c 109 § 4.]

RCW 43.21C.050 Specific statutory obligations not affected.

Nothing in RCW 43.21C.030 or 43.21C.040 shall in any way affect the specific statutory obligations of any agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other public agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other public agency.

[1971 ex.s. c 109 § 5.]

RCW 43.21C.060 Chapter supplementary--Conditioning or denial of governmental action.

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of all branches of government of this state, including state agencies, municipal and public corporations, and counties. Any governmental action may be conditioned or denied pursuant to this chapter: PROVIDED, That such conditions or denials shall be based upon policies identified by the appropriate governmental authority and incorporated into regulations, plans, or codes which are formally designated by the agency (or appropriate legislative body, in the case of local government) as possible bases for the exercise of authority pursuant to this chapter. Such designation shall occur at the time specified by RCW 43.21C.120. Such action may be conditioned only to mitigate specific adverse environmental impacts which are identified in the environmental documents prepared under this chapter. These conditions shall be stated in writing by the decisionmaker. Mitigation measures shall be reasonable and capable of being accomplished. In order to deny a proposal under this chapter, an agency must find that: (1) The proposal would result in significant adverse impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and (2) reasonable

mitigation measures are insufficient to mitigate the identified impact. Except for permits and variances issued pursuant to chapter 90.58 RCW, when such a governmental action, not requiring a legislative decision, is conditioned or denied by a nonelected official of a local governmental agency, the decision shall be appealable to the legislative authority of the acting local governmental agency unless that legislative authority formally eliminates such appeals. Such appeals shall be in accordance with procedures established for such appeals by the legislative authority of the acting local governmental agency.

[1983 c 117 § 3; 1977 ex.s. c 278 § 2; 1971 ex.s. c 109 § 6.]

RCW 43.21C.065 Impact fees and fees for system improvements.

A person required to pay an impact fee for system improvements pursuant to RCW 82.02.050 through 82.02.090 shall not be required to pay a fee pursuant to RCW 43.21C.060 for those same system improvements.

[1992 c 219 § 1.]

RCW 43.21C.075 Appeals.

(1) Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

(2) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

(3) If an agency has a procedure for appeals of agency environmental determinations made under this chapter, such procedure:

(a) Shall allow no more than one agency appeal proceeding on each procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement);

(b) Shall consolidate an appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing officer or body to consider the agency decision or recommendation on a proposal and any environmental determinations made under this chapter, with the exception of:

(i) An appeal of a determination of significance;

(ii) An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under this chapter, including any appeals of its procedural determinations, prior to submitting an application for a project permit;

(iii) An appeal of a procedural determination made by an agency on a nonproject action;
or

(iv) An appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes;

(c) Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to be conducted on the record, consistent with other applicable law. An adequate record consists of findings and conclusions, testimony under oath, and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this subsection; and

(d) Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an administrative appeal procedure, such person shall, prior to seeking any judicial review, use such agency procedure if any such procedure is available, unless expressly provided otherwise by state statute.

(5) Some statutes and ordinances contain time periods for challenging governmental actions which are subject to review under this chapter, such as various local land use approvals (the "underlying governmental action"). RCW 43.21C.080 establishes an optional "notice of action" procedure which, if used, imposes a time period for appealing decisions under this chapter. This subsection does not modify any such time periods. In this subsection, the term "appeal" refers to a judicial appeal only.

(a) If there is a time period for appealing the underlying governmental action, appeals under this chapter shall be commenced within such time period. The agency shall give official notice stating the date and place for commencing an appeal.

(b) If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals shall be commenced within the time period specified by RCW 43.21C.080.

(6)(a) Judicial review under subsection (5) of this section of an appeal decision made by an agency under subsection (3) of this section shall be on the record, consistent with other applicable law.

(b) A taped or written transcript may be used. If a taped transcript is to be reviewed, a record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review. A party may provide a written transcript of portions of the testimony at the party's own expense or apply to that court for an order requiring the party seeking review to pay for

additional portions of the written transcript.

(c) Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.

(7) Jurisdiction over the review of determinations under this chapter in an appeal before an agency or superior court shall upon consent of the parties be transferred in whole or part to the shorelines hearings board. The shorelines hearings board shall hear the matter and sign the final order expeditiously. The superior court shall certify the final order of the shorelines hearings board and the certified final order may only be appealed to an appellate court. In the case of an appeal under this chapter regarding a project or other matter that is also the subject of an appeal to the shorelines hearings board under chapter 90.58 RCW, the shorelines hearings board shall have sole jurisdiction over both the appeal under this section and the appeal under chapter 90.58 RCW, shall consider them together, and shall issue a final order within one hundred eighty days as provided in RCW 90.58.180.

(8) For purposes of this section and RCW 43.21C.080, the words "action", "decision", and "determination" mean substantive agency action including any accompanying procedural determinations under this chapter (except where the word "action" means "appeal" in RCW 43.21C.080(2)). The word "action" in this section and RCW 43.21C.080 does not mean a procedural determination by itself made under this chapter. The word "determination" includes any environmental document required by this chapter and state or local implementing rules. The word "agency" refers to any state or local unit of government. Except as provided in subsection (5) of this section, the word "appeal" refers to administrative, legislative, or judicial appeals.

(9) The court in its discretion may award reasonable attorneys' fees of up to one thousand dollars in the aggregate to the prevailing party, including a governmental agency, on issues arising out of this chapter if the court makes specific findings that the legal position of a party is frivolous and without reasonable basis.

[1997 c 429 § 49; 1995 c 347 § 204; 1994 c 253 § 4; 1983 c 117 § 4.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 43.21C.080 Notice of action by governmental agency--How publicized--Time limitation for commencing challenge to action.

(1) Notice of any action taken by a governmental agency may be publicized by the acting governmental agency, the applicant for, or the proponent of such action, in substantially the form as set forth in rules adopted under RCW 43.21C.110:

(a) By publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the area where the property which is the subject of the action is located;

(b) By filing notice of such action with the department of ecology at its main office in Olympia prior to the date of the last newspaper publication; and

(c) Except for those actions which are of a nonproject nature, by one of the following methods which shall be accomplished prior to the date of first newspaper publication;

(i) Mailing to the latest recorded real property owners, as shown by the records of the county treasurer, who share a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed.

(2)(a) Except as otherwise provided in RCW 43.21C.075(5)(a), any action to set aside, enjoin, review, or otherwise challenge any such governmental action or subsequent governmental action for which notice is given as provided in subsection (1) of this section on grounds of noncompliance with the provisions of this chapter shall be commenced within twenty-one days from the date of last newspaper publication of the notice pursuant to subsection (1) of this section, or be barred.

(b) Any subsequent governmental action on the proposal for which notice has been given as provided in subsection (1) of this section shall not be set aside, enjoined, reviewed, or otherwise challenged on grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a) through (h) unless there has been a substantial change in the proposal between the time of the first governmental action and the subsequent governmental action that is likely to have adverse environmental impacts beyond the range of impacts previously analyzed, or unless the action now being considered was identified in an earlier detailed statement or declaration of nonsignificance as being one which would require further environmental evaluation.

[1995 c 347 § 205; 1977 ex.s. c 278 § 1; 1974 ex.s. c 179 § 2; 1973 1st ex.s. c 179 § 2.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Purpose--1974 ex.s. c 179: "The purpose of this 1974 amendatory act is to establish methods and means of providing for full implementation of chapter 43.21C RCW (the state environmental policy act of 1971) in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act." [1974 ex.s. c 179 § 1.]

Effective date--1973 1st ex.s. c 179: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1973: PROVIDED, HOWEVER, That prior thereto, the department of ecology may take such actions, including the issuing of notices and the conduct of public hearing, as are necessary to insure the implementation of section 1 of this act." [1973 1st ex.s. c 179 § 4.]

RCW 43.21C.087 List of filings required by RCW 43.21C.080.

The department of ecology shall prepare a list of all filings required by RCW 43.21C.080 each week and shall make such list available to any interested party. The list of filings shall include a brief description of the governmental action and the project involved in such action, along with the location of where information on the project or action may be obtained. Failure of the department to include any project or action shall not affect the running of the statute of limitations provided in RCW 43.21C.080.

[1974 ex.s. c 179 § 14.]

Notes:

Purpose--1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.090 Decision of governmental agency to be accorded substantial weight.

In any action involving an attack on a determination by a governmental agency relative to the requirement or the absence of the requirement, or the adequacy of a "detailed statement", the decision of the governmental agency shall be accorded substantial weight.

[1973 1st ex.s. c 179 § 3.]

Notes:

Effective date--1973 1st ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.095 State environmental policy act rules to be accorded substantial deference.

The rules promulgated under RCW 43.21C.110 shall be accorded substantial deference in the interpretation of this chapter.

[1983 c 117 § 5.]

RCW 43.21C.110 Content of state environmental policy act rules.

It shall be the duty and function of the department of ecology:

(1) To adopt and amend thereafter rules of interpretation and implementation of this chapter, subject to the requirements of chapter 34.05 RCW, for the purpose of providing uniform rules and guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The proposed rules shall be subject to full public hearings requirements associated with rule promulgation. Suggestions for modifications of the proposed rules shall be considered on their merits, and the department shall have the authority and responsibility for full and appropriate independent promulgation and adoption of rules, assuring consistency with this chapter as amended and with the preservation of protections afforded by this chapter. The rule-making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter:

(a) Categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW. The types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment. The rules shall provide for certain circumstances where actions which potentially are categorically exempt require environmental review. An action that is categorically exempt under the rules adopted by the department may not be conditioned or denied under this chapter.

(b) Rules for criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Rules and procedures applicable to the preparation of detailed statements and other environmental documents, including but not limited to rules for timing of environmental review, obtaining comments, data and other information, and providing for and determining areas of public participation which shall include the scope and review of draft environmental impact statements.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable; statements are required to analyze only reasonable alternatives and probable adverse environmental impacts which are significant, and may analyze beneficial impacts.

(e) Rules and procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter including the establishment of a list of elements of the environment. Analysis of environmental considerations under RCW 43.21C.030(2) may be required only for those subjects listed as elements of the environment (or portions thereof). The list of elements of the environment shall consist of the "natural" and "built" environment. The elements of the built environment shall consist of public services and utilities (such as water, sewer, schools, fire and police protection), transportation, environmental health (such as explosive materials and toxic waste), and land and shoreline use (including housing, and a description of the relationships with land use and shoreline plans and designations, including population).

(g) Rules for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare rules for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Rules for utilization of a detailed statement for more than one action and rules improving environmental analysis of nonproject proposals and encouraging better interagency coordination and integration between this chapter and other environmental laws.

(k) Rules relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(l) Rules relating to the use of environmental documents in planning and decision making and the implementation of the substantive policies and requirements of this chapter, including procedures for appeals under this chapter.

(m) Rules and procedures that provide for the integration of environmental review with project review as provided in RCW 43.21C.240. The rules and procedures shall be jointly developed with the department of community, trade, and economic development and shall be applicable to the preparation of environmental documents for actions in counties, cities, and towns planning under RCW 36.70A.040. The rules and procedures shall also include procedures

and criteria to analyze planned actions under RCW 43.21C.031(2) and revisions to the rules adopted under this section to ensure that they are compatible with the requirements and authorizations of chapter 347, Laws of 1995, as amended by chapter 429, Laws of 1997. Ordinances or procedures adopted by a county, city, or town to implement the provisions of chapter 347, Laws of 1995 prior to the effective date of rules adopted under this subsection (1)(m) shall continue to be effective until the adoption of any new or revised ordinances or procedures that may be required. If any revisions are required as a result of rules adopted under this subsection (1)(m), those revisions shall be made within the time limits specified in RCW 43.21C.120.

(2) In exercising its powers, functions, and duties under this section, the department may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments, and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of chapter 34.05 RCW.

[1997 c 429 § 47; 1995 c 347 § 206; 1983 c 117 § 7; 1974 ex.s. c 179 § 6.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Purpose--1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.120 Rules, ordinances, resolutions and regulations--Adoption--Effective dates.

(1) All agencies of government of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of polices [policies] under RCW 43.21C.060 and adoption of rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of an agency, whichever shall occur later.

(2) Rules adopted by state agencies under subsection (1) of this section shall be adopted in accordance with the provisions of chapter 34.05 RCW and shall be subject to the review procedures of RCW *34.05.538 and 34.05.240.

(3) All public and municipal corporations, political subdivisions, and counties of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110,

including any revisions, to adopt rules, ordinances, or resolutions pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of policies under RCW 43.21C.060 and adoption of the rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of the governmental entity, whichever shall occur later.

(4) Ordinances or regulations adopted prior to the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110 shall continue to be effective until the adoptions of any new or revised ordinances or regulations which may be required: PROVIDED, That revisions required by this section as a result of rule changes under RCW 43.21C.110 are made within the time limits specified by this section.

[1983 c 117 § 8; 1974 ex.s. c 179 § 8.]

Notes:

***Reviser's note:** RCW 34.05.538 was repealed by 1989 c 175 § 185, effective July 1, 1989.

Purpose--1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.130 Model ordinances.

The department of ecology, in consultation with concerned state agencies, shall with the assistance of the associations of county prosecutors and city attorneys, the association of county elected officials, the Washington state association of counties, and the association of cities, draft model ordinances for use by counties, cities and towns in drafting their ordinances under this chapter.

[1974 ex.s. c 179 § 10.]

Notes:

Purpose--1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.135 Authority of local governmental units to adopt rules, guidelines and model ordinances by reference.

(1) All public and municipal corporations, political subdivisions, and counties of the state are authorized to adopt rules, ordinances, and resolutions which incorporate any of the following by reference to the appropriate sections of the Washington Administrative Code:

(a) Rules and guidelines adopted under RCW 43.21C.110(1) in accordance with the administrative procedure act, chapter 34.05 RCW;

(b) Model ordinances adopted by the department of ecology under RCW 43.21C.130 in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) If any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, any publication of such rule, ordinance, or resolution shall be accompanied by a summary of the contents of the sections of the Washington Administrative Code referred to.

Such summaries shall be provided to the adopting units of local government by the department of ecology: PROVIDED, That any proposal for a rule, ordinance or resolution which would adopt by reference rules and guidelines or model ordinances pursuant to this section shall be accompanied by the full text of the material to be adopted which need not be published but shall be maintained on file for public use and examination.

(3) Whenever any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, the corporation, political subdivision, or county of the state adopting the rule, ordinance, or resolution shall maintain on file for public use and examination not less than three copies of the sections of the Washington Administrative Code referred to.

[1975-'76 2nd ex.s. c 99 § 1.]

RCW 43.21C.150 RCW 43.21C.030(2)(c) inapplicable when statement previously prepared pursuant to national environmental policy act.

The requirements of RCW 43.21C.030(2)(c) pertaining to the preparation of a detailed statement by branches of government shall not apply when an adequate detailed statement has been previously prepared pursuant to the national environmental policy act of 1969, in which event said prepared statement may be utilized in lieu of a separately prepared statement under RCW 43.21C.030(2)(c).

[1975 1st ex.s. c 206 § 1; 1974 ex.s. c 179 § 12.]

Notes:

Purpose--1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.160 Utilization of statement prepared under RCW 43.21C.030 to implement *chapter 90.62 RCW--Utilization of *chapter 90.62 RCW procedures to satisfy RCW 43.21C.030(2)(c).

In the implementation of *chapter 90.62 RCW (the Environmental Coordination Procedures Act of 1973), the department of ecology, consistent with guidelines adopted by the council shall adopt rules which insure that one detailed statement prepared under RCW 43.21C.030 may be utilized by all branches of government participating in the processing of a master application. Whenever the procedures established pursuant to *chapter 90.62 RCW are used, those procedures shall be utilized wherever possible to satisfy the procedural requirements of RCW 43.21C.030(2)(c). The time limits for challenges provided for in RCW 43.21C.080(2) shall be applicable when such procedures are so utilized.

[1974 ex.s. c 179 § 13.]

Notes:

***Reviser's note:** Chapter 90.62 RCW was repealed by 1995 c 347 § 619.

Purpose--1974 ex.s. c 179: See note following RCW 43.21C.080.

RCW 43.21C.165 Challenges to consistency of rules adopted pursuant to RCW 43.21C.110 and 43.21C.160--Procedure--Finality.

See RCW 43.21B.250.

RCW 43.21C.170 Council on environmental policy.

The legislature may establish a council on environmental policy to review and assist in the implementation of this chapter.

[1983 c 117 § 6; 1974 ex.s. c 179 § 4. Formerly RCW 43.21C.100.]

RCW 43.21C.175 Council on environmental policy--Personnel.

The council may employ such personnel as are necessary for the performances of its duties.

[1974 ex.s. c 179 § 5. Formerly RCW 43.21C.105.]

RCW 43.21C.210 Certain actions during state of emergency exempt from chapter.

This chapter does not apply to actions authorized by RCW 43.37.215 and 43.37.220 which are undertaken during a state of emergency declared by the governor under RCW 43.06.210.

[1981 c 278 § 4.]

RCW 43.21C.220 Incorporation of city or town exempt from chapter.

The incorporation of a city or town is exempted from compliance with this chapter.

[1982 c 220 § 6.]

Notes:

Severability--1982 c 220: See note following RCW 36.93.100.

Incorporation proceedings exempt from chapter: RCW 36.93.170.

RCW 43.21C.222 Annexation by city or town exempt from chapter.

Annexation of territory by a city or town is exempted from compliance with this chapter.

[1994 c 216 § 19.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 43.21C.225 Consolidation and annexation of cities and towns exempt from chapter.

Consolidations of cities or towns, and the annexations of all of a city or town by another

city or town, are exempted from compliance with this chapter.

[1985 c 281 § 29.]

Notes:

Severability--1985 c 281: See RCW 35.10.905.

RCW 43.21C.230 Development and adoption of plan under chapter 43.180 RCW exempt from chapter.

This chapter does not apply to the development or adoption of the plan required to be developed and adopted under chapter 43.180 RCW.

[1983 c 161 § 29.]

Notes:

Severability--Effective dates--1983 c 161: See RCW 43.180.903 and 43.180.904.

RCW 43.21C.240 Project review under the growth management act.

(1) If the requirements of subsection (2) of this section are satisfied, a county, city, or town reviewing a project action may determine that the requirements for environmental analysis, protection, and mitigation measures in the county, city, or town's development regulations and comprehensive plans adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws and rules provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply.

(2) A county, city, or town may make the determination provided for in subsection (1) of this section if:

(a) In the course of project review, including any required environmental analysis, the local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, or other local, state, or federal rules or laws; and

(b) The local government bases or conditions its approval on compliance with these requirements or mitigation measures.

(3) If a county, city, or town's comprehensive plans, subarea plans, and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the county, city, or town shall not impose additional mitigation under this chapter during project review. Project review shall be integrated with environmental analysis under this chapter.

(4) A comprehensive plan, subarea plan, or development regulation shall be considered to adequately address an impact if the county, city, or town, through the planning and environmental review process under chapter 36.70A RCW and this chapter, has identified the specific adverse environmental impacts and:

(a) The impacts have been avoided or otherwise mitigated; or

(b) The legislative body of the county, city, or town has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW.

(5) In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the county, city, or town shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the county, city, or town shall base or condition its project approval on compliance with these other existing rules or laws.

(6) Nothing in this section limits the authority of an agency in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by this chapter.

(7) This section shall apply only to a county, city, or town planning under RCW 36.70A.040.

[1995 c 347 § 202.]

Notes:

Findings--Intent--1995 c 347 § 202: "(1) The legislature finds in adopting RCW 43.21C.240 that:

(a) Comprehensive plans and development regulations adopted by counties, cities, and towns under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These plans, regulations, rules, and laws often provide environmental analysis and mitigation measures for project actions without the need for an environmental impact statement or further project mitigation.

(b) Existing plans, regulations, rules, or laws provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed projects should be integrated with, and should not be duplicated by, environmental review under chapter 43.21C RCW.

(c) Proposed projects should continue to receive environmental review, which should be conducted in a manner that is integrated with and does not duplicate other requirements. Project-level environmental review should be used to: (i) Review and document consistency with comprehensive plans and development regulations; (ii) provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level; and (iii) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures.

(d) When a project permit application is filed, an agency should analyze the proposal's environmental impacts, as required by applicable regulations and the environmental review process required by this chapter, in one project review process. The project review process should include land use, environmental, public, and governmental review, as provided by the applicable regulations and the rules adopted under this chapter, so that documents prepared under different requirements can be reviewed together by the public and other agencies. This project review will provide an agency with the information necessary to make a decision on the proposed project.

(e) Through this project review process: (i) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under this chapter will not be necessary on those impacts; (ii) if the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under this chapter; and (iii) if the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, this chapter provides the authority and procedures for additional review.

(2) The legislature intends that a primary role of environmental review under chapter 43.21C RCW is to focus on the gaps and overlaps that may exist in applicable laws and requirements related to a proposed action. The

review of project actions conducted by counties, cities, and towns planning under RCW 36.70A.040 should integrate environmental review with project review. Chapter 43.21C RCW should not be used as a substitute for other land use planning and environmental requirements." [1995 c 347 § 201.]

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 43.21C.250 Forest practices board--Emergency rules--Exempt from chapter.

The duration and process for adopting emergency rules by the forest practices board pertaining to forest practices and the protection of aquatic resources as provided in RCW 76.09.055 are exempt from the procedural requirements of this chapter.

[1999 sp.s. c 4 § 203.]

Notes:

Effective date--1999 sp.s. c 4 §§ 201, 202, and 203: See note following RCW 76.09.055.

Part headings not law--1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 43.21C.260 Certain actions not subject to RCW 43.21C.030(2)(c)--Threshold determination on a watershed analysis.

(1) Decisions pertaining to the following kinds of actions under chapter 4, Laws of 1999 sp. sess. are not subject to any procedural requirements implementing RCW 43.21C.030(2)(c): (a) Approval of forest road maintenance and abandonment plans under chapter 76.09 RCW and *RCW 75.20.100; (b) approval by the department of natural resources of future timber harvest schedules involving east-side clear cuts under rules implementing chapter 76.09 RCW; (c) acquisitions of forest lands in stream channel migration zones under RCW 76.09.040; and (d) acquisitions of conservation easements pertaining to forest lands in riparian zones under RCW 76.13.120.

(2) For purposes of the department's threshold determination on a watershed analysis, the department shall not make a determination of significance unless the prescriptions themselves, compared to rules or prescriptions in place prior to the analysis, will cause probable significant adverse impact on elements of the environment other than those addressed in the watershed analysis process. Nothing in this subsection shall be construed to effect the outcome of pending litigation regarding the department's authority in making a threshold determination on a watershed analysis.

[1999 sp.s. c 4 § 1201.]

Notes:

***Reviser's note:** RCW 75.20.100 was recodified as RCW 77.55.100 pursuant to 2000 c 107 § 129.

Part headings not law--1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 43.21C.300 Workshops--Handbook.

The department of ecology shall conduct annual state-wide workshops and publish an annual state environmental policy act handbook or supplement to assist persons in complying with the provisions of this chapter and the implementing rules. The workshops and handbook

shall include, but not be limited to, measures to assist in preparation, processing, and review of environmental documents, relevant court decisions affecting this chapter or rules adopted under this chapter, legislative changes to this chapter, administrative changes to the rules, and any other information which will assist in orderly implementation of this chapter and rules.

The department shall develop the handbook and conduct the workshops in cooperation with, but not limited to, state agencies, the association of Washington cities, the Washington association of counties, educational institutions, and other groups or associations interested in the state environmental policy act.

[1983 c 117 § 9.]

RCW 43.21C.400 Unfinished nuclear power projects--Council action exempt from this chapter.

Council actions pursuant to the transfer of the site or portions of the site under RCW 80.50.300 are exempt from the provisions of this chapter.

[1996 c 4 § 4.]

Notes:

Severability--Effective date--1996 c 4: See RCW 80.50.903 and 80.50.904.
Energy facility site evaluation council: RCW 80.50.030.

RCW 43.21C.900 Short title.

This chapter shall be known and may be cited as the "State Environmental Policy Act" or "SEPA".

[1995 c 347 § 207; 1971 ex.s. c 109 § 7.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

RCW 43.21C.910 Severability--1974 ex.s. c 179.

If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1974 ex.s. c 179 § 16.]

RCW 43.21C.911 Section headings not part of law--1983 c 117.

Section headings as used in this act do not constitute any part of the law.

[1983 c 117 § 14.]

RCW 43.21C.912 Applicability--1983 c 117.

Sections 3 and 4 of this act apply to agency decisions and to appeal proceedings prospectively only and not retrospectively. Sections 1, 5, 6, 7, and 8 of this act may be applied by agencies retrospectively.

[1983 c 117 § 15.]

RCW 43.21C.913 Severability--1983 c 117.

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

[1983 c 117 § 16.]

RCW 43.21C.914 Effective dates--1983 c 117.

(1) Sections 1, 2, and 4 through 16 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [April 23, 1983].

(2) Section 3 of this act shall take effect one hundred eighty days after the remainder of this act goes into effect under subsection (1) of this section.

[1983 c 117 § 17.]

**Chapter 43.21E RCW
GRASS BURNING RESEARCH ADVISORY COMMITTEE**

Sections

43.21E.010	Committee created--Members.
43.21E.020	Duties of committee.
43.21E.030	Travel expenses.
43.21E.900	Termination and dissolution of committee.
43.21E.905	Reactivation of committee--Application of chapter.
43.21E.910	Severability--1975 1st ex.s. c 44.

Notes:

Grass burning permits, etc.: RCW 70.94.650 through 70.94.656.

RCW 43.21E.010 Committee created--Members.

Within thirty days of May 15, 1975 the director of the Washington state department of ecology shall appoint a grass burning research advisory committee consisting of five voting members.

Two members shall be grass growers selected from the area of the state east of the Cascade mountain range, one representing irrigated and one representing dryland growing areas. One member shall be a grass grower selected from the area of the state west of the Cascade mountain range. One member shall be a representative of the Washington state department of agriculture, and one member shall represent the public, and may be selected at large. The committee shall select its own chairman. The state department of ecology shall provide an ex officio, nonvoting member to the committee to act as secretary.

[1975 1st ex.s. c 44 § 1.]

RCW 43.21E.020 Duties of committee.

The grass burning research advisory committee as provided for in RCW 43.21E.010 shall solicit and review research proposals for reducing or to develop alternates to open burning of grass fields. The committee shall advise and make recommendations to the director of the Washington state department of ecology regarding research priorities and the expenditure of mandatory research permit fees and such other grass burning research funds that may be provided by the legislature or from any other sources.

[1975 1st ex.s. c 44 § 2.]

RCW 43.21E.030 Travel expenses.

Travel expenses shall be paid to the grass burning research advisory committee members not otherwise employed by the state for meetings called by the director of the department of ecology in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended upon vouchers approved by said director and paid from funds budgeted for operation purposes of the state department of ecology.

[1975-'76 2nd ex.s. c 34 § 102; 1975 1st ex.s. c 44 § 3.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.21E.900 Termination and dissolution of committee.

It is the intent and purpose of this chapter that as soon as an alternative means of grass burning is developed for the state, or by January 1, 1980, whichever is sooner the grass burning research advisory committee shall be dissolved and its actions terminated, and the director of the state department of ecology shall see that such purpose is so carried out.

[1975 1st ex.s. c 44 § 4.]

RCW 43.21E.905 Reactivation of committee--Application of chapter.

Notwithstanding RCW 43.21E.900, within thirty days or after June 30, 1982, the director shall reactivate the grass burning research advisory committee by appointing new members to

the committee. The provisions of this chapter, other than RCW 43.21E.900, shall apply to the reactivated committee.

[1982 c 163 § 15.]

Notes:

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

RCW 43.21E.910 Severability--1975 1st ex.s. c 44.

If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1975 1st ex.s. c 44 § 6.]

**Chapter 43.21F RCW
STATE ENERGY OFFICE**

Sections

43.21F.010	Legislative finding and declaration.
43.21F.015	State policy.
43.21F.025	Definitions.
43.21F.045	Duties of department--Transfer of powers and duties relating to energy education, applied research, technology transfer, and energy efficiency in public buildings.
43.21F.055	Intervention in certain regulatory proceedings prohibited--Application to energy facility site evaluation council--Avoidance of duplication of activity.
43.21F.060	Additional duties and authority of department--Obtaining information--Confidentiality, penalty--Receiving and expending funds.
43.21F.090	State energy strategy--Review and report to legislature.
43.21F.400	Western interstate nuclear compact--Entered into--Terms.
43.21F.405	Western interstate nuclear compact--State board member--Appointment, term--May designate representative.
43.21F.410	Western interstate nuclear compact--State and local agencies and officers to cooperate.
43.21F.415	Western interstate nuclear compact--Bylaws, amendments to, filed with secretary of state.
43.21F.420	Western interstate nuclear compact--Application of state laws, benefits, when persons dispatched to another state.

RCW 43.21F.010 Legislative finding and declaration.

The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.

[1975-'76 2nd ex.s. c 108 § 1.]

Notes:

Severability--1975-'76 2nd ex.s. c 108: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 108 § 45.]

Effective date--1975-'76 2nd ex.s. c 108: "This 1976 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect March 15, 1976." [1975-'76 2nd ex.s. c 108 § 46.]

RCW 43.21F.015 State policy.

It is the policy of the state of Washington that:

(1) The development and use of a diverse array of energy resources with emphasis on renewable energy resources shall be encouraged;

(2) The supply of energy shall be sufficient to insure the health and economic welfare of its citizens;

(3) The development and use of energy resources shall be consistent with the statutory environmental policies of the state;

(4) Energy conservation and elimination of wasteful and uneconomic uses of energy and materials shall be encouraged, and this conservation should include, but is not limited to, resource recovery and materials recycling;

(5) In energy emergency shortage situations, energy requirements to maintain the public health, safety, and welfare shall be given priority in the allocation of energy resources, and citizens and industry shall be assisted in adjusting to the limited availability of energy in order to minimize adverse impacts on their physical, social, and economic well being;

(6) State government shall provide a source of impartial and objective information in order that this energy policy may be enhanced; and

(7) The state energy strategy shall provide primary guidance for implementation of the state's energy policy.

[1994 c 207 § 3; 1981 c 295 § 1.]

Notes:

Finding--1994 c 207: See note following RCW 43.21F.025.

RCW 43.21F.025 Definitions.

(1) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(2) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal

corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized;

(3) "Director" means the director of the department of community, trade, and economic development;

(4) "Assistant director" means the assistant director of the department of community, trade, and economic development responsible for energy policy activities;

(5) "Department" means the department of community, trade, and economic development;

(6) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state; and

(7) "State energy strategy" means the document and energy policy direction developed under section 1, chapter 201, Laws of 1991 including any related appendices.

[1996 c 186 § 102; 1994 c 207 § 2; 1987 c 330 § 501; 1981 c 295 § 2.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Finding--1994 c 207: "The legislature finds that the state energy strategy presented to the legislature in 1993 was developed by a dedicated and talented committee of hard-working representatives of the industries and people of this state and that the strategy document should serve to guide energy-related policy decisions by the legislature and other entities within this region." [1994 c 207 § 1.]

Construction--Application of rules--Severability--1987 c 330: See notes following RCW 28B.12.050.

RCW 43.21F.045 Duties of department--Transfer of powers and duties relating to energy education, applied research, technology transfer, and energy efficiency in public buildings.

(1) The department shall supervise and administer energy-related activities as specified in RCW 43.330.904 and shall advise the governor and the legislature with respect to energy matters affecting the state.

(2) In addition to other powers and duties granted to the department, the department shall have the following powers and duties:

(a) Prepare and update contingency plans for implementation in the event of energy shortages or emergencies. The plans shall conform to chapter 43.21G RCW and shall include procedures for determining when these shortages or emergencies exist, the state officers and agencies to participate in the determination, and actions to be taken by various agencies and officers of state government in order to reduce hardship and maintain the general welfare during these emergencies. The department shall coordinate the activities undertaken pursuant to this subsection with other persons. The components of plans that require legislation for their implementation shall be presented to the legislature in the form of proposed legislation at the earliest practicable date. The department shall report to the governor and the legislature on

probable, imminent, and existing energy shortages, and shall administer energy allocation and curtailment programs in accordance with chapter 43.21G RCW.

(b) Establish and maintain a central repository in state government for collection of existing data on energy resources, including:

(i) Supply, demand, costs, utilization technology, projections, and forecasts;

(ii) Comparative costs of alternative energy sources, uses, and applications; and

(iii) Inventory data on energy research projects in the state conducted under public and/or private auspices, and the results thereof.

(c) Coordinate federal energy programs appropriate for state-level implementation, carry out such energy programs as are assigned to it by the governor or the legislature, and monitor federally funded local energy programs as required by federal or state regulations.

(d) Develop energy policy recommendations for consideration by the governor and the legislature.

(e) Provide assistance, space, and other support as may be necessary for the activities of the state's two representatives to the Pacific northwest electric power and conservation planning council. To the extent consistent with federal law, the director shall request that Washington's council members request the administrator of the Bonneville power administration to reimburse the state for the expenses associated with the support as provided in the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501).

(f) Cooperate with state agencies, other governmental units, and private interests in the prioritization and implementation of the state energy strategy elements and on other energy matters.

(g) Serve as the official state agency responsible for coordinating implementation of the state energy strategy.

(h) No later than December 1, 1982, and by December 1st of each even-numbered year thereafter, prepare and transmit to the governor and the appropriate committees of the legislature a report on the implementation of the state energy strategy and other important energy issues, as appropriate.

(i) Provide support for increasing cost-effective energy conservation, including assisting in the removal of impediments to timely implementation.

(j) Provide support for the development of cost-effective energy resources including assisting in the removal of impediments to timely construction.

(k) Adopt rules, under chapter 34.05 RCW, necessary to carry out the powers and duties enumerated in this chapter.

(l) Provide administrative assistance, space, and other support as may be necessary for the activities of the energy facility site evaluation council, as provided for in RCW 80.50.030.

(m) Appoint staff as may be needed to administer energy policy functions and manage energy facility site evaluation council activities. These employees are exempt from the provisions of chapter 41.06 RCW.

(3) To the extent the powers and duties set out under this section relate to energy education, applied research, and technology transfer programs they are transferred to Washington State University.

(4) To the extent the powers and duties set out under this section relate to energy efficiency in public buildings they are transferred to the department of general administration.

[1996 c 186 § 103; 1994 c 207 § 4; 1990 c 12 § 2; 1987 c 505 § 29; 1981 c 295 § 4.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Finding--1994 c 207: See note following RCW 43.21F.025.

Effective date--1990 c 12: See note following RCW 80.50.030.

RCW 43.21F.055 Intervention in certain regulatory proceedings prohibited--Application to energy facility site evaluation council--Avoidance of duplication of activity.

The department shall not intervene in any regulatory proceeding before the Washington utilities and transportation commission or proceedings of utilities not regulated by the commission. Nothing in this chapter abrogates or diminishes the functions, powers, or duties of the energy facility site evaluation council pursuant to chapter 80.50 RCW, the utilities and transportation commission pursuant to Title 80 RCW, or other state or local agencies established by law.

The department shall avoid duplication of activity with other state agencies and officers and other persons.

[1996 c 186 § 104; 1981 c 295 § 5.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 43.21F.060 Additional duties and authority of department--Obtaining information--Confidentiality, penalty--Receiving and expending funds.

In addition to the duties prescribed in RCW 43.21F.045, the department shall have the authority to:

(1) Obtain all necessary and existing information from energy producers, suppliers, and consumers, doing business within the state of Washington, from political subdivisions in this state, or any person as may be necessary to carry out the provisions of chapter 43.21G RCW: PROVIDED, That if the information is available in reports made to another state agency, the department shall obtain it from that agency: PROVIDED FURTHER, That, to the maximum extent practicable, informational requests to energy companies regulated by the utilities and transportation commission shall be channeled through the commission and shall be accepted in the format normally used by the companies. Such information may include but not be limited to:

- (a) Sales volume;
- (b) Forecasts of energy requirements; and
- (c) Energy costs.

Notwithstanding any other provision of law to the contrary, information furnished under

this subsection shall be confidential and maintained as such, if so requested by the person providing the information, if the information is proprietary.

It shall be unlawful to disclose such information except as hereinafter provided. A violation shall be punishable, upon conviction, by a fine of not more than one thousand dollars for each offense. In addition, any person who wilfully or with criminal negligence, as defined in RCW 9A.08.010, discloses confidential information in violation of this subsection may be subject to removal from office or immediate dismissal from public employment notwithstanding any other provision of law to the contrary.

Nothing in this subsection prohibits the use of confidential information to prepare statistics or other general data for publication when it is so presented as to prevent identification of particular persons or sources of confidential information.

(2) Receive and expend funds obtained from the federal government or other sources by means of contracts, grants, awards, payments for services, and other devices in support of the duties enumerated in this chapter.

[1996 c 186 § 105; 1981 c 295 § 6; 1975-'76 2nd ex.s. c 108 § 6.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 43.21F.090 State energy strategy--Review and report to legislature.

The department shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. Any advisory committee established under this section shall be dissolved within three months after their written report is conveyed.

[1996 c 186 § 106; 1994 c 207 § 5.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Finding--1994 c 207: See note following RCW 43.21F.025.

RCW 43.21F.400 Western interstate nuclear compact--Entered into--Terms.

The western interstate nuclear compact is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which compact is substantially as follows:

ARTICLE I. POLICY AND PURPOSE

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

ARTICLE II. THE BOARD

(a) There is hereby created an agency of the party states to be known as the "Western Interstate Nuclear Board" (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in

respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

ARTICLE III. FINANCES

(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to

it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

(f) The accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

ARTICLE IV. ADVISORY COMMITTEES

The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

ARTICLE V. POWERS

The Board shall have power to--

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.
2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.
3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.
 - (g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.
 - (h) Undertake such nonregulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the West.
 - (i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.
 - (j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.
 - (k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, byproducts, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.
 - (l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.
 - (m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.
 - (n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.
 - (o) Act as licensee, contractor or sub-contractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.
 - (p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.
 - (q) Ascertain from time to time such methods, practices, circumstances, and conditions as

may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

ARTICLE VI. MUTUAL AID

(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the

laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests: PROVIDED, That nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

ARTICLE VII. SUPPLEMENTARY AGREEMENTS

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions of this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

ARTICLE VIII. OTHER LAWS AND RELATIONS

Nothing in this compact shall be construed to--

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

ARTICLE IX. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: PROVIDED, That it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the Constitution of any participating

state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the Constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof.

[1969 c 9 § 1. Formerly RCW 43.31.400.]

Notes:

Severability--1969 c 9: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 9 § 6.]

RCW 43.21F.405 Western interstate nuclear compact--State board member--Appointment, term--May designate representative.

The board member from Washington shall be appointed by and shall serve at the pleasure of the governor. The board member may designate another person as his representative to attend meetings of the board.

[1969 c 9 § 2. Formerly RCW 43.31.405.]

Notes:

Severability--1969 c 9: See note following RCW 43.21F.400.

RCW 43.21F.410 Western interstate nuclear compact--State and local agencies and officers to cooperate.

All departments, agencies and officers of this state and its subdivisions are directed to cooperate with the board in the furtherance of any of its activities pursuant to the compact.

[1969 c 9 § 3. Formerly RCW 43.31.410.]

Notes:

Severability--1969 c 9: See note following RCW 43.21F.400.

RCW 43.21F.415 Western interstate nuclear compact--Bylaws, amendments to, filed with secretary of state.

Pursuant to Article II(j) of the compact, the western interstate nuclear board shall file copies of its bylaws and any amendments thereto with the secretary of state of the state of Washington.

[1969 c 9 § 4. Formerly RCW 43.31.415.]

Notes:

Severability--1969 c 9: See note following RCW 43.21F.400.

RCW 43.21F.420 Western interstate nuclear compact--Application of state laws, benefits, when persons dispatched to another state.

The laws of the state of Washington and any benefits payable thereunder shall apply and be payable to any persons dispatched to another state pursuant to Article VI of the compact. If the aiding personnel are officers or employees of the state of Washington or any subdivisions thereof, they shall be entitled to the same workers' compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in their jurisdictions of regular employment.

[1987 c 185 § 15; 1969 c 9 § 5. Formerly RCW 43.31.420.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Severability--1969 c 9: See note following RCW 43.21F.400.

**Chapter 43.21G RCW
ENERGY SUPPLY EMERGENCIES, ALERTS**

Sections

43.21G.010	Legislative finding--Intent.
43.21G.020	Definitions.
43.21G.030	Intent in developing energy production, allocation, and consumption programs.
43.21G.040	Governor's energy emergency powers--Energy supply alert--Construction of chapter.
43.21G.050	Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures--Liability for actions.
43.21G.060	Consideration of actions, orders, etc., of federal authorities.
43.21G.070	Compliance by affected persons.
43.21G.080	Compliance by distributors--Fair and just reimbursement.
43.21G.090	Petition for exception or modification--Appeals.
43.21G.100	Penalty.
43.21G.900	Severability--Effective date--1975-'76 2nd ex.s. c 108.

Notes:

Governor's powers to declare energy emergency, etc.: RCW 43.06.200, 43.06.210.

RCW 43.21G.010 Legislative finding--Intent.

The legislature finds that energy in various forms is increasingly subject to possible shortages and supply disruptions, to the point that there may be foreseen an emergency situation,

and that without the ability to institute appropriate emergency measures to regulate the production, distribution, and use of energy, a severe impact on the public health, safety, and general welfare of our state's citizens may occur. The prevention or mitigation of such energy shortages or disruptions and their effects is necessary for preservation of the public health, safety, and general welfare of the citizens of this state.

It is the intent of this chapter to:

- (1) Establish necessary emergency powers for the governor and define the situations under which such powers are to be exercised;
- (2) Provide penalties for violations of this chapter.

It is further the intent of the legislature that in developing proposed orders under the powers granted in RCW 43.21G.040 as now or hereafter amended the governor may utilize, on a temporary or ad hoc basis, the knowledge and expertise of persons experienced in the technical aspects of energy supply, distribution, or use. Such utilization shall be in addition to support received by the governor from the department of community, trade, and economic development under RCW 43.21F.045 and *43.21F.065 and from other state agencies.

[1996 c 186 § 507; 1981 c 295 § 11; 1977 ex.s. c 328 § 1; 1975-'76 2nd ex.s. c 108 § 15.]

Notes:

***Reviser's note:** RCW 43.21F.065 was repealed by 1996 c 186 § 524, effective July 1, 1996.

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Severability--1977 ex.s. c 328: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 328 § 20.]

RCW 43.21G.020 Definitions.

As used in this chapter:

- (1) "Energy supply facility" means a facility which produces, extracts, converts, transports, or stores energy.
- (2) "Energy" means any of the following, individually or in combination: Petroleum fuels; other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material, or electricity.
- (3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency or any other entity, public or private, however organized.
- (4) "Committee" means the *joint committee on energy and utilities created by RCW 44.39.010 as now or hereafter amended.
- (5) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, joint operating agencies, municipal utility, public utility district, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(6) "Regulated distributor" means a public service company as defined in chapter 80.04 RCW which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(7) "Energy supply alert" means a situation which threatens to disrupt or diminish the supply of energy to the extent that the public health, safety, and general welfare may be jeopardized.

(8) "Energy emergency" means a situation in which the unavailability or disruption of the supply of energy poses a clear and foreseeable danger to the public health, safety, and general welfare.

(9) "State or local governmental agency" means any county, city, town, municipal corporation, political subdivision of the state, or state agency.

[1977 ex.s. c 328 § 2; 1975-'76 2nd ex.s. c 108 § 16.]

NOTES:

***Reviser's note:** The "joint committee on energy and utilities" was changed to the "joint committee on energy supply" by 2001 c 214 § 30.

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

RCW 43.21G.030 Intent in developing energy production, allocation, and consumption programs.

It is the intent of the legislature that the governor shall, in developing plans for the production, allocation, and consumption of energy, give high priority to supplying vital public services including, but not limited to, essential governmental operations, public health and safety functions, emergency services, public mass transportation systems, fish production, food production and processing facilities, including the provision of water to irrigated agriculture, and energy supply facilities, during a condition of energy supply alert or energy emergency. In developing any such plans, provisions should be made for the equitable distribution of energy among the geographic areas of the state.

It is further the intent of the legislature that the governor shall, to the extent possible, encourage and rely upon voluntary programs and local and regional programs for the production, allocation, and consumption of energy and that involvement of energy users and producers be secured in implementing such programs.

[1977 ex.s. c 328 § 3; 1975-'76 2nd ex.s. c 108 § 17.]

Notes:

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

RCW 43.21G.040 Governor's energy emergency powers--Energy supply alert--Construction of chapter.

(1) The governor may subject to the definitions and limitations provided in this chapter:

(a) Upon finding that an energy supply alert exists within this state or any part thereof, declare a condition of energy supply alert; or

(b) Upon finding that an energy emergency exists within this state or any part thereof, declare a condition of energy emergency. A condition of energy emergency shall terminate thirty consecutive days after the declaration of such condition if the legislature is not in session at the time of such declaration and if the governor fails to convene the legislature pursuant to Article III, section 7 of the Constitution of the state of Washington within thirty consecutive days of such declaration. If the legislature is in session or convened, in accordance with this subsection, the duration of the condition of energy emergency shall be limited in accordance with subsection (3) of this section.

Upon the declaration of a condition of energy supply alert or energy emergency, the governor shall present to the committee any proposed plans for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The governor shall review any recommendations of the committee concerning such plans and matters.

Upon the declaration of a condition of energy supply alert or energy emergency, the emergency powers as set forth in this chapter shall become effective only within the area described in the declaration.

(2) A condition of energy supply alert shall terminate ninety consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy supply alert continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy supply alert.

In the event any such initial extension is implemented, the condition shall terminate one hundred and fifty consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In the event any such subsequent extension is implemented, the condition shall terminate sixty consecutive days after the implementation of such extension.

(3) A condition of energy emergency shall terminate forty-five consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy emergency continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy emergency.

In the event any such initial extension is implemented, the condition shall terminate ninety consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In

the event any such subsequent extension is implemented, the condition shall terminate forty-five consecutive days after the implementation of such extension.

(4) A condition of energy supply alert or energy emergency shall cease to exist upon a declaration to that effect by either of the following: (a) The governor; or (b) the legislature, by concurrent resolution, if in regular or special session: PROVIDED, That the governor shall terminate a condition of energy supply alert or energy emergency when the energy supply situation upon which the declaration of a condition of energy supply alert or energy emergency was based no longer exists.

(5) In a condition of energy supply alert, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such energy supply alert, issue orders to: (a) Suspend or modify existing rules of the Washington Administrative Code of any state agency relating to the consumption of energy by such agency or to the production of energy, and (b) direct any state or local governmental agency to implement programs relating to the consumption of energy by the agency which have been developed by the governor or the agency and reviewed by the committee.

(6) In addition to the powers in subsection (5) of this section, in a condition of energy emergency, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such an emergency, issue orders to: (a) Implement programs, controls, standards, and priorities for the production, allocation, and consumption of energy; (b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and (c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states and localities.

The governor shall immediately transmit the declaration of a condition of energy supply alert or energy emergency and the findings upon which the declaration is based and any orders issued under the powers granted in this chapter to the committee.

Nothing in this chapter shall be construed to mean that any program, control, standard, priority or other policy created under the authority of the emergency powers authorized by this chapter shall have any continuing legal effect after the cessation of the condition of energy supply alert or energy emergency.

If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, including, but not limited to, chapter 34.05 RCW, this chapter shall govern and control, and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this chapter.

Because of the emergency nature of this chapter, all actions authorized or required hereunder, or taken pursuant to any order issued by the governor, shall be exempted from any and all requirements and provisions of the state environmental policy act of 1971, chapter 43.21C RCW, including, but not limited to, the requirement for environmental impact statements.

Except as provided in this section nothing in this chapter shall exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor.

[1987 c 505 § 83; 1985 c 308 § 1; 1981 c 281 § 1; 1980 c 87 § 23; 1979 ex.s. c 158 § 1; 1977 ex.s. c 328 § 4; 1975-'76 2nd ex.s. c 108 § 18.]

Notes:

Effective date--1985 c 308: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 29, 1985." [1985 c 308 § 2.]

Severability--1981 c 281: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 281 § 3.]

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

RCW 43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures--Liability for actions.

To protect the public welfare during a condition of energy supply alert or energy emergency, the executive authority of each state or local governmental agency is hereby authorized and directed to take action to carry out the orders issued by the governor pursuant to this chapter as now or hereafter amended. A local governmental agency shall not be liable for any lawful actions consistent with RCW 43.21G.030 as now or hereafter amended taken in good faith in accordance with such orders issued by the governor.

[1981 c 281 § 2; 1977 ex.s. c 328 § 5; 1975-'76 2nd ex.s. c 108 § 19.]

Notes:

Severability--1981 c 281: See note following RCW 43.21G.040.

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

RCW 43.21G.060 Consideration of actions, orders, etc., of federal authorities.

In order to attain uniformity, as far as is practicable throughout the United States, in measures taken to aid in energy crisis management, all action taken under this chapter as now or hereafter amended, and all orders and rules made pursuant hereto, shall be taken or made with due consideration for and consistent when practicable with the orders, rules, regulations, actions, recommendations, and requests of federal authorities.

[1977 ex.s. c 328 § 6; 1975-'76 2nd ex.s. c 108 § 20.]

Notes:

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

RCW 43.21G.070 Compliance by affected persons.

Notwithstanding any provision of law or contract to the contrary, all persons who are

affected by an order issued or action taken pursuant to this chapter as now or hereafter amended shall comply therewith immediately.

[1977 ex.s. c 328 § 7; 1975-'76 2nd ex.s. c 108 § 21.]

Notes:

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

RCW 43.21G.080 Compliance by distributors--Fair and just reimbursement.

The governor may order any distributor to take such action on his behalf as may be required to implement orders issued pursuant to this chapter as now or hereafter amended: PROVIDED, That orders to regulated distributors shall be issued by the Washington utilities and transportation commission in conformance with orders of the governor. No distributor shall be liable for actions taken in accordance with such orders issued by the governor or the Washington utilities and transportation commission.

All allocations of energy from one distributor to another distributor pursuant to orders issued or as a result of actions taken under this chapter as now or hereafter amended are subject to fair and just reimbursement. Such reimbursement for any allocation of energy between regulated distributors shall be subject to the approval of the Washington utilities and transportation commission. A distributor is authorized to enter into agreements with another distributor for the purpose of determining financial or commodity reimbursement.

[1977 ex.s. c 328 § 8; 1975-'76 2nd ex.s. c 108 § 22.]

Notes:

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

RCW 43.21G.090 Petition for exception or modification--Appeals.

(1) Any person aggrieved by an order issued or action taken pursuant to this chapter as now or hereafter amended may petition the governor and request an exception from or modification of such order or action. The governor may grant, modify, or deny such petition as the public interest may require.

(2) An appeal from any order issued or action taken pursuant to this chapter as now or hereafter amended may be taken to the state supreme court. Such an appeal shall take the form of a petition for a writ of mandamus or prohibition under Article IV, section 4 of the state Constitution, and the supreme court shall have exclusive jurisdiction to hear and act upon such an appeal. Notwithstanding the provisions of chapter 7.16 RCW, or any other applicable statute, the superior courts of this state shall have no jurisdiction to entertain an action or suit relating to any order issued or action taken pursuant to this chapter as now or hereafter amended, nor to hear and determine any appeal from any such order. The provisions of Rule 16.2, Rules of Appellate Procedure, shall apply to any proceedings in the supreme court brought pursuant to this chapter as now or hereafter amended.

[1977 ex.s. c 328 § 9; 1975-'76 2nd ex.s. c 108 § 23.]

Notes:

Severability--1977 ex.s. c 328: See note following RCW 43.21G.010.

RCW 43.21G.100 Penalty.

Any person wilfully violating any provision of an order issued by the governor pursuant to this chapter shall be guilty of a gross misdemeanor.

[1975-'76 2nd ex.s. c 108 § 24.]

RCW 43.21G.900 Severability--Effective date--1975-'76 2nd ex.s. c 108.

See notes following RCW 43.21F.010.

**Chapter 43.21H RCW
STATE ECONOMIC POLICY**

Sections

43.21H.010	Purpose.
43.21H.020	State and local authorities to insure that economic values be given appropriate consideration in rule-making process.
43.21H.030	Statutory obligations of agencies not affected.
43.21H.900	Severability--1975-'76 2nd ex.s. c 117.

RCW 43.21H.010 Purpose.

The purpose of this chapter is to assert that it is the intent of the legislature that economic values are given appropriate consideration along with environmental, social, health, and safety considerations in the promulgation of rules by state and local government.

[1975-'76 2nd ex.s. c 117 § 1.]

RCW 43.21H.020 State and local authorities to insure that economic values be given appropriate consideration in rule-making process.

All state agencies and local government entities with rule-making authority under state law or local ordinance shall adopt methods and procedures which will insure that economic values will be given appropriate consideration in the rule-making process along with environmental, social, health, and safety considerations.

[1975-'76 2nd ex.s. c 117 § 2.]

RCW 43.21H.030 Statutory obligations of agencies not affected.

Nothing in this chapter shall in any way affect the specific statutory obligations of any agency:

- (1) To comply with environmental, social, health, safety, or other standards prescribed by law;
- (2) To coordinate or consult with any other public agency; or
- (3) To act, or refrain from acting, where required by law, upon the recommendations or certification of another public agency.

[1975-'76 2nd ex.s. c 117 § 3.]

RCW 43.21H.900 Severability--1975-'76 2nd ex.s. c 117.

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

[1975-'76 2nd ex.s. c 117 § 4.]

**Chapter 43.21I RCW
OIL SPILL PREVENTION PROGRAM**

(Formerly: Office of marine safety)

Sections

43.21I.005	Findings--Consolidation of oil spill programs--Administrator of consolidated oil spill program.
43.21I.010	Program created--Powers and duties--Definitions.
43.21I.030	Director's powers.
43.21I.040	Authority to administer oaths and issue subpoenas.
43.21I.900	Effective dates--Severability--1991 c 200.

NOTES:

Abolishment of office: RCW 88.46.921.

RCW 43.21I.005 Findings--Consolidation of oil spill programs--Administrator of consolidated oil spill program.

Notes:

Reviser's note: RCW 43.21I.005 was amended by 2000 c 69 § 35 without reference to its decodification by 2000 c 69 § 36. It has been decodified for publication purposes under RCW 1.12.025.

RCW 43.21I.010 Program created--Powers and duties--Definitions.

(1) There is hereby created within the department of ecology an oil spill prevention program. For the program, the department shall be vested with all powers and duties transferred to it from the *office of marine safety and such other powers and duties as may be authorized by

law. The main administrative office for the program shall be located in the city of Olympia. The director may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the program, and if consistent with the principles set forth in subsection (2) of this section.

(2) The oil spill prevention program shall be organized consistent with the goals of providing state government with a focus in marine transportation and serving the people of this state. The legislature recognizes that the director needs sufficient organizational flexibility to carry out the program's various duties. To the extent practical, the director shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the program;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public; and

(c) Maximum span of control without jeopardizing adequate supervision.

(3) The department, through the program, shall provide leadership and coordination in identifying and resolving threats to the safety of marine transportation and the impact of marine transportation on the environment:

(a) Working with other state agencies and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Providing expert advice to the executive and legislative branches of state government;

(c) Providing active and fair enforcement of rules;

(d) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing marine safety measures;

(e) Providing information to the public; and

(f) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the director may create such administrative divisions, offices, bureaus, and programs within the program as the director deems necessary. The director shall have complete charge of and supervisory powers over the program, except where the director's authority is specifically limited by law.

(6) The director shall appoint such personnel as are necessary to carry out the duties of the program. In addition to exemptions set forth in RCW 41.06.070, up to four professional staff members shall be exempt from the provisions of chapter 41.06 RCW. All other employees of the program shall be subject to the provisions of chapter 41.06 RCW.

(7) The definitions in this section apply throughout this chapter.

(a) "Department" means the department of ecology.

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

[2000 c 69 § 27; 1992 c 73 § 4; (1995 2nd sp.s. c 14 § 515 expired June 30, 1997); 1991 c 200 § 402. Formerly RCW 43.21A.710.]

Notes:

***Reviser's note:** The office of marine safety was abolished and its powers, duties, and functions transferred to the department of ecology by 1991 c 200 § 430, effective July 1, 1997.

Expiration date--1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Effective dates--Severability--1992 c 73: See RCW 82.23B.902 and 90.56.905.

Effective dates--Severability--1991 c 200: See RCW 90.56.901 and 90.56.904.

RCW 43.211.030 Director's powers.

In addition to any other powers granted the director, the director may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this chapter and chapter 88.46 RCW. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The director shall review each advisory committee within the jurisdiction of the program and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in *RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(4) Delegate powers, duties, and functions of the program to employees of the department as the director deems necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(5) Enter into contracts on behalf of the department to carry out the purposes of this chapter and chapter 88.46 RCW;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program for the purposes of this chapter and chapter 88.46 RCW; or

(7) Accept gifts, grants, or other funds.

[2000 c 69 § 28; 1992 c 73 § 11; (1995 2nd sp.s. c 14 § 516 expired June 30, 1997); 1991 c 200 § 405. Formerly RCW 43.21A.715.]

Notes:

***Reviser's note:** RCW 43.131.070 was repealed by 2000 c 189 § 11.

Expiration date--1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Effective dates--Severability--1992 c 73: See RCW 82.23B.902 and 90.56.905.

Effective dates--Severability--1991 c 200: See RCW 90.56.901 and 90.56.904.

RCW 43.211.040 Authority to administer oaths and issue subpoenas.

(1) The director shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the director together

with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by chapter 34.05 RCW.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by chapter 34.05 RCW.

[2000 c 69 § 29; 1991 c 200 § 407; (1995 2nd sp.s. c 14 § 517 expired June 30, 1997). Formerly RCW 43.21A.720.]

Notes:

Expiration date--1995 2nd sp.s. c 14 §§ 511-523, 528-533: See note following RCW 43.105.017.

Effective dates--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Severability--1995 2nd sp.s. c 14: See note following RCW 43.105.017.

Effective dates--Severability--1991 c 200: See RCW 90.56.901 and 90.56.904.

RCW 43.21I.900 Effective dates--Severability--1991 c 200.

See RCW 90.56.901 and 90.56.904.

Chapter 43.21J RCW
ENVIRONMENTAL AND FOREST RESTORATION PROJECTS

Sections

43.21J.005	Legislative findings.
43.21J.010	Intent--Purpose--Definitions.
43.21J.030	Environmental enhancement and job creation task force.
43.21J.040	Environmental enhancement and restoration project proposals--Evaluation--Award of funds.
43.21J.050	Training or employment.
43.21J.060	Unemployment compensation benefits--Training.
43.21J.070	Unemployment compensation benefits--Special base year and benefit year.
43.21J.800	Joint legislative audit and review committee report.
43.21J.900	Short title--1993 c 516.
43.21J.901	Section captions and part headings--1993 c 516.
43.21J.902	Severability--1993 c 516.
43.21J.903	Conflict with federal requirements--1993 c 516.
43.21J.904	Effective date--1993 c 516.

RCW 43.21J.005 Legislative findings.

(1) The legislature finds that the long-term health of the economy of Washington state depends on the sustainable management of its natural resources. Washington's forests, estuaries, waterways, and watersheds provide a livelihood for thousands of citizens of Washington state and millions of dollars of income and tax revenues every year from forests, fisheries, shellfisheries, recreation, tourism, and other water-dependent industries.

(2) The legislature further finds that the livelihoods and revenues produced by

Washington's forests, estuaries, waterways, and watersheds would be enhanced by immediate investments in clean water infrastructure and habitat restoration.

(3) The legislature further finds that an insufficiency in financial resources, especially in timber-dependent communities, has resulted in investments in clean water and habitat restoration too low to ensure the long-term economic and environmental health of Washington's forests, estuaries, waterways, and watersheds.

(4) The legislature further finds that unemployed workers and Washington's economically distressed communities, especially timber-dependent areas, can benefit from opportunities for employment in environmental restoration projects.

(5) The legislature therefore declares that immediate investments in a variety of environmental restoration projects, based on sound principles of watershed management and environmental and forest restoration, are necessary to rehabilitate damaged watersheds and to assist dislocated workers and the unemployed gain job skills necessary for long-term employment.

[1993 c 516 § 1.]

RCW 43.21J.010 Intent--Purpose--Definitions.

(1) It is the intent of this chapter to provide financial resources to make substantial progress toward: (a) Implementing the Puget Sound water quality management plan and other watershed-based management strategies and plans; (b) ameliorating degradation to watersheds; and (c) keeping and creating stable, environmentally sound, good wage employment in Washington state. The legislature intends that employment under this chapter is not to result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services.

(2) It is the purpose of this chapter to:

(a) Implement clean water, forest, and habitat restoration projects that will produce measurable improvements in water and habitat quality, that rate highly when existing environmental ranking systems are applied, and that provide economic stability.

(b) Facilitate the coordination and consistency of federal, state, tribal, local, and private water and habitat protection and enhancement programs in the state's watersheds.

(c) Fund necessary projects for which a public planning process has been completed.

(d) Provide immediate funding to create jobs and training for environmental restoration and enhancement jobs for unemployed workers and displaced workers in impact areas, especially rural natural resources-dependent communities.

(3) For purposes of this chapter "impact areas" means: (a) Distressed counties as defined in RCW 43.165.010(3)(a); (b) subcounty areas in those counties not covered under (a) of this subsection that are rural natural resources impact areas as defined in *RCW 43.31.601; (c) urban subcounty areas as defined in **RCW 43.165.010(3)(c); and (d) areas that the task force determines are likely to experience dislocations in the near future from downturns in natural resource-based industries.

(4) For purposes of this chapter, "high-risk youth" means youth eligible for Washington conservation corps programs under chapter 43.220 RCW or Washington service corps programs under chapter 50.65 RCW.

(5) For purposes of this chapter, "dislocated forest products worker" has the meaning set forth in *RCW 50.70.010.

(6) For purposes of this chapter, "task force" means the environmental enhancement and job creation task force created under RCW 43.21J.030.

[1995 c 226 § 26; 1993 c 516 § 2.]

NOTES:

Reviser's note: *(1) RCW 43.31.601 and 50.70.010 were repealed by 1995 c 226 § 35, effective June 30, 2001.

** (2) RCW 43.165.010 was amended by 1996 c 290 § 2, changing subsection (3)(c) to subsection (3)(d).

Severability--Conflict with federal requirements--Effective date--1995 c 226: See notes following RCW 43.160.020.

RCW 43.21J.030 Environmental enhancement and job creation task force.

(1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter 516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of fish and wildlife, the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the work force training and education coordinating board, and the executive director of the *Puget Sound water quality authority, or their designees. The task force may seek the advice of the following agencies and organizations: The department of community, trade, and economic development, the conservation commission, the employment security department, the interagency committee for outdoor recreation, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the **environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security

department.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in **RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts.

[1998 c 245 § 60; 1994 c 264 § 17; 1993 c 516 § 5.]

Notes:

Reviser's note: *(1) The Puget Sound water quality authority and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1995, and repealed June 30, 1996. See 1990 c 115 §§ 11 and 12. Powers, duties, and functions of the Puget Sound water quality authority pertaining to cleanup and protection of Puget Sound transferred to the Puget Sound action team by 1996 c 138 § 11. See RCW 90.71.903.

** (2) The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

RCW 43.21J.040 Environmental enhancement and restoration project proposals--Evaluation--Award of funds.

(1) Subject to the limitations of *RCW 43.21J.020, the task force shall award funds from the *environmental and forest restoration account on a competitive basis. The task force shall evaluate and rate environmental enhancement and restoration project proposals using the following criteria:

(a) The ability of the project to produce measurable improvements in water and habitat quality;

(b) The cost-effectiveness of the project based on: (i) Projected costs and benefits of the project; (ii) past costs and environmental benefits of similar projects; and (iii) the ability of the project to achieve cost efficiencies through its design to meet multiple policy objectives;

(c) The inclusion of the project as a high priority in a federal, state, tribal, or local government plan relating to environmental or forest restoration, including but not limited to a local watershed action plan, storm water management plan, capital facility plan, growth management plan, or a flood control plan; or the ranking of the project by conservation districts as a high priority for water quality and habitat improvements;

(d) The number of jobs to be created by the project for dislocated forest products workers, high-risk youth, and residents of impact areas;

(e) Participation in the project by environmental businesses to provide training, cosponsor projects, and employ or jointly employ project participants;

(f) The ease with which the project can be administered from the community the project serves;

(g) The extent to which the project will either augment existing efforts by organizations and governmental entities involved in environmental and forest restoration in the community or

receive matching funds, resources, or in-kind contributions; and

(h) The capacity of the project to produce jobs and job-related training that will pay market rate wages and impart marketable skills to workers hired under this chapter.

(2) The following types of projects and programs shall be given top priority in the first fiscal year after July 1, 1993:

(a) Projects that are highly ranked in and implement adopted or approved watershed action plans, such as those developed pursuant to **Puget Sound water quality authority rules adopted for local planning and management of nonpoint source pollution;

(b) Conservation district projects that provide water quality and habitat improvements;

(c) Indian tribe projects that provide water quality and habitat improvements; or

(d) Projects that implement actions approved by a shellfish protection district under chapter 100, Laws of 1992.

(3) Funds shall not be awarded for the following activities:

(a) Administrative rule making;

(b) Planning; or

(c) Public education.

[1993 c 516 § 4.]

Notes:

Reviser's note: *(1) The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

** (2) The Puget Sound water quality authority and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1995, and repealed June 30, 1996. See 1990 c 115 §§ 11 and 12. Powers, duties, and functions of the Puget Sound water quality authority pertaining to cleanup and protection of Puget Sound transferred to the Puget Sound action team by 1996 c 138 § 11. See RCW 90.71.903.

RCW 43.21J.050 Training or employment.

(1) Eligibility for training or employment in projects funded through the *environmental and forest restoration account shall, to the extent practicable, be for workers who are currently unemployed.

(2) To the greatest extent practicable, the following groups of individuals shall be given preference for training or employment in projects funded through the *environmental and forest restoration account:

(a) Dislocated workers who are receiving unemployment benefits or have exhausted unemployment benefits; and

(b) High-risk youth.

(3) Projects funded for forest restoration shall be for workers whose employment was terminated in the Washington forest products industry within the previous four years.

(4) The task force shall submit a list to private industry councils and the employment security department of projects receiving funds under the provisions of this chapter. The list shall include the number, location, and types of jobs expected to be provided by each project. The employment security department shall recruit workers for these jobs by:

(a) Notifying dislocated forest workers who meet the definitions in chapter 50.70 RCW,

who are receiving unemployment benefits or who have exhausted unemployment benefits, of their eligibility for the programs;

(b) Notifying other unemployed workers;

(c) Developing a pool of unemployed workers including high-risk youth eligible to enroll in the program; and

(d) Establishing procedures for workers to apply to the programs.

(5) The employment security department shall refer eligible workers to employers hiring under the *environmental and forest restoration account programs. Recipients of funds shall consider the list of eligible workers developed by the employment security department before conducting interviews or making hiring decisions. Recipients of funds shall ensure that workers are aware of whatever opportunities for vocational training, job placement, and remedial education are available from the employment security department.

(6) An individual is eligible for applicable employment security benefits while participating in training related to this chapter. Eligibility shall be confirmed by the commissioner of employment security by submitting a commissioner-approved training waiver.

(7) Persons receiving funds from the *environmental and forest restoration account shall not be considered state employees for the purposes of existing provisions of law with respect to hours of work, sick leave, vacation, and civil service but shall receive health benefits. Persons receiving funds from this account who are hired by a state agency, except for Washington conservation and service corps enrollees, shall receive medical and dental benefits as provided under chapter 41.05 RCW and industrial insurance coverage under Title 51 RCW, but are exempt from the provisions of chapter 41.06 RCW.

(8) Compensation for employees, except for Washington conservation and service corps enrollees, hired under the program established by this chapter shall be based on market rates in accordance with the required skill and complexity of the jobs created. Remuneration paid to employees under this chapter shall be considered covered employment for purposes of chapter 50.04 RCW.

(9) Employment under this program shall not result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services.

[1993 c 516 § 8.]

Notes:

***Reviser's note:** The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

RCW 43.21J.060 Unemployment compensation benefits--Training.

An individual shall be considered to be in training with the approval of the commissioner as defined in RCW 50.20.043, and be eligible for applicable unemployment insurance benefits while participating in and making satisfactory progress in training related to this chapter.

[1993 c 516 § 9.]

RCW 43.21J.070 Unemployment compensation benefits--Special base year and benefit year.

For the purpose of providing the protection of the unemployment compensation system to individuals at the conclusion of training or employment obtained as a result of this chapter, a special base year and benefit year are established.

(1) Only individuals who have entered training or employment provided by the *environmental and forest restoration account, and whose employment or training under such account was not considered covered under chapter 50.04 RCW, shall be allowed the special benefit provisions of this chapter.

(2) An application for initial determination made under this chapter must be filed in writing with the employment security department within twenty-six weeks following the week in which the individual commenced employment or training obtained as a result of this chapter. Notice from the individual, from the employing entity, or notice of hire from employment security department administrative records shall satisfy this requirement.

(3) For the purpose of this chapter, a special base year is established for an individual consisting of the first four of the last five completed calendar quarters, or if a benefit year is not established using the first four of the last five completed calendar quarters as the base year, the last four completed calendar quarters immediately prior to the first day of the calendar week in which the individual began employment or training provided by the *environmental and forest restoration account.

(4) A special individual benefit year is established consisting of the entire period of training or employment provided by the *environmental and forest restoration account and a fifty-two consecutive week period commencing with the first day of the calendar week in which the individual last participated in such employment or training. No special benefit year shall have a duration in excess of three hundred twelve calendar weeks. Such special benefit year will not be established unless the criteria contained in RCW 50.04.030 has been met, except that an individual meeting the requirements of this chapter and who has an unexpired benefit year established which would overlap the special benefit year may elect to establish a special benefit year under this chapter, notwithstanding the provisions in RCW 50.04.030 relating to establishment of a subsequent benefit year, and RCW 50.40.010 relating to waiver of rights. Such unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish a special benefit year under this chapter.

(5) The individual's weekly benefit amount and maximum amount payable during the special benefit year shall be governed by the provisions contained in RCW 50.20.120. The individual's basic and continuing right to benefits shall be governed by the general laws and rules relating to the payment of unemployment compensation benefits to the extent that they are not in conflict with the provisions of this chapter.

(6) The fact that wages, hours, or weeks worked during the special base year may have been used in computation of a prior valid claim for unemployment compensation shall not affect a claim for benefits made under the provisions of this chapter. However, wages, hours, and

weeks worked used in computing entitlement on a claim filed under this chapter shall not be available or used for establishing entitlement or amount of benefits in any succeeding benefit year.

(7) Benefits paid to an individual filing under the provisions of this section shall not be charged to the experience rating account of any contribution paying employer.

[1993 c 516 § 10.]

Notes:

***Reviser's note:** The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

RCW 43.21J.800 Joint legislative audit and review committee report.

On or before June 30, 1998, the joint legislative audit and review committee shall prepare a report to the legislature evaluating the implementation of the environmental restoration jobs act of 1993, chapter 516, Laws of 1993.

[1996 c 288 § 36; 1993 c 516 § 11.]

RCW 43.21J.900 Short title--1993 c 516.

This act shall be known as the environmental restoration jobs act of 1993.

[1993 c 516 § 15.]

RCW 43.21J.901 Section captions and part headings--1993 c 516.

Section captions and part headings as used in this act constitute no part of the law.

[1993 c 516 § 16.]

RCW 43.21J.902 Severability--1993 c 516.

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

[1993 c 516 § 17.]

RCW 43.21J.903 Conflict with federal requirements--1993 c 516.

If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or

the granting of federal unemployment tax credits to employers in this state.

[1993 c 516 § 19.]

RCW 43.21J.904 Effective date--1993 c 516.

This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993.

[1993 c 516 § 20.]

**Chapter 43.21K RCW
ENVIRONMENTAL EXCELLENCE PROGRAM AGREEMENTS**

Sections

43.21K.005	Purpose--1997 c 381.
43.21K.010	Definitions.
43.21K.020	Agreements--Environmental results.
43.21K.030	Authority for agreements--Restrictions.
43.21K.040	Proposals for agreements.
43.21K.050	Stakeholder participation.
43.21K.060	Terms and conditions of agreements.
43.21K.070	Public comment--Notice--Responsiveness summary--Copy to federal agency.
43.21K.080	Effect of agreements on legal requirements and permits--Permit revisions--Programmatic agreements.
43.21K.090	Judicial review.
43.21K.100	Continued effect of agreements and permits--Modification of affected permit or approval.
43.21K.110	Enforceable and voluntary commitments--Enforcement actions.
43.21K.120	Reduced fee schedule.
43.21K.130	Rule-making authority.
43.21K.140	Advisory committee.
43.21K.150	Costs of processing proposals--Fees--Voluntary contributions.
43.21K.160	Termination of authority to enter into agreements.
43.21K.170	Environmental excellence account.

RCW 43.21K.005 Purpose--1997 c 381.

The purpose of chapter 381, Laws of 1997 is to create a voluntary program authorizing environmental excellence program agreements with persons regulated under the environmental laws of the state of Washington, and to direct agencies of the state of Washington to solicit and support the development of agreements that use innovative environmental measures or strategies to achieve environmental results more effectively or efficiently.

Agencies shall encourage environmental excellence program agreements that favor or promote pollution prevention, source reduction, or improvements in practices that are

transferable to other interested entities or that can achieve better overall environmental results than required by otherwise applicable rules and requirements.

In enacting chapter 381, Laws of 1997 it is not the intent of the legislature that state environmental standards be applied in a manner that could result in these state standards being waived under section 121 of the federal comprehensive environmental response, compensation, and liability act (42 U.S.C. Sec. 9261).

[1997 c 381 § 1.]

RCW 43.21K.010 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "State, regional, or local agency" means an agency, board, department, authority, or commission that administers environmental laws.

(2) "Coordinating agency" means the state, regional, or local agency with the primary regulatory responsibility for the proposed environmental excellence program agreement. If multiple agencies have jurisdiction to administer state environmental laws affected by an environmental excellence agreement, the department of ecology shall designate or act as the coordinating agency.

(3) "Director" means the individual or body of individuals in whom the ultimate legal authority of an agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the director.

(4) "Environmental laws" means chapters 43.21A, 70.94, 70.95, 70.105, 70.119A, *75.20, 90.48, 90.52, 90.58, 90.64, and 90.71 RCW, and RCW 90.54.020(3)(b) and rules adopted under those chapters and section. The term environmental laws as used in this chapter does not include any provision of the Revised Code of Washington, or of any municipal ordinance or enactment, that regulates the selection of a location for a new facility.

(5) "Facility" means a site or activity that is regulated under any of the provisions of the environmental laws.

(6) "Legal requirement" includes any provision of an environmental law, rule, order, or permit.

(7) "Sponsor" means the owner or operator of a facility, including a municipal corporation, subject to regulation under the environmental laws of the state of Washington, or an authorized representative of the owner or operator, that submits a proposal for an environmental excellence program agreement.

(8) "Stakeholder" means a person who has a direct interest in the proposed environmental excellence program agreement or who represents a public interest in the proposed environmental excellence program agreement. Stakeholders may include communities near the project, local or state governments, permittees, businesses, environmental and other public interest groups, employees or employee representatives, or other persons.

[1997 c 381 § 2.]

Notes:

***Reviser's note:** Chapter 75.20 RCW was recodified as chapter 77.55 RCW by 2000 c 107. See Comparative Table for that chapter in the Table of Disposition of Former RCW Sections, Volume 0.

RCW 43.21K.020 Agreements--Environmental results.

An environmental excellence program agreement entered into under this chapter must achieve more effective or efficient environmental results than the results that would be otherwise achieved. The basis for comparison shall be a reasonable estimate of the overall impact of the participating facility on the environment in the absence of an environmental excellence program agreement. More effective environmental results are results that are better overall than those that would be achieved under the legal requirements superseded or replaced by the agreement. More efficient environmental results are results that are achieved at reduced cost but do not decrease the overall environmental results achieved by the participating facility. An environmental excellence program agreement may not authorize either (1) the release of water pollutants that will cause to be exceeded, at points of compliance in the ambient environment established pursuant to law, numeric surface water or ground water quality criteria or numeric sediment quality criteria adopted as rules under chapter 90.48 RCW; or (2) the emission of any air contaminants that will cause to be exceeded any air quality standard as defined in RCW 70.94.030(3); or (3) a decrease in the overall environmental results achieved by the participating facility compared with results achieved over a representative period before the date on which the agreement is proposed by the sponsor. However, an environmental excellence program agreement may authorize reasonable increases in the release of pollutants to permit increases in facility production or facility expansion and modification.

[1997 c 381 § 3.]

RCW 43.21K.030 Authority for agreements--Restrictions.

(1) The director of a state, regional, or local agency may enter into an environmental excellence program agreement with any sponsor, even if one or more of the terms of the environmental excellence program agreement would be inconsistent with an otherwise applicable legal requirement. An environmental excellence program agreement must meet the requirements of RCW 43.21K.020. Otherwise applicable legal requirements identified according to RCW 43.21K.060(1) shall be superseded and replaced in accordance with RCW 43.21K.080.

(2) The director of a state, regional, or local agency may enter into an environmental excellence program agreement only to the extent the state, regional, or local agency has jurisdiction to administer state environmental laws either directly or indirectly through the adoption of rules.

(3) Where a sponsor proposes an environmental excellence program agreement that would affect legal requirements applicable to the covered facility that are administered by more than one state, regional, or local agency, the coordinating agency shall take the lead in developing the environmental excellence program agreement with the sponsor and other agencies administering legal requirements applicable to the covered facility and affected by the

agreement. The environmental excellence program agreement does not become effective until the agreement is approved by the director of each agency administering legal requirements identified according to RCW 43.21K.060(1).

(4) No director may enter into an environmental excellence program agreement applicable to a remedial action conducted under the Washington model toxics control act, chapter 70.105D RCW, or the federal comprehensive environmental response, compensation and liability act (42 U.S.C. Sec. 9601 et seq.). No action taken under this chapter shall be deemed a waiver of any applicable, relevant, or appropriate requirements for any remedial action conducted under the Washington model toxics control act or the federal comprehensive environmental response, compensation and liability act.

(5) The directors of state, regional, or local agencies shall not enter into an environmental excellence program agreement or a modification of an environmental excellence program agreement containing terms affecting legal requirements adopted to comply with provisions of a federal regulatory program and to which the responsible federal agency objects after notice under the terms of RCW 43.21K.070(4).

(6) The directors of regional or local governments may not enter into an environmental excellence program agreement or a modification of an environmental excellence program agreement containing terms affecting legal requirements that are subject to review or appeal by a state agency, including but not limited to chapters 70.94, 70.95, and 90.58 RCW, and to which the responsible state agency objects after notice is given under the terms of RCW 43.21K.070(4).

[1997 c 381 § 4.]

RCW 43.21K.040 Proposals for agreements.

(1) A sponsor may propose an environmental excellence program agreement. A trade association or other authorized representative of a sponsor or sponsors may propose a programmatic environmental excellence program agreement for multiple facilities.

(2) A sponsor must submit, at a minimum, the following information and other information that may be requested by the director or directors required to sign the agreement:

(a) A statement that describes how the proposal is consistent with the purpose of this chapter and the project approval criteria in RCW 43.21K.020;

(b)(i) For a site-specific proposal, a comprehensive description of the proposed environmental excellence project that includes the nature of the facility and the operations that will be affected, how the facility or operations will achieve results more effectively or efficiently, and the nature of the results anticipated; or

(ii) For a programmatic proposal, a comprehensive description of the proposed environmental excellence project that identifies the facilities and the operations that are expected to participate, how participating facilities or operations will achieve environmental results more effectively or efficiently, the nature of the results anticipated, and the method to identify and document the commitments made by individual participants;

(c) An environmental checklist, containing sufficient information to reasonably inform the public of the nature of the proposed environmental excellence program agreement and

describing probable significant adverse environmental impacts and environmental benefits expected from implementation of the proposal;

(d) A draft environmental excellence program agreement;

(e) A description of the stakeholder process as provided in RCW 43.21K.050;

(f) A preliminary identification of the permit amendments or modifications that may be necessary to implement the proposed environmental excellence program agreement.

[1997 c 381 § 5.]

RCW 43.21K.050 Stakeholder participation.

(1) Stakeholder participation in and support for an environmental excellence program agreement is vital to the integrity of the environmental excellence program agreement and helps to inform the decision whether an environmental excellence program agreement can be approved.

(2) A proposal for an environmental excellence program agreement shall include the sponsor's plan to identify and contact stakeholders, to advise stakeholders of the facts and nature of the project, and to request stakeholder participation and review. Stakeholder participation and review shall occur during the development, consideration, and implementation stages of the proposed environmental excellence program agreement. The plan shall include notice to the employees of the facility to be covered by the proposed environmental excellence program agreement and public notice in the area of the covered facility.

(3) The coordinating agency shall extend an invitation to participate in the development of the proposal to a broad and representative sector of the public likely to be affected by the environmental excellence program agreement, including representatives of local community, labor, environmental, and neighborhood advocacy groups. The coordinating agency shall select participants to be included in the stakeholder process that are representative of the diverse sectors of the public that are interested in the agreement. The stakeholder process shall include the opportunity for discussion and comment at multiple stages of the process and access to the information relied upon by the directors in approving the agreement.

(4) The coordinating agency will identify any additional provisions for the stakeholder process that the director of the coordinating agency, in the director's sole discretion, considers appropriate to the success of the stakeholder process, and provide for notice to the United States environmental protection agency or other responsible federal agency of each proposed environmental excellence program agreement that may affect legal requirements of any program administered by that agency.

[1997 c 381 § 6.]

RCW 43.21K.060 Terms and conditions of agreements.

An environmental excellence program agreement must contain the following terms and conditions:

(1) An identification of all legal requirements that are superseded or replaced by the

environmental excellence program agreement;

(2) A description of all legal requirements that are enforceable as provided in RCW 43.21K.110(1) that are different from those legal requirements applicable in the absence of the environmental excellence program agreement;

(3) A description of the voluntary goals that are or will be pursued by the sponsor;

(4) A statement describing how the environmental excellence program agreement will achieve the purposes of this chapter;

(5) A statement describing how the environmental excellence program agreement will be implemented, including a list of steps and an implementation schedule;

(6) A statement that the proposed environmental excellence program agreement will not increase overall worker safety risks or cause an unjust or disproportionate and inequitable distribution of environmental risks among diverse economic and cultural communities;

(7) A summary of the stakeholder process that was followed in the development of the environmental excellence program agreement;

(8) A statement describing how any participating facility shall measure and demonstrate its compliance with the environmental excellence program agreement including, without limitation, a description of the methods to be used to monitor performance, criteria that represent acceptable performance, and the method of reporting performance to the public and local communities. The facility's compliance with the agreement must be independently verifiable;

(9) A description of and plan for public participation in the implementation of the environmental excellence program agreement and for public access to information needed to assess the benefits of the environmental excellence program agreement and the sponsor's compliance with the environmental excellence program agreement;

(10) A schedule of periodic performance review of the environmental excellence program agreement by the directors that signed the agreement;

(11) Provisions for voluntary and involuntary termination of the agreement;

(12) The duration of the environmental excellence program agreement and provisions for renewal;

(13) Statements approving the environmental excellence program agreement made by the sponsor and by or on behalf of directors of each state, regional, or local agency administering legal requirements that are identified according to subsection (1) of this section;

(14) Additional terms as requested by the directors signing the environmental excellence program agreement and consistent with this chapter;

(15) Draft permits or permit modifications as needed to implement the environmental excellence program agreement;

(16) With respect to a programmatic environmental excellence program agreement, a statement of the method with which to identify and document the specific commitments to be made by individual participants.

[1997 c 381 § 7.]

agency.

(1) The coordinating agency shall provide at least thirty days after notice has been published in a newspaper under subsection (2) of this section for public comment on a proposal to enter into or modify an environmental excellence program agreement. The coordinating agency may provide for an additional period of public comment if required by the complexity of the proposed environmental excellence program agreement and the degree of public interest. Before the start of the comment period, the coordinating agency shall prepare a proposed agreement, a public notice and a fact sheet. The fact sheet shall: (a) Briefly describe the principal facts and the significant factual, legal, methodological and policy questions considered by the directors signing the agreement, and the directors' proposed decisions; and (b) briefly describe how the proposed action meets the requirements of RCW 43.21K.020.

(2) The coordinating agency shall publish notice of the proposed agreement in the Washington State Register and in a newspaper of general circulation in the vicinity of the facility or facilities covered by the proposed environmental excellence program agreement. The notice shall generally describe the agreement or modification; the facilities to be covered; summarize the changes in legal requirements that will result from the agreement; summarize the reasons for approving the agreement or modifications; identify an agency person to contact for additional information; state that the proposed agreement or modification and fact sheet are available on request; and state that comments may be submitted to the agency during the comment period. The coordinating agency shall order a public informational meeting or a public hearing to receive oral comments if the written comments during the comment period demonstrate considerable public interest in the proposed agreement.

(3) The coordinating agency shall prepare and make available a responsiveness summary indicating the agencies' actions taken in response to comments and the reasons for those actions.

(4) With respect to an environmental excellence program agreement that affects legal requirements adopted to comply with provisions of a federal regulatory program, the coordinating agency shall provide a copy of the environmental excellence program agreement, and a copy of the notice required by subsection (1) of this section, to the federal agency that is responsible for administering that program at least thirty days before entering into or modifying the environmental excellence program agreement, and shall afford the federal agency the opportunity to object to those terms of the environmental excellence program agreement or modification of an environmental excellence program agreement affecting the legal requirements. The coordinating agency shall provide similar notice to state agencies that have statutory review or appeal responsibilities regarding provisions of the environmental excellence program agreement.

[1997 c 381 § 8.]

RCW 43.21K.080 Effect of agreements on legal requirements and permits--Permit revisions--Programmatic agreements.

(1) Notwithstanding any other provision of law, any legal requirement identified under RCW 43.21K.060(1) shall be superseded or replaced in accordance with the terms of the

environmental excellence program agreement. Legal requirements contained in a permit that are affected by an environmental excellence program agreement will continue to be enforceable until such time as the permit is revised in accordance with subsection (2) of this section. With respect to any other legal requirements, the legal requirements contained in the environmental excellence program agreement are effective as provided by the environmental excellence program agreement, and the facility or facilities covered by an environmental excellence program agreement shall comply with the terms of the environmental excellence program agreement in lieu of the legal requirements that are superseded and replaced by the approved environmental excellence program agreement.

(2) Any permits affected by an environmental excellence program agreement shall be revised to conform to the environmental excellence program agreement by the agency with jurisdiction. The permit revisions will be completed within one hundred twenty days of the effective date of the agreement in accordance with otherwise applicable procedural requirements, including, where applicable, public notice and the opportunity for comment, and the opportunity for review and objection by federal agencies.

(3) Other than as superseded or replaced as provided in an approved environmental excellence program agreement, any existing permit requirements remain in effect and are enforceable.

(4) A programmatic environmental excellence program agreement shall become applicable to an individual facility when all directors entering into the programmatic agreement approve the owner or operator's commitment to comply with the agreement. A programmatic agreement may not take effect, however, until notice and an opportunity to comment for the individual facility has been provided in accordance with the requirements of RCW 43.21K.070 (1) through (3).

[1997 c 381 § 9.]

RCW 43.21K.090 Judicial review.

(1) A decision by the directors of state, regional, or local agencies to approve a proposed environmental excellence program agreement, or to terminate or modify an approved environmental excellence program agreement, is subject to judicial review in superior court. For purposes of judicial review, the court may grant relief from the decision to approve or modify an environmental excellence program agreement only if it determines that the action: (a) Violates constitutional provisions; (b) exceeds the statutory authority of the agency; (c) was arbitrary and capricious; or (d) was taken without compliance with the procedures provided by this chapter. However, the decision of the director or directors shall be accorded substantial deference by the court. A decision not to enter into or modify an environmental excellence program agreement and a decision not to accept a commitment under RCW 43.21K.080(4) to comply with the terms of a programmatic environmental excellence [program] agreement are within the sole discretion of the directors of the state, regional, or local agencies and are not subject to review.

(2) An appeal from a decision to approve or modify a facility specific or a programmatic environmental excellence program agreement is not timely unless filed with the superior court

and served on the parties to the environmental excellence program agreement within thirty days of the date on which the agreement or modification is signed by the director. For an environmental excellence program agreement or modification signed by more than one director, there is only one appeal, and the time for appeal shall run from the last date on which the agreement or modification is signed by a director.

(3) A decision to accept the commitment of a specific facility to comply with the terms of a programmatic environmental excellence program agreement, or to modify the application of an agreement to a specific facility, is subject to judicial review as described in subsection (1) of this section. An appeal is not timely unless filed with the superior court and served on the directors signing the agreement, the sponsor, and the owner or operator of the specific facility within thirty days of the date the director or directors that signed the programmatic agreement approve the owner or operator's commitment to comply with the agreement. For a programmatic environmental excellence program agreement or modification signed by more than one director, there shall be only one appeal and the time for appeal shall run from the last date on which a director approves the commitment.

(4) The issuance of permits and permit modifications is subject to review under otherwise applicable law.

(5) An appeal of a decision by a director under *section 11 of this act to terminate in whole or in part a facility specific or programmatic environmental excellence program agreement is not timely unless filed with the superior court and served on the director within thirty days of the date on which notice of the termination is issued under *section 11(2) of this act.

[1997 c 381 § 10.]

Notes:

***Reviser's note:** Section 11 of this act was vetoed by the governor.

RCW 43.21K.100 Continued effect of agreements and permits--Modification of affected permit or approval.

After a termination under *section 11 of this act is final and no longer subject to judicial review, the sponsor has sixty days in which to apply for any permit or approval affected by any terminated portion of the environmental excellence program agreement. An application filed during the sixty-day period shall be deemed a timely application for renewal of a permit under the terms of any applicable law. Except as provided in *section 11(4) of this act, the terms and conditions of the environmental excellence program agreement and of permits issued will continue in effect until a final permit or approval is issued. If the sponsor fails to submit a timely or complete application, any affected permit or approval may be modified at any time that is consistent with applicable law.

[1997 c 381 § 12.]

Notes:

***Reviser's note:** Section 11 of this act was vetoed by the governor.

RCW 43.21K.110 Enforceable and voluntary commitments--Enforcement actions.

(1) The legal requirements contained in the environmental excellence program agreement in accordance with RCW 43.21K.060(2) are enforceable commitments of the facility covered by the agreement. Any violation of these legal requirements is subject to penalties and remedies to the same extent as the legal requirements that they superseded or replaced.

(2) The voluntary goals stated in the environmental excellence program agreement in accordance with RCW 43.21K.060(3) are voluntary commitments of the facility covered by the agreement. If the facility fails to meet these goals, it shall not be subject to any form of enforcement action, including penalties, orders, or any form of injunctive relief. The failure to make substantial progress in meeting these goals may be a basis on which to terminate the environmental excellence program agreement under *section 11 of this act.

(3) Nothing in this chapter limits the authority of an agency, the attorney general, or a prosecuting attorney to initiate an enforcement action for violation of any applicable legal requirement. However, no civil, criminal, or administrative action may be brought with respect to any legal requirement that is superseded or replaced under the terms of an environmental excellence program agreement.

(4) This chapter does not create any new authority for citizen suits, and does not alter or amend other statutory provisions authorizing citizen suits.

[1997 c 381 § 13.]

Notes:

*Reviser's note: Section 11 of this act was vetoed by the governor.

RCW 43.21K.120 Reduced fee schedule.

An environmental excellence program agreement may contain a reduced fee schedule with respect to a program applicable to the covered facility or facilities.

[1997 c 381 § 14.]

RCW 43.21K.130 Rule-making authority.

Any state, regional, or local agency administering programs under an environmental law may adopt rules or ordinances to implement this chapter. However, it is not necessary that an agency adopt rules or ordinances in order to consider or enter into environmental excellence program agreements.

[1997 c 381 § 16.]

RCW 43.21K.140 Advisory committee.

The director of the department of ecology shall appoint an advisory committee to review the effectiveness of the environmental excellence program agreement program and to make a recommendation to the legislature concerning the continuation, termination, or modification of

the program. The committee also may make recommendations it considers appropriate for revision of any regulatory program that is affected by an environmental excellence program agreement. The committee shall be composed of one representative each from two state agencies, two representatives of the regulated community, and two representatives of environmental organizations or other public interest groups. The committee must submit a report and its recommendation to the legislature not later than October 31, 2001. The department of ecology shall provide the advisory committee with such support as they may require.

[1997 c 381 § 17.]

RCW 43.21K.150 Costs of processing proposals--Fees--Voluntary contributions.

(1) Agencies authorized to enter into environmental excellence program agreements may assess and collect a fee to recover the costs of processing environmental excellence program agreement proposals. The amount of the fee may not exceed the direct and indirect costs of processing the environmental excellence program agreement proposal. Processing includes, but is not limited to: Working with the sponsor to develop the agreement, meeting with stakeholder groups, conducting public meetings and hearings, preparing a record of the decision to enter into or modify an agreement, and defending any appeal from a decision to enter into or modify an agreement. Fees also may include, to the extent specified by the agreement, the agencies' direct costs of monitoring compliance with those specific terms of an agreement not covered by permits issued to the participating facility.

(2) Agencies assessing fees may graduate the initial fees for processing an environmental excellence program agreement proposal to account for the size of the sponsor and to make the environmental excellence program agreement program more available to small businesses. An agency may exercise its discretion to waive all or any part of the fees.

(3) Sponsors may voluntarily contribute funds to the administration of an agency's environmental excellence program agreement program.

[1997 c 381 § 18.]

RCW 43.21K.160 Termination of authority to enter into agreements.

The authority of a director to enter into a new environmental excellence program agreement program shall be terminated June 30, 2002. Environmental excellence program agreements entered into before June 30, 2002, shall remain in force and effect subject to the provisions of this chapter.

[1997 c 381 § 19.]

RCW 43.21K.170 Environmental excellence account.

The environmental excellence account is hereby created in the state treasury. All fees and voluntary contributions collected by state agencies under RCW 43.21K.150 shall be deposited

into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes consistent with the environmental excellence program created under this chapter. Moneys in the account may be appropriated to each agency in an amount equal to the amount each agency collects and deposits into the account.

[1997 c 381 § 32.]

Chapter 43.22 RCW
DEPARTMENT OF LABOR AND INDUSTRIES

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NOTES:

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Electrical apparatus use and construction rules, change of, enforcement: RCW 19.29.040.

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Explosives, duties: Chapter 70.74 RCW.

Farm labor contractors, duties: Chapter 19.30 RCW.

Industrial deaths, autopsies and post-mortems: RCW 68.50.103 through 68.50.105.

Industrial safety and health standards: Chapter 49.17 RCW.

Labor disputes, arbitration: Chapter 49.08 RCW.

Occupational forecast--Agency consultation: RCW 50.38.030.

Office located at state capital: RCW 43.17.050.

Prevailing wages on public works--Director of labor and industries to arbitrate disputes: RCW 39.12.060.

Public employees collective bargaining, powers and duties: Chapter 41.56 RCW.

Rules and regulations: RCW 43.17.060.

Seasonal laborers: Chapter 49.40 RCW.

State building code: Chapter 19.27 RCW.

Underground work: Chapter 49.24 RCW.

Victims of crimes, compensation, duties of department: Chapter 7.68 RCW.

Wage collection: Chapter 49.48 RCW.

Wages, minimum: Chapter 49.46 RCW.

RCW 43.22.005 Deputy directors.

The director of labor and industries may appoint and deputize two assistant directors to be known as deputy directors. The director shall designate one deputy director who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director.

[1985 c 325 § 1; 1969 ex.s. c 32 § 2.]

RCW 43.22.010 Divisions of department--Personnel.

The department of labor and industries shall be organized into divisions that promote efficient and effective performance of the duties the agency is charged by statute to administer.

The director may appoint such clerical and other assistants as may be necessary for the general administration of the department.

[1994 c 164 § 2; 1974 ex.s. c 27 § 1. Prior: 1973 1st ex.s. c 153 § 8; 1973 1st ex.s. c 52 § 2; 1971 c 66 § 2; 1969 ex.s. c 32 § 1; 1965 c 8 § 43.22.010; prior: (i) 1927 c 306 § 1, part; 1917 c 36 § 2, part; RRS § 8637, part. (ii) 1921 c 7 § 74; RRS § 10832.]

Notes:

Effective date--1973 1st ex.s. c 52: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 52 § 12.]

RCW 43.22.020 Supervisor of industrial insurance--Appointment--Authority--Personnel.

The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial insurance, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such adjusters, medical and other examiners, auditors, inspectors, clerks, and other assistants as may be necessary to the administration of workers' compensation and medical aid in this state.

[1994 c 164 § 3; 1965 c 8 § 43.22.020. Prior: 1921 c 7 § 75; RRS § 10833.]

Notes:

Industrial insurance: Title 51 RCW.

RCW 43.22.030 Powers and duties.

The director of labor and industries shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of workers' compensation and medical aid in this state;

(2) Have the custody of all property acquired by the state at execution sales upon judgments obtained for delinquent industrial insurance premiums or medical aid contributions, and penalties and costs; sell and dispose of the same at private sales for the sale purchase price, and pay the proceeds into the state treasury to the credit of the accident fund, or medical aid fund, as the case may be. In case of the sale of real estate the director shall execute the deed in the name of the state.

[1994 c 164 § 4; 1987 c 185 § 16; 1965 c 8 § 43.22.030. Prior: 1921 c 7 § 78, part; RRS § 10836, part.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Workers' compensation: Title 51 RCW.

RCW 43.22.040 Supervisor of industrial safety and health--Appointment--Authority--Personnel.

The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial safety and health, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on the industrial safety and health work of the department.

[1994 c 164 § 5; 1973 1st ex.s. c 52 § 3; 1965 c 8 § 43.22.040. Prior: 1921 c 7 § 76; RRS § 10834.]

Notes:

Effective date--1973 1st ex.s. c 52: See note following RCW 43.22.010.

Administrative expenses: RCW 51.16.105.

RCW 43.22.050 Powers and duties.

The director of labor and industries shall:

(1) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of factories, mills, workshops, storehouses, warerooms, stores and buildings, and the machinery and apparatus therein contained, and steam vessels, and other vessels operated by machinery, and in relation to the administration and enforcement of all laws and safety standards providing for the protection of employees in mills, factories, workshops, and in employments

subject to the provisions of Title 51 RCW, and in relation to the enforcement, inspection, certification, and promulgation of safe places and safety device standards in all industries: PROVIDED, HOWEVER, This section shall not apply to railroads;

(2) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of tracks, bridges, structures, machinery, equipment, and apparatus of street railways, gas plants, electrical plants, water systems, telephone lines, telegraph lines, and other public utilities, with respect to the safety of employees, and the administration and enforcement of all laws providing for the protection of employees of street railways, gas plants, electrical plants, water systems, telephone lines, telegraph lines, and other public utilities;

(3) Exercise all the powers and perform all the duties prescribed by law in relation to the enforcement, amendment, alteration, change, and making additions to, rules and regulations concerning the operation, placing, erection, maintenance, and use of electrical apparatus, and the construction thereof.

[1994 c 164 § 6; 1973 1st ex.s. c 52 § 4; 1971 ex.s. c 239 § 9; 1965 c 8 § 43.22.050. Prior: 1955 c 173 § 1; 1921 c 7 § 80; RRS § 10838.]

Notes:

Effective date--1973 1st ex.s. c 52: See note following RCW 43.22.010.

Severability--1971 ex.s. c 239: See RCW 70.62.900.

Boilers and steam vessels: Chapter 70.79 RCW.

Electrical apparatus: Chapters 19.28, 19.29 RCW.

Elevators, escalators and dumbwaiters: Chapter 70.87 RCW.

Industrial safety and health: Chapter 49.17 RCW.

RCW 43.22.051 Rule making restricted.

For rules adopted after July 27, 1997, the director of the department of labor and industries may not rely solely on a statute's statement of intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of those provisions, for statutory authority to adopt any rule. This section does not apply to rules adopted under chapter 39.12 RCW.

[1997 c 409 § 103.]

Notes:

Part headings--1997 c 409: "Part headings used in this act do not constitute any part of the law." [1997 c 409 § 607.]

Severability--1997 c 409: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 409 § 609.]

RCW 43.22.053 Supervisor of building and construction safety inspection services--Appointment--Authority--Personnel.

The director of labor and industries shall appoint and deputize an assistant, to be known

as the supervisor of building and construction safety inspection services, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on building and construction safety inspection services subject to the provisions of chapter 41.06 RCW.

[1994 c 164 § 7; 1969 ex.s. c 32 § 3.]

RCW 43.22.260 Supervisor of industrial relations--Appointment--Authority--Personnel.

The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial relations, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint an assistant to be known as the industrial statistician, and an assistant to be known as the supervisor of employment standards and may appoint and employ experts, clerks, and other assistants as may be necessary to carry on the industrial relations work of the department.

[1994 c 164 § 10; 1975 1st ex.s. c 296 § 31; 1973 2nd ex.s. c 16 § 11; 1973 1st ex.s. c 154 § 82; 1965 c 8 § 43.22.260. Prior: 1921 c 7 § 77; RRS § 10835.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

Severability--1973 2nd ex.s. c 16: See RCW 49.12.900.

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

RCW 43.22.270 Powers and duties.

The director of labor and industries shall have the power, and it shall be the director's duty:

(1) To study and keep in touch with problems of industrial relations and, from time to time, make public reports and recommendations to the legislature;

(2) To, with the assistance of the industrial statistician, exercise all the powers and perform all the duties in relation to collecting, assorting, and systematizing statistical details relating to labor within the state and systematizing such statistical information to, as far as possible, conform to the plans and reports of the United States department of labor;

(3) To, with the assistance of the industrial statistician, make such special investigations and collect such special statistical information as may be needed for use by the department or division of the state government having need of industrial statistics;

(4) To, with the assistance of the supervisor of employment standards, supervise the administration and enforcement of all laws respecting the employment and relating to the health, sanitary conditions, surroundings, hours of labor, and wages of employees employed in business and industry in accordance with the provisions of chapter 49.12 RCW;

(5) To exercise all the powers and perform all the duties, not specifically assigned to the

department of labor and industries, now vested in, and required to be performed by, the commissioner of labor;

(6) To exercise such other powers and perform such other duties as may be provided by law.

[1994 c 164 § 11; 1977 c 75 § 48; 1975 1st ex.s. c 296 § 32; 1973 2nd ex.s. c 16 § 12; 1973 1st ex.s. c 154 § 83; 1965 c 8 § 43.22.270. Prior: 1921 c 7 § 81; RRS 10839.]

Notes:

Effective date--1975 1st ex.s. c 296: See RCW 41.58.901.

Severability--1973 2nd ex.s. c 16: See RCW 49.12.900.

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

Apprenticeships: Chapter 49.04 RCW.

Arbitration of disputes: Chapter 49.08 RCW.

Public employees' collective bargaining, arbitration of disputes: RCW 41.56.100.

Public employment labor relations: Chapter 41.58 RCW.

Wage collection for aggrieved employees: RCW 49.48.040.

RCW 43.22.282 Industrial welfare committee abolished--Transfer of powers, duties, and functions.

The industrial welfare committee established by this chapter is abolished. All powers, duties, and functions of the committee are transferred to the director of labor and industries.

[1982 c 163 § 16.]

Notes:

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

RCW 43.22.290 Reports by employers.

Every owner, operator, or manager of a factory, workshop, mill, mine, or other establishment where labor is employed, shall make to the department, upon blanks furnished by it, such reports and returns as the department may require, for the purpose of compiling such labor statistics as are authorized by this chapter, and the owner or business manager shall make such reports and returns within the time prescribed therefor by the director, and shall certify to the correctness thereof.

In the reports of the department no use shall be made of the names of individuals, firms, or corporations supplying the information called for by this section, such information being deemed confidential, and not for the purpose of disclosing personal affairs, and any officer, agent, or employee of the department violating this provision shall be fined a sum not exceeding five hundred dollars, or be imprisoned for not more than one year.

[1965 c 8 § 43.22.290. Prior: 1901 c 74 § 3; RRS § 7588.]

RCW 43.22.300 Compelling attendance of witnesses and testimony--Penalty.

The director may issue subpoenas, administer oaths and take testimony in all matters relating to the duties herein required, such testimony to be taken in some suitable place in the vicinity to which testimony is applicable.

Witnesses subpoenaed and testifying before any officer of the department shall be paid the same fees as witnesses before a superior court, such payment to be made from the funds of the department.

Any person duly subpoenaed under the provisions of this section who wilfully neglects or refuses to attend or testify at the time and place named in the subpoena, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days.

[1965 c 8 § 43.22.300. Prior: 1901 c 74 § 4; RRS § 7589.]

RCW 43.22.310 Access to plants--Penalty for refusal.

The director or any employee of the department of labor and industries may enter any factory, mill, office, workshop, or public or private works at any time for the purpose of gathering facts and statistics as provided by this chapter, and examine into the methods of protection from danger to employees, and the sanitary conditions in and around such buildings and places and make a record thereof, and any owner or occupant of such factory, mill, office or workshop, or public or private works, or his agent who refuses to allow an inspector or employee of the department to enter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not to exceed ninety days.

[1965 c 8 § 43.22.310. Prior: 1901 c 74 § 5; RRS § 7590.]

RCW 43.22.330 Annual report.

The director of labor and industries shall submit to the governor each year a report of business transacted by the department during the preceding fiscal year together with such statistics and information as the governor deems of public interest and such recommendations as the director believes merit consideration in the interest of improved administration.

[1977 c 75 § 49; 1965 c 8 § 43.22.330. Prior: (i) 1901 c 74 § 2; RRS § 7587. (ii) 1901 c 74 § 7; RRS § 7592.]

RCW 43.22.331 Annual report on workers' compensation fraud.

The department shall annually compile a comprehensive report on workers' compensation fraud in Washington. The report shall include the department's activities related to the prevention, detection, and prosecution of worker, employer, and provider fraud and the cost of such activities, as well as the actual and estimated cost savings of such activities. The report shall be submitted to the appropriate committees of the legislature prior to the start of the

legislative session in January.

[1995 c 160 § 7.]

RCW 43.22.335 Manufactured homes, mobile homes, recreational vehicles--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.22.340 through 43.22.420.

(1) "Conversion vendor units" means a motor vehicle or recreational vehicle that has been converted or built for the purpose of being used for commercial sales at temporary locations. The units must be less than eight feet six inches wide in the set-up position and the inside working area must be less than forty feet in length.

(2) "Manufactured home" means a single-family dwelling required to be built in accordance with regulations adopted under the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.).

(3) "Medical unit" means a self-propelled unit used to provide medical examinations, treatments, and medical and dental services or procedures, not including emergency response vehicles.

(4) "Mobile home" means a factory-built dwelling built before June 15, 1976, to standards other than the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.), and acceptable under applicable state codes in effect at the time of construction or introduction of the home into this state.

(5) "Park trailer" means a park trailer as defined in the American national standards institute A119.5 standard for park trailers.

(6) "Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes.

[2001 c 335 § 1; 1999 c 22 § 1; 1995 c 280 § 1.]

NOTES:

Application--2001 c 335: "This act applies to manufactured homes without regard to the date such homes may have been altered." [2001 c 335 § 10.]

RCW 43.22.340 Manufactured homes, mobile homes, recreational vehicles--Safety rules--Compliance.

(1) The director shall adopt specific rules for conversion vending units and medical units. The rules for conversion vending units and medical units shall be established to protect the occupants from fire; to address other life safety issues; and to ensure that the design and construction are capable of supporting any concentrated load of five hundred pounds or more.

(2) The director of labor and industries shall adopt rules governing safety of body and frame design, and the installation of plumbing, heating, and electrical equipment in mobile

homes, commercial coaches, recreational vehicles, and/or park trailers: PROVIDED, That the director shall not prescribe or enforce rules governing the body and frame design of recreational vehicles and park trailers until after the American National Standards Institute shall have published standards and specifications upon this subject. The rules shall be reasonably consistent with recognized and accepted principles of safety for body and frame design and plumbing, heating, and electrical installations, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe body and frame design, construction, plumbing, heating, electrical, and other equipment and shall correlate with and, so far as practicable, conform to the then current standards and specifications of the American National Standards Institute standards A119.1 for mobile homes and commercial coaches, A119.2 for recreational vehicles, and A119.5 for park trailers.

(3) It shall be unlawful for any person to lease, sell or offer for sale, within this state, any mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured after January 1, 1968, containing plumbing, heating, electrical, or other equipment, and after July 1, 1970 body and frame design or construction unless such equipment meets the requirements of the rules provided for in this section.

[1999 c 22 § 2; 1995 c 280 § 2; 1970 ex.s. c 27 § 1; 1969 ex.s. c 229 § 1; 1967 c 157 § 1.]

RCW 43.22.345 Manufactured homes, mobile homes, recreational vehicles--Penalty.

Any person violating the provisions of RCW 43.22.340 shall be guilty of a misdemeanor. Each day upon which a violation occurs shall constitute a separate violation.

[1995 c 280 § 3; 1969 ex.s. c 229 § 4.]

RCW 43.22.350 Manufactured homes, mobile homes, recreational vehicles--Compliance insignia--Fee schedule--Out-of-state sales.

(1) In compliance with any applicable provisions of this chapter, the director of the department of labor and industries shall establish a schedule of fees, whether on the basis of plan approval or inspection, for the issuance of an insignia which indicates that the mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer complies with the provisions of RCW 43.22.340 through 43.22.410 or for any other purpose specifically authorized by any applicable provision of this chapter.

(2) Insignia are not required on mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured within this state for sale outside this state which are sold to persons outside this state.

[1999 c 22 § 3; 1995 c 280 § 4; 1977 ex.s. c 21 § 6; 1970 ex.s. c 27 § 2; 1967 c 157 § 2.]

NOTES:

Construction--1977 ex.s. c 21: See note following RCW 43.22.431.

RCW 43.22.355 Manufactured homes, mobile homes, recreational vehicles--Self-certification for recreational vehicles and park trailers--Procedures--Performance audit of quality control programs.

The director or the director's authorized representative may allow qualifying recreational vehicle and/or park trailer manufacturers to be self-certified as to compliance with the American National Standards Institute A119.2 standard for recreational vehicles and the American National Standards Institute A119.5 standard for park trailers. Except as provided in subsection (4) of this section, a manufacturer approved for the department's self-certification is exempt from the requirements under RCW 43.22.434 and 43.22.360. The director shall adopt rules to implement the self-certification program. The director may establish fees at a sufficient level to cover the costs of administering this program.

(1) Before a manufacturer becomes self-certified, the department shall make an initial audit of the manufacturer making self-certification application. The audit must review and report on the following:

(a) The manufacturer's quality control program;

(b) The manufacturer's demonstrated ability to manufacture products in conformance with either or both of the American National Standards Institute standards A119.2 and A119.5; and

(c) The availability on site of comprehensive plans for each model being manufactured.

(2) At the sole discretion of the director, a manufacturer currently being audited by the department that is deemed to meet the criteria for an initial self-certification audit may become a self-certified manufacturer without an additional self-certification audit.

(3) If the department denies an application to allow a manufacturer to be self-certified, the manufacturer shall be notified in writing including the reasons for denial. A copy of the initial self-certification audit shall be provided to the manufacturer. A manufacturer who is denied self-certification may appeal the denial under chapter 34.05 RCW.

(4) If the department has reason to believe that the manufacturer is no longer meeting the criteria established in subsection (1) of this section, the department may make an audit of the manufacturer. For purposes of enforcement of this subsection, the department retains inspection and investigation authority under RCW 43.22.434. At the conclusion of this audit, the director or the director's authorized representative may continue the manufacturer's self-certification or require the manufacturer to meet all of the requirements of this chapter from which the manufacturer was once exempted.

(5) The manufacturer to whom the authorization is given shall pay all of the costs of the initial self-certification audit and any subsequent audit that the department has the authority to perform.

(6) The department shall conduct a performance audit of additional industry association quality control programs utilized by self-certified manufacturers at least once every two years.

[1995 c 280 § 6.]

RCW 43.22.360 Manufactured homes, mobile homes, recreational vehicles--Plans and specifications--Approval--Alterations--Rules.

(1) Plans and specifications of each model or production prototype of a mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer showing body and frame design, construction, plumbing, heating and electrical

specifications and data shall be submitted to the department of labor and industries for approval and recommendations with respect to compliance with the rules and standards of each of such agencies. When plans have been submitted and approved as required, no changes or alterations shall be made to body and frame design, construction, plumbing, heating or electrical installations or specifications shown thereon in any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, or park trailer without prior written approval of the department of labor and industries.

(2) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements.

[1999 c 22 § 4. Prior: 1995 c 289 § 1; 1995 c 280 § 7; 1970 ex.s. c 27 § 3; 1967 c 157 § 3.]

RCW 43.22.370 Manufactured homes, mobile homes, recreational vehicles--Leased, sold, or manufactured in state prior to July 1, 1968--Compliance not required--Exception.

Any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer leased or sold in Washington and manufactured prior to July 1, 1968, which has not been inspected prior to its sale and which does not meet the requirements prescribed will not be required to comply with those requirements except for alterations or installations referred to in RCW 43.22.360.

[1999 c 22 § 5; 1995 c 280 § 8; 1970 ex.s. c 27 § 4; 1969 ex.s. c 229 § 2; 1967 c 157 § 4.]

RCW 43.22.380 Manufactured homes, mobile homes, recreational vehicles--Manufactured for use outside state--Compliance not required--Exception.

Used mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured for use outside this state which do not meet the requirements prescribed and have been used for six months or more will not be required to comply with those requirements except for alterations or installations referred to in RCW 43.22.360.

[1999 c 22 § 6; 1995 c 280 § 9; 1970 ex.s. c 27 § 5; 1967 c 157 § 5.]

RCW 43.22.390 Manufactured homes, mobile homes, recreational vehicles--Insigne of approval, when required.

Mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers subject to the provisions of RCW 43.22.340 through 43.22.410, and mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers upon which alterations of body and frame design, construction or installations of plumbing, heating or electrical equipment referred to in RCW 43.22.360 are made after July 1, 1968, shall have affixed thereto such insigne of approval.

[1999 c 22 § 7; 1995 c 280 § 10; 1970 ex.s. c 27 § 6; 1967 c 157 § 6.]

RCW 43.22.400 Manufactured homes, mobile homes, recreational vehicles--Meeting

standards of other states at least equal to this state.

If the director of the department of labor and industries determines that the standards for body and frame design, construction and the plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, recreational vehicles, and/or park trailers by the statutes or rules and regulations of other states are at least equal to the standards prescribed by this state, he may so provide by regulation. Any mobile home, commercial coach, recreational vehicle, and/or park trailer which a state listed in such regulations has approved as meeting its standards for body and frame design, construction and plumbing, heating and electrical equipment shall be deemed to meet the standards of the director of the department of labor and industries, if he determines that the standards of such state are actually being enforced.

[1995 c 280 § 11; 1970 ex.s. c 27 § 7; 1967 c 157 § 7.]

RCW 43.22.410 Manufactured homes, mobile homes, recreational vehicles--Meeting requirements of chapter deemed compliance with county or city ordinances.

Any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer that meets the requirements prescribed under RCW 43.22.340 shall not be required to comply with any ordinances of a city or county prescribing requirements for body and frame design, construction or plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers.

[1999 c 22 § 8; 1995 c 280 § 12; 1970 ex.s. c 27 § 8; 1967 c 157 § 8.]

RCW 43.22.420 Factory assembled structures advisory board.

There is hereby created a factory assembled structures advisory board consisting of nine members to be appointed by the director of labor and industries. It shall be the purpose and function of the board to advise the director on all matters pertaining to the enforcement of this chapter including but not limited to standards of body and frame design, construction and plumbing, heating and electrical installations, minimum inspection procedures, the adoption of rules pertaining to the manufacture of factory assembled structures, manufactured homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and park trailers. The advisory board shall periodically review the rules adopted under RCW 43.22.450 through 43.22.490 and shall recommend changes of such rules to the department if it deems changes advisable.

The members of the advisory board shall be representative of consumers, the regulated industries, and allied professionals. The term of each member shall be four years. However, the director may appoint the initial members of the advisory board to staggered terms not exceeding four years.

The chief inspector or any person acting as chief inspector for the factory assembled structures, manufactured or mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and park trailer section shall serve as secretary of the board during his tenure as chief. Meetings of the board shall be called at the discretion of the director of labor

and industries, but at least quarterly. Each member of the board shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 which shall be paid out of the appropriation to the department of labor and industries, upon vouchers approved by the director of labor and industries or his or her designee.

[2001 c 335 § 2; 1999 c 22 § 9; 1995 c 280 § 13; 1987 c 330 § 601; 1975-'76 2nd ex.s. c 34 § 103; 1971 ex.s. c 82 § 1; 1970 ex.s. c 27 § 9; 1969 ex.s. c 229 § 3.]

NOTES:

Application--2001 c 335: See note following RCW 43.22.335.

Construction--Application of rules--Severability--1987 c 330: See notes following RCW 28B.12.050.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.22.430 RCW 43.22.340 and 43.22.350 through 43.22.420 not to apply to common carrier equipment.

RCW 43.22.340 and 43.22.350 through 43.22.420 shall not apply to common carrier equipment.

[1970 ex.s. c 27 § 10.]

RCW 43.22.431 Manufactured home safety and construction standards--Enforcement by director of labor and industries authorized.

The director of the department of labor and industries may enforce manufactured home safety and construction standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government and private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426).

[2001 c 335 § 3; 1977 ex.s. c 21 § 1.]

NOTES:

Application--2001 c 335: See note following RCW 43.22.335.

Construction--1977 ex.s. c 21: "This 1977 amendatory act is not intended to repeal, alter, or diminish existing state law respecting mobile homes, commercial coaches, and recreational vehicles in those areas unregulated under federal law." [1977 ex.s. c 21 § 4.]

RCW 43.22.432 Manufactured home construction and safety standards and regulations--Rules.

(1) The department may adopt all standards and regulations adopted by the secretary under the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured home construction and safety standards. If any deletions or amendments to the federal standards or regulations are thereafter made and notice thereof is given to the department, the standards or regulations shall be considered automatically adopted by the state under this chapter after the expiration of thirty days from

publication in the federal register of a final order describing the deletions or amendments unless within that thirty day period the department objects to the deletion or amendment. In case of objection, the department shall proceed under the rule making procedure of chapter 34.05 RCW.

(2) The department shall adopt rules with respect to manufactured homes installed in accordance with the standards adopted under RCW 43.22.440 that:

(a) Specify exemptions from a requirement for a permit to alter a manufactured home;

(b) Authorize the granting of variances from the rules adopted under this section for alterations that use materials, designs, or methods of construction different from those required under the rules adopted under this section; and

(c) Require the seller of a manufactured home to deliver to the buyer prior to the sale a completed property transfer disclosure statement that includes all the criteria specified in RCW 64.06.020 and a copy of a variance, if any, granted under the rules adopted under this section. Nothing in this chapter shall be construed to prohibit the sale of a manufactured home that was altered unless the alteration makes the home unsafe so that its use may constitute a hazard to life, safety, or health.

[2001 c 335 § 4; 1977 ex.s. c 21 § 2.]

NOTES:

Application--2001 c 335: See note following RCW 43.22.335.

Construction--1977 ex.s. c 21: See note following RCW 43.22.431.

RCW 43.22.433 Violations--Penalties.

Any person who violates any of the provisions of RCW 43.22.431 through 43.22.434 and 43.22.350 or any rules or regulations adopted pursuant to RCW 43.22.431 through 43.22.434 and 43.22.350 is guilty of a gross misdemeanor, punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment.

[1977 ex.s. c 21 § 3.]

Notes:

Construction--1977 ex.s. c 21: See note following RCW 43.22.431.

RCW 43.22.434 Inspections and investigations necessary to adopt or enforce rules--Director's duties--Fees.

(1) The director or the director's authorized representative may conduct such inspections, investigations, and audits as may be necessary to adopt or enforce manufactured and mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, park trailer, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured and mobile homes, commercial coaches, conversion

vending units, medical units, recreational vehicles, park trailers, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale;

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974. Each inspection shall be commenced and completed with reasonable promptness; and

(c) As requested by an owner of a conversion vending unit or medical unit, inspect an alteration.

(3) The department shall set a schedule of fees by rule which will cover the costs incurred by the department in the administration of RCW 43.22.335 through 43.22.490.

[2001 c 335 § 5; 1999 c 22 § 10; 1995 c 280 § 5; 1977 ex.s. c 21 § 5.]

NOTES:

Application--2001 c 335: See note following RCW 43.22.335.

Construction--1977 ex.s. c 21: See note following RCW 43.22.431.

RCW 43.22.440 Manufactured and mobile home installation service and warranty service standards--Enforcement.

(1) The legislature finds that inspections of manufactured and mobile home installation are not done on a consistent basis. Manufactured and mobile homes provide housing for many people in the state, and improperly installed manufactured or mobile homes are a serious health and safety risk. Where possible and practical, manufactured and mobile homes should be treated the same as any housing inhabited or to be inhabited by persons in this state, including housing built according to the state building code.

(2) In consultation with the factory assembled structures advisory board for manufactured homes, the director of labor and industries shall by rule establish uniform standards for the performance and workmanship of installation service and warranty service by persons or entities engaged in performing the services within this state for all manufactured and mobile homes, as defined in RCW 46.04.302. The standards shall conform, where applicable, with statutes, rules, and recommendations established under the national manufactured home construction and safety standards act of 1974 (42 U.S.C. Sec. 5401 et seq.). These rules regarding the installation of manufactured and mobile homes shall be enforced and fees charged by the counties and cities in the same manner the state building code is enforced under RCW 19.27.050.

(3) In addition to and in conjunction with the remedies provided in this chapter, failure to remedy any breach of the standards and rules so established, upon adequate notice and within a reasonable time, is a violation of the consumer protection act, chapter 19.86 RCW and subject to the remedies provided in that chapter.

[2001 c 335 § 6; 1988 c 239 § 5; 1980 c 153 § 1.]

NOTES:

Application--2001 c 335: See note following RCW 43.22.335.

RCW 43.22.442 Warranty service--Timely compensation for work performed.

A manufacturer of manufactured homes who designates a representative within this state to provide consumers with warranty service for manufactured homes on behalf of the manufacturer shall make reasonable and timely compensation to the representative for performance of the warranty service.

[2001 c 335 § 7; 1980 c 153 § 2.]

NOTES:

Application--2001 c 335: See note following RCW 43.22.335.

RCW 43.22.445 Mobile homes--Warranties and inspections--Advertising of dimensions.

See RCW 46.70.135.

RCW 43.22.450 Factory built housing and commercial structures, regulating installation of--Definitions.

Whenever used in RCW 43.22.450 through 43.22.490:

- (1) "Department" means the Washington state department of labor and industries;
- (2) "Approved" means approved by the department;
- (3) "Factory built housing" means any structure designed primarily for human occupancy other than a manufactured or mobile home the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site;
- (4) "Install" means the assembly of factory built housing or factory built commercial structures at a building site;
- (5) "Building site" means any tract, parcel or subdivision of land upon which factory built housing or a factory built commercial structure is installed or is to be installed;
- (6) "Local enforcement agency" means any agency of the governing body of any city or county which enforces laws or ordinances governing the construction of buildings;
- (7) "Commercial structure" means a structure designed or used for human habitation, or human occupancy for industrial, educational, assembly, professional or commercial purposes.

[2001 c 335 § 8; 1973 1st ex.s. c 22 § 1; 1970 ex.s. c 44 § 1.]

NOTES:

Application--2001 c 335: See note following RCW 43.22.335.

RCW 43.22.455 Factory built housing and commercial structures, regulating installation of--Housing must be approved, have department insignia--Significance of insignia--Modification of housing during installation must be approved.

No factory built housing or factory built commercial structure shall be installed on a building site in this state after the effective date of the regulations adopted pursuant to RCW 43.22.480 unless it is approved and bears the insignia of approval of the department.

- (1) Any factory built housing or factory built commercial structure bearing an insignia of

approval of the department shall be deemed to comply with any laws, ordinances or regulations enacted by any city or county or any local enforcement agency which govern the manufacture and construction of factory built housing or factory built commercial structures or on-site housing.

(2) No factory built housing or factory built commercial structure which has been approved by the department shall be in any way modified prior to, or during installation by a manufacturer or installer unless approval of such modification is first made by the department.

[1973 1st ex.s. c 22 § 2; 1970 ex.s. c 44 § 2.]

RCW 43.22.460 Factory built housing and commercial structures, regulating installation of--Certain requirements reserved to local jurisdictions.

Local land use requirements, building setbacks, side and rear yard requirements, site development and property line requirements, and review and regulation of zoning requirements are specifically reserved to local jurisdictions notwithstanding anything contained in RCW 43.22.450 through 43.22.490.

[1970 ex.s. c 44 § 3.]

RCW 43.22.465 Factory built housing and commercial structures, regulating installation of--Injunctive process, procedure.

The department may obtain from a superior court having jurisdiction, a temporary injunction enjoining the installation of factory built housing or factory built commercial structures on any building site upon affidavit of the department that such factory built housing or factory built commercial structures do not conform to the requirements of RCW 43.22.450 through 43.22.490 or to the rules adopted pursuant to RCW 43.22.450 through 43.22.490. The affidavit must set forth such violations in detail. The injunction may be made permanent, in the discretion of the court.

[1973 1st ex.s. c 22 § 3; 1970 ex.s. c 44 § 4.]

RCW 43.22.470 Factory built housing and commercial structures, regulating installation of--Delegation of inspection duty to local agency.

The department shall have the authority to delegate all or part of its duties of inspection to a local enforcement agency.

[1970 ex.s. c 44 § 5.]

RCW 43.22.480 Factory built housing and commercial structures, installation--Rules--Enforcement--Standards--Fees.

(1) The department shall adopt and enforce rules that protect the health, safety, and

property of the people of this state by assuring that all factory built housing or factory built commercial structures are structurally sound and that the plumbing, heating, electrical, and other components thereof are reasonably safe. The rules shall be reasonably consistent with recognized and accepted principles of safety and structural soundness, and in adopting the rules the department shall consider, so far as practicable, the standards and specifications contained in the uniform building, plumbing, and mechanical codes, including the barrier free code and the Washington energy code as adopted by the state building code council pursuant to chapter 19.27A RCW, and the national electrical code, including the state rules as adopted pursuant to chapter 19.28 RCW and published by the national fire protection association or, when applicable, the temporary worker building code adopted under RCW 70.114A.081.

(2) The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of RCW 43.22.450 through 43.22.490.

(3) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements.

[1998 c 37 § 4; 1995 c 289 § 2; 1989 c 134 § 1; 1979 ex.s. c 76 § 2; 1973 1st ex.s. c 22 § 5; 1970 ex.s. c 44 § 7.]

RCW 43.22.485 Factory built housing and commercial structures, regulating installation of--Recognizing out-of-state standards, enforcement, as department approved.

If the director of the department determines that the standards for factory built housing or factory built commercial structures prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under RCW 43.22.450 through 43.22.490, and that such standards are actually enforced by such other state, he may provide by regulation that factory built housing or factory built commercial structures approved by such other state shall be deemed to have been approved by the department.

[1973 1st ex.s. c 22 § 6; 1970 ex.s. c 44 § 8.]

RCW 43.22.490 Factory built housing and commercial structures, regulating installation of--Violation as misdemeanor--Penalty.

Any person who violates any of the provisions of RCW 43.22.450 through 43.22.490 or any rules or regulations adopted pursuant to RCW 43.22.450 through 43.22.490 is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

[1970 ex.s. c 44 § 9.]

RCW 43.22.495 Manufactured housing--Department of community, trade, and economic development duties.

Beginning on July 1, 1991, the department of community, trade, and economic

development shall be responsible for performing all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department of community, trade, and economic development may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The directors of the department of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that chapter 176, Laws of 1990 is implemented on June 7, 1990.

[1995 c 399 § 69; 1990 c 176 § 1.]

Notes:

Department of community, trade, and economic development duties: RCW 43.63A.460.

RCW 43.22.500 Printing and distribution of publications--Fees.

The department of labor and industries, to defray the costs of printing, reprinting, or distributing printed matter issued by the department of labor and industries including, but not limited to, the matters listed in RCW 43.22.505, may charge a fee for such publications in an amount which will reimburse the department for the costs of printing, reprinting, and distributing such publications: PROVIDED, That every person subject to regulation by the department may upon request receive without charge one copy per year of any publication printed pursuant to RCW 43.22.505 whenever such person is affected by any statute, rule or regulation printed therein. All fees collected shall be deposited in the state treasury to the credit of the appropriate fund or account.

[1979 ex.s. c 67 § 2; 1975 1st ex.s. c 123 § 1.]

Notes:

Severability--1979 ex.s. c 67: See note following RCW 19.28.351.

RCW 43.22.505 Printing and distribution of publications--Authorized subject matters.

The department of labor and industries is specifically authorized to print, reprint, and distribute subject matter including but not limited to the following:

- (1) The provisions of Title 51 RCW;
- (2) The provisions of Title 49 RCW;
- (3) The provisions of chapter 7.68 RCW;
- (4) The provisions of chapter 88.16 RCW;
- (5) The provisions of chapter 19.28 RCW;
- (6) The provisions of chapter 43.22 RCW;

- (7) The provisions of chapter 41.56 RCW;
- (8) The provisions of chapter 49.66 RCW;
- (9) The provisions of chapter 70.79 RCW;
- (10) The provisions of chapter 70.74 RCW;
- (11) The provisions of chapter 70.87 RCW;
- (12) The provisions of all other statutes administered by the department or such statutes as have a relationship to the functions and obligations of the department; and
- (13) The rules and regulations of the department of labor and industries, the state apprenticeship council, the state board of pilotage commissioners and the board of boiler rules promulgated pursuant to the statutory provisions cited above.

[1975 1st ex.s. c 123 § 2.]

RCW 43.22.550 Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications.

The director may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW.

[1997 c 51 § 4.]

Notes:

Intent--1997 c 51: See note following RCW 19.02.300.

**Chapter 43.23 RCW
DEPARTMENT OF AGRICULTURE**

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carcasses, disposal: Chapter 16.68 RCW.

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Apiaries act: Chapter 15.60 RCW.

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Apple advertising commission: Chapter 15.24 RCW.

Chief assistants: RCW 43.17.040.

Cold storage food lockers: Chapter 19.32 RCW.

Commercial feed law, director's duties relating to: Chapter 15.53 RCW.

Commission merchants: Chapter 20.01 RCW.

Control of pet animals infected with diseases communicable to humans, director's duties: Chapter 16.70 RCW.

Dairies and dairy products, director's duties relating to: Chapter 15.36 RCW.

Department created: RCW 43.17.010.

Drugs, food and cosmetics act: Chapter 69.04 RCW.

Eggs and egg products, duties concerning: Chapter 69.25 RCW.

Fair fund, horse racing moneys, disposition: RCW 15.76.115.

Farm labor

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Farm marketing act, powers and duties under, generally: Chapter 15.64 RCW.

Food, drug and cosmetic act, duties under: Chapter 69.04 RCW.

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Horticultural plants and facilities, inspection and licensing of, duties relating to: Chapter 15.13 RCW.

Inspection, duties relating to generally: Chapter 15.04 RCW.

International marketing program for agricultural commodities and trade center: RCW 28B.30.535 through 28B.30.543.

Livestock

identification: Chapter 16.57 RCW.

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Marketing, director's duties relating to: Chapters 15.64, 15.65, 15.66 RCW.

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Powers and duties generally: RCW 43.17.030, chapter 43.23 RCW.

Predatory birds, controlled by: RCW 15.04.110, 15.04.120.

Rule-making power: RCW 43.17.060.

Rural rehabilitation program, director's duties relating to: Chapter 15.70 RCW.

Seeds, director's duties relating to: Chapter 15.49 RCW.

Soil conservation: Chapter 89.08 RCW.

State fairs commission: Chapter 15.76 RCW.

State international trade fairs, duties relating to: RCW 43.31.800 through 43.31.850.

State trade fair fund, horse racing moneys, disposition: RCW 43.31.805.

Vacancy: RCW 43.17.020, 43.17.040.

Weighing commodities in highway transport--Weighmasters, director's duties relating to: Chapter 15.80 RCW.

RCW 43.23.001 Definitions.

For purposes of this chapter:

(1) "Department" means department of agriculture;

(2) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

[1995 c 374 § 61.]

Notes:

Effective date--1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

RCW 43.23.002 Director--Appointment--Powers and duties--Salary.

The executive and administrative head of the department of agriculture shall be the director. The director shall be appointed by the governor with the consent of the senate and shall have complete charge of and supervisory power over the department. The director shall be paid a salary fixed by the governor in accordance with RCW 43.03.040.

[1983 c 248 § 1.]

RCW 43.23.005 Deputy director--Appointment--Powers and duties.

The director of agriculture may appoint a deputy director who shall assist the director in the administration of the affairs of the department and who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director.

[1983 c 248 § 2; 1967 c 240 § 14.]

RCW 43.23.010 Divisions of department--Assistant directors--State veterinarian--Salaries--Assignment of duties.

In order to obtain maximum efficiency and effectiveness within the department of agriculture, the director may create such administrative divisions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The director shall appoint no more than eight assistant directors. The officers appointed under this section are exempt from the provisions of the state civil service law as provided in *RCW 41.06.070(7), and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. The director shall also appoint and deputize a state veterinarian who shall be an experienced veterinarian properly licensed to practice veterinary medicine in this state.

The director of agriculture shall have charge and general supervision of the department and may assign supervisory and administrative duties other than those specified in RCW 43.23.070 to the division which in his or her judgment can most efficiently carry on those functions.

[1990 c 37 § 1; 1983 c 248 § 3; 1967 c 240 § 1; 1965 c 8 § 43.23.010. Prior: 1951 c 170 § 1; 1921 c 7 § 83; RRS § 10841.]

Notes:

***Reviser's note:** RCW 41.06.070 was amended by 1993 c 281 § 21, changing subsection (7) to subsection (1)(g).

Severability--1967 c 240: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 240 § 52.]

Apiary advisory committee: RCW 15.60.010.

RCW 43.23.015 Divisions of department--Reassignment of division functions.

Except for the functions specified in RCW 43.23.070, the director may, at his discretion, reassign any of the functions delegated to the various divisions of the department under the provisions of this chapter or any other law to any other division of the department.

[1983 c 248 § 4; 1967 c 240 § 15.]

RCW 43.23.025 Rule-making authority.

For rules adopted after July 23, 1995, the director of agriculture may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule.

[1995 c 403 § 104.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 43.23.030 Powers and duties.

The director of agriculture shall exercise all the powers and perform all the duties relating to the development of markets, for agricultural products, state and federal cooperative marketing programs, land utilization for agricultural purposes, water resources, transportation, and farm labor as such matters relate to the production, distribution and sale of agricultural commodities including private sector cultured aquatic products as defined in RCW 15.85.020.

[1985 c 457 § 15; 1983 c 248 § 5; 1967 c 240 § 3; 1965 c 8 § 43.23.030. Prior: (i) 1921 c 7 § 90; RRS § 10848. (ii) 1937 c 90 § 10; RRS § 10847-1.]

Notes:

Fair commission: Chapter 15.76 RCW.

Farm marketing: Chapters 15.64, 15.65, 15.66 RCW.

RCW 43.23.035 Powers and duties--State agricultural market development programs and activities.

The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

(1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;

(2) To collect, prepare, and analyze foreign and domestic market data;

(3) To establish a program to promote and assist in the marketing of Washington-bred horses: PROVIDED, That the department shall present a proposal to the legislature no later than December 1, 1986, that provides for the elimination of all state funding for the program after June 30, 1989;

(4) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;

(5) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are

produced and are, or could be, made available for sale;

(6) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;

(7) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;

(8) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;

(9) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;

(10) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;

(11) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;

(12) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and

(13) To develop a coordinated marketing program with the department of community, trade, and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.

As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming.

[1995 c 399 § 70; 1986 c 202 § 1; 1985 c 159 § 3.]

Notes:

Severability--1986 c 202: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 202 § 7.]

Legislative declaration and intent--1985 c 159: "The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy.

(2) The export of agricultural products produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, provides an important stabilizing effect on prices received by agricultural producers, and contributes to the United States balance of trade.

(3) State government should play a significant role in the development and expansion of markets for Washington grown and processed agricultural and food products.

(4) In order for state government to serve the best interests of agriculture in the area of market development, the role of state government in this area must be clearly defined.

(5) The department of agriculture, the department of commerce and economic development, and the IMPACT center at Washington State University, each possesses its own unique body of knowledge, expertise, and relationships that, when combined and applied in a logical and cooperative manner, will benefit the agricultural industry and the overall state economy and will provide a powerful force to seek aggressively new domestic and international markets for Washington's agricultural products.

It is the intent of the legislature to establish an organized agricultural market development function within

state government with clearly defined areas of responsibility which will be responsive to the state's agricultural and food products industries' needs, without duplicating established private sector marketing efforts." [1985 c 159 § 1.]

RCW 43.23.037 Publishing and dissemination costs--Deposit of proceeds.

The director may collect moneys to recover the reasonable costs of publishing and disseminating informational materials by the department. Materials may be disseminated in printed or electronic format. All moneys collected shall be deposited in the agricultural local fund or other appropriate fund administered by the director.

[1997 c 303 § 5.]

Notes:

Findings--1997 c 303: See note following RCW 43.135.055.

RCW 43.23.050 Powers and duties.

The director of agriculture shall:

- (1) Exercise all the powers and perform all the duties prescribed by law relating to horticulture, and horticultural plants and products;
- (2) Enforce and supervise the administration of all laws relating to horticulture, horticultural products, and horticultural interests.

[1983 c 248 § 6; 1967 c 240 § 5; 1965 c 8 § 43.23.050. Prior: 1921 c 7 § 91; RRS § 10849.]

Notes:

Horticultural

pests and diseases: Chapter 15.08 RCW.

plants and facilities: Chapter 15.13 RCW.

RCW 43.23.070 Powers and duties of state veterinarian.

The state veterinarian shall exercise all the powers and perform all duties prescribed by law relating to diseases among animals and the quarantine and destruction of diseased animals.

The state veterinarian shall enforce and supervise the administration of all laws relating to meat inspection, the prevention, detection, control and eradication of diseases of animals, and all other matters relative to the diseases of livestock and their effect upon the public health.

[1998 c 8 § 20; 1983 c 248 § 7; 1967 c 240 § 7; 1965 c 8 § 43.23.070. Prior: 1943 c 56 § 1; 1921 c 7 § 92; Rem. Supp. 1943 § 10850.]

Notes:

Animal health: Chapter 16.36 RCW.

Dairies and dairy products: Chapter 15.36 RCW.

Diseased animals: Chapter 16.36 RCW.

RCW 43.23.090 Powers and duties.

The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to the inspection of foods, food products, drinks, milk and milk products, and

dairies and dairy products and the components thereof.

He shall enforce and supervise the administration of all laws relating to foods, food products, drinks, milk and milk products, dairies and dairy products, and their inspection, manufacture, and sale.

[1983 c 248 § 8; 1967 c 240 § 9; 1965 c 8 § 43.23.090. Prior: 1921 c 7 § 93; RRS § 10851.]

Notes:

Commercial feed law: Chapter 15.53 RCW.

Eggs and egg products: Chapter 69.25 RCW.

Food, drugs and cosmetics: Chapter 69.04 RCW.

Honey: Chapter 69.28 RCW.

Weighing commodities in highway transport: Chapter 15.80 RCW.

Weights and measures: Chapter 19.94 RCW.

RCW 43.23.110 Powers and duties.

The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides.

He shall enforce and supervise the administration of all laws relating to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides.

[1983 c 248 § 9; 1967 c 240 § 11; 1965 c 8 § 43.23.110. Prior: 1921 c 7 § 94; RRS § 10852.]

Notes:

Commercial fertilizers: Chapter 15.54 RCW.

Grain and terminal warehouses: Chapter 22.09 RCW.

Quarantine: Chapter 17.24 RCW.

Seeds: Chapter 15.49 RCW.

Weeds: Chapters 17.04 and 17.06 RCW.

RCW 43.23.120 Bulletins and reports.

The director of agriculture may publish and distribute bulletins and reports embodying information upon the subjects of agriculture, horticulture, livestock, dairying, foods and drugs, and other matters pertaining to his department.

[1977 c 75 § 50; 1965 c 8 § 43.23.120. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

RCW 43.23.130 Annual report.

The director of agriculture shall make an annual report to the governor containing an account of all matters pertaining to his department and its administration.

[1977 c 75 § 51; 1965 c 8 § 43.23.130. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii)

1921 c 7 § 89, part; RRS § 10847, part.]

RCW 43.23.160 Powers and duties.

The director of agriculture shall exercise all the powers and perform all the duties prescribed by law relating to commission merchants, livestock identification, livestock brand registration and inspection. All officers appointed to enforce these laws who have successfully completed a course of training prescribed by the Washington state criminal justice training commission shall have the authority generally vested in a peace officer solely for the purpose of enforcing these laws.

He shall enforce and supervise the administration of all laws relating to commission merchants, livestock identification and shall have the power to enforce all laws relating to any division under the supervision of the director of agriculture.

[1983 c 248 § 10; 1967 c 240 § 13. Prior: 1965 c 8 § 43.23.160; prior: 1951 c 170 § 3.]

RCW 43.23.170 Enforcement in accordance with RCW 43.05.100 and 43.05.110.

Enforcement action taken after July 23, 1995, by the director or the department of agriculture shall be in accordance with RCW 43.05.100 and 43.05.110.

[1995 c 403 § 623.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 43.23.200 Official chemists of department--Designated--Duties.

The chief chemist of the department of agriculture dairy and food laboratory and the chief chemist of the department of agriculture chemical and hop laboratory shall be the official chemists of the department of agriculture. Official chemists of the department shall provide laboratory services and analyze all substances that the director of agriculture may send to them and report to the director without unnecessary delay the results of any analysis so made. When called upon by the director, they or any of the additional chemists provided for pursuant to RCW 43.23.205 shall assist in any prosecution for the violation of any law enforced by the department.

[1987 c 393 § 14; 1981 c 297 § 27.]

Notes:

Severability--1981 c 297: See note following RCW 15.36.201.

RCW 43.23.205 Additional chemists--Appointment--Duties--Compensation.

The director of agriculture may appoint one or more competent graduate chemists to serve as additional chemist of the department of agriculture, who may perform any of the duties required of and under the supervision of the official chemists, and whose compensation shall be

fixed by the director.

[1981 c 297 § 28.]

Notes:

Severability--1981 c 297: See note following RCW 15.36.201.

RCW 43.23.220 Disposition of impounded livestock on Hanford reservation--Agreements to act as federal government's agent.

The director of agriculture may enter written agreements with one or more agencies of the United States to act as the federal government's agent for determining the disposition of livestock impounded on the federal Hanford reservation. The director's authority under such an agreement may include, but is not limited to, selling or donating, on behalf of the federal government, unclaimed livestock to a qualified person, organization, or governmental agency that the director determines to be capable of humanely transporting and caring for the livestock. The director may sell or donate such livestock only if the livestock remains unclaimed after the completion of a reasonable attempt to ascertain ownership and, if ownership is not otherwise determined, by the publication of notice that the livestock has been impounded on the reservation.

[1983 c 248 § 12.]

RCW 43.23.230 Agricultural local fund.

The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation.

[1988 c 254 § 1.]

RCW 43.23.240 Senior environmental corps--Department powers and duties.

(1) The department of agriculture shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

- Appoint a representative to the coordinating council;
- Develop project proposals;
- Administer project activities within the agency;
- Develop appropriate procedures for the use of volunteers;
- Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;
- Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps approved projects; and
With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

[1992 c 63 § 8.]

Notes:

Severability--1992 c 63: See note following RCW 43.63A.240.

RCW 43.23.250 Collection of unpaid penalties, assessments, and debts--Use of collection agencies.

Except as otherwise specified by law, the director or his or her designee has the authority to retain collection agencies licensed under chapter 19.16 RCW for the purposes of collecting unpaid penalties, assessments, and other debts owed to the department.

The director or his or her designee may also collect as costs moneys paid to the collection agency as charges, or in the case of credit cards or financial instruments, such as checks returned for nonpayment, moneys paid to financial institutions.

[1995 c 374 § 62.]

Notes:

Effective date--1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

RCW 43.23.255 Assessments levied by director--Personal debt--Costs of collecting--Civil actions authorized--Attorneys' fees.

Except as otherwise specified by law, any due and payable assessment levied under the authority of the director or his or her designee in such specified amount as may be determined by the department shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the department when payment is called for by the department. In the event any person fails to pay the department the full amount of such assessment or such other sum on or before the date due, the department may, and is hereby authorized to, add to such unpaid assessment or other sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other sum, the department may bring a civil action against such person or persons in a court of competent jurisdiction for the collections thereof, including all costs and reasonable attorneys' fees together with the above specified ten percent, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

[1995 c 374 § 63.]

Notes:

Effective date--1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

RCW 43.23.260 Interest on unpaid balances.

Except as otherwise specified by law, the department is authorized to charge interest at the rate authorized under RCW 43.17.240 for all unpaid balances for moneys owed to the department.

[1995 c 374 § 64.]

Notes:

Effective date--1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

RCW 43.23.265 Dishonored check or negotiable instrument.

Except as otherwise specified by law, in the event a check or negotiable instrument as defined by RCW 62A.3-104 is dishonored by nonacceptance or nonpayment, the department is entitled to collect a reasonable handling fee for each instrument. If the check or instrument is not paid within fifteen days and proper notice is sent, the department is authorized to recover the assessment, the handling fee, and any other charges allowed by RCW 62A.3-515.

[1995 c 374 § 65.]

Notes:

Effective date--1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

RCW 43.23.270 Export market development project records--Confidentiality.

Except for release of statistical information not descriptive of any readily identifiable person or persons, all financial and commercial information and records supplied by persons to the department with respect to export market development projects shall be kept confidential unless confidentiality is waived by the party supplying the information. For purposes of this section, persons include any natural person, joint venture, firm, partnership or association, private or public corporation, or governmental entity.

[1996 c 80 § 2.]

RCW 43.23.275 Market development and promotion matching fund program.

There is created a market development and promotion matching fund program within the Washington state department of agriculture. The purpose of the program is to allow the department of agriculture and the agricultural industry to combine funds in order to enhance access to markets that are growth sales areas for the industry's product. The goal of the program is to expose buyers to Washington's diverse agricultural products. The agriculture [agricultural] industry may bring in buying missions, perform trade promotions in various markets, hire overseas contractors, and perform other marketing functions that help it target the correct buyer and market for its product.

[2001 c 324 § 2.]

NOTES:

Findings--Intent--2001 c 324: "The legislature finds that the growing and processing of food and agricultural products is the dominant industry in Washington state and a major employer in rural Washington. The legislature also finds that agriculture is a critical component of Washington's international trade industry, accounting for billions of dollars in exports every year.

The legislature further finds that the export market for Washington's agricultural products has dropped significantly in recent years and that such a drop has negatively impacted the economy in Washington's agricultural regions. Therefore, it is the intent of the legislature to enhance Washington's international trade of agricultural products by increasing funding for the Washington state department of agriculture's international marketing program in an effort to promote marketing of Washington's products and to assist the agricultural industry in efforts to reduce trade barriers that stand in the way of trade in new and emerging markets." [2001 c 324 § 1.]

RCW 43.23.280 Trade barrier matching fund program.

(1) The legislature finds that trade barriers have become an increasingly important issue in the agricultural arena. Further, the world trade organization highlighted the need for "a fair and level playing field." The legislature finds that both large and small commodity groups need adequate resources to address trade barrier issues.

(2) There is created within the department of agriculture a trade barrier matching fund program to assist agriculture [agricultural] industries in fighting trade barriers. The purpose of the program is to allow the department of agriculture and the agricultural industry to combine funds in order to address trade barriers issues impacting the agricultural industry.

[2001 c 324 § 3.]

NOTES:

Findings--Intent--2001 c 324: See note following RCW 43.23.275.

**Chapter 43.24 RCW
DEPARTMENT OF LICENSING**

Sections

43.24.001	Department of licensing--Creation--Director--Powers, duties, and functions--Personnel.
43.24.005	Director--Appointment--Salary.
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43.24.023	Rule-making authority.
43.24.030	"License" defined.
43.24.040	Forms to be prescribed.
43.24.060	Examinations--Committees--Duties, compensation, travel expenses.
43.24.065	Appointment of temporary additional members of boards and committees for administration and grading of examinations.
43.24.080	Issuance of licenses.
43.24.084	Professional licenses--Use of social security numbers and drivers' license numbers prohibited.
43.24.085	License or registration fees for businesses, occupations and professions--Policy--Maximum fees--Determination.
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43.24.090	Examination of handicapped persons.
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- 43.24.120 Appeal--Further review.
- 43.24.125 Enforcement in accordance with RCW 43.05.100 and 43.05.110.
- 43.24.130 License moratorium for persons in service.
- 43.24.140 Extension or modification of licensing, certification, or registration period authorized--Rules and regulations, manner and content.

NOTES:

Applications for licenses, discrimination to require disclosure of race or religion in: RCW 43.01.100, 43.01.110.

Corporation doing business without license, penalty: RCW 9.24.040.

Department created: RCW 46.01.020, 43.17.010.

Drivers' training schools, director's powers and duties relating to: Chapter 46.82 RCW.

Emergency management workers, licensing requirements waived during emergency: RCW 38.52.180.

For-hire vehicles, certificates and operators' permits, director's powers and duties relating to: Chapter 46.72 RCW.

Gambling commission, administrator and staff for: RCW 9.46.080.

Health, department of, functions transferred to: RCW 43.70.901.

Jury source list--Master jury list--Creation--Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

Marine recreation land act, duties: Chapter 79A.25 RCW.

Massachusetts trusts, rules and regulations by director: RCW 23.90.040.

Motor vehicles

accident reports, tabulation and analysis of to be available to: RCW 46.52.060.

administration by director of licensing: RCW 46.01.030, 46.01.040.

agents of: RCW 46.01.130, 46.01.140.

amateur radio operators with special license plates, director to furnish lists of: RCW 46.16.340.

annual reports to governor: RCW 46.01.290.

certified copies of departmental records relating to, department to furnish: RCW 46.01.250.

departmental records relating to, destruction of: RCW 46.01.260.

financial responsibility act, director's powers and duties under: Chapter 46.29 RCW.

general powers of director: RCW 46.01.130.

lighting and other vehicle equipment, director's powers and duties relating to: Chapter 46.37 RCW.

motor vehicle dealer's licenses, director's powers and duties relating to: Chapter 46.70 RCW.

motor vehicle fuel tax, duties concerning: Chapter 82.36 RCW.

motor vehicle fund moneys distributed to: RCW 46.68.090.

motor vehicle revenue, director's powers and duties relating to: Chapter 46.68 RCW.

motor vehicle transporters' licenses, director's powers and duties relating to: Chapter 46.76 RCW.

safety responsibility act, director's powers and duties relating to: Chapter 46.29 RCW.

vehicle and operator licensing, rules for: RCW 46.01.110.

vehicle wreckers' licensing, director's powers and duties relating to: Chapter 46.80 RCW.

Oath of director: RCW 43.17.030.

Offices of department maintained at state capital: RCW 43.17.050.

Powers and duties of director: RCW 43.17.030, 43.24.020, chapter 46.01 RCW.

Rules of department: RCW 43.17.060, 46.01.110.

Seal: RCW 46.01.170.

Securities act, licensing requirements: Chapter 21.20 RCW.

Vacancies in department: RCW 43.17.020, 43.17.040.

Veterans, motor vehicle license issued free to disabled: RCW 73.04.110.

Veterans' preferences, qualifications for: RCW 73.04.090.

RCW 43.24.001 Department of licensing--Creation--Director--Powers, duties, and

functions--Personnel.

See chapter 46.01 RCW.

RCW 43.24.005 Director--Appointment--Salary.

The director of licensing shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The director shall receive a salary in an amount fixed by the governor in accordance with RCW 43.03.040.

[1999 c 240 § 3.]

RCW 43.24.016 Powers and duties--Generally.

(1) The director of licensing shall supervise and administer the activities of the department of licensing and shall advise the governor and the legislature with respect to matters under the jurisdiction of the department.

(2) In addition to other powers and duties granted to the director, the director has the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the responsibilities of the department;

(b) Accept and expend gifts and grants, whether such grants be of federal or other funds;

(c) Appoint a deputy director and such assistant directors, special assistants, and administrators as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary to carry out the responsibilities of the department;

(e) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director is responsible for the official acts of the officers and employees of the department; and

(f) Perform other duties as are necessary and consistent with law.

(3) The director may establish advisory groups as may be necessary to carry out the responsibilities of the department.

(4) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.

[1999 c 240 § 4.]

RCW 43.24.020 Powers and duties--Licensing.

In addition to other powers and duties granted to the department, the director of licensing shall administer all laws with respect to the examination of applicants for, and the issuance of, licenses to persons to engage in any business, profession, trade, occupation, or activity except for health professions.

[1999 c 240 § 1; 1994 c 92 § 496; 1989 1st ex.s. c 9 § 314; 1979 c 158 § 95; 1965 c 100 § 2; 1965 c 8 § 43.24.020. Prior: (i) 1921 c 7 § 96; RRS § 10854. (ii) 1921 c 7 § 104; RRS § 10862. (iii) 1929 c 133 § 1; RRS § 5852-24.]

Notes:

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.
Powers, duties and functions of director and department of licensing: Chapter 46.01 RCW.

RCW 43.24.023 Rule-making authority.

For rules adopted after July 23, 1995, the director of the department of licensing may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule, except rules defining or clarifying terms in, or procedures necessary to the implementation of, a statute.

[1995 c 403 § 107.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.
Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 43.24.030 "License" defined.

The word "license" shall be construed to mean and include license, certificate of registration, certificate of qualification, certificate of competency, certificate of authority, and any other instrument, by whatever name designated, authorizing the practice of a profession or calling, the carrying on of a business or occupation, or the doing of any act required by law to be authorized by the state.

[1965 c 8 § 43.24.030. Prior: 1921 c 7 § 98; RRS § 10856.]

RCW 43.24.040 Forms to be prescribed.

The director of licensing shall prescribe the various forms of applications, certificates, and licenses required by law.

[1979 c 158 § 97; 1965 c 8 § 43.24.040. Prior: 1921 c 7 § 97; RRS § 10855.]

Notes:

Application forms--Licenses--Mention of race or religion prohibited: RCW 43.01.100, 43.01.110.
Director to prescribe forms for applications, licenses, certificates: RCW 46.01.160.

RCW 43.24.060 Examinations--Committees--Duties, compensation, travel expenses.

(1) The director of licensing shall, from time to time, fix such times and places for holding examinations of applicants as may be convenient, and adopt general rules and regulations prescribing the method of conducting examinations.

The governor, from time to time, upon the request of the director of licensing, shall appoint examining committees, composed of three persons possessing the qualifications provided by law to conduct examinations of applicants for licenses to practice the respective professions or callings for which licenses are required.

The committees shall prepare the necessary lists of examination questions, conduct the examinations, which may be either oral or written, or partly oral and partly written, and shall make and file with the director of licensing lists, signed by all the members conducting the examination, showing the names and addresses of all applicants for licenses who have successfully passed the examination, and showing separately the names and addresses of the applicants who have failed to pass the examination, together with all examination questions and the written answers thereto submitted by the applicants.

Each member of a committee shall receive twenty-five dollars per day for each day spent in conducting the examination and in going to and returning from the place of examination, and travel expenses, in accordance with RCW 43.03.050 and 43.03.060.

(2) The director of licensing may appoint advisory committees to advise the department regarding the preparation of examinations for professional licensing and such other specific aspects of regulating the professions within the jurisdiction of the department as the director may designate. Such a committee and its members shall serve at the pleasure of the director.

Each member of an advisory committee shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses incurred in attending meetings of the committee in accordance with RCW 43.03.050 and 43.03.060.

[1984 c 287 § 78; 1982 c 227 § 15; 1979 c 158 § 98; 1975-'76 2nd ex.s. c 34 § 105; 1965 c 100 § 3; 1965 c 8 § 43.24.060. Prior: 1921 c 7 § 99; RRS § 10857.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Effective date--1982 c 227: See note following RCW 19.09.100.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.24.065 Appointment of temporary additional members of boards and committees for administration and grading of examinations.

The director of licensing may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of licensing, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW

43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations.

[1985 c 116 § 1.]

RCW 43.24.080 Issuance of licenses.

Except as provided in RCW 43.24.112, at the close of each examination the department of licensing shall prepare the proper licenses, where no further fee is required to be paid, and issue licenses to the successful applicants signed by the director and notify all successful applicants, where a further fee is required, of the fact that they are entitled to receive such license upon the payment of such further fee to the department of licensing and notify all applicants who have failed to pass the examination of that fact.

[1997 c 58 § 866; 1979 c 158 § 99; 1965 c 100 § 4; 1965 c 8 § 43.24.080. Prior: 1921 c 7 § 101; RRS § 10859.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates--Intent--1997 c 58: See notes following RCW 74.20A.320.

RCW 43.24.084 Professional licenses--Use of social security numbers and drivers' license numbers prohibited. (Effective January 1, 2002.)

Social security numbers and drivers' license numbers may not be used as part of a professional license. Professional licenses containing such information that are in existence on January 1, 2002, shall comply with this section by the next renewal date.

[2001 c 276 § 1.]

NOTES:

Effective date--2001 c 276: "This act takes effect January 1, 2002." [2001 c 276 § 2.]

RCW 43.24.085 License or registration fees for businesses, occupations and professions--Policy--Maximum fees--Determination.

Notes:

Reviser's note: RCW 43.24.085 was amended by 1983 c 75 § 17 without reference to its repeal by 1983 c 168 § 13. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 43.24.086 Fee policy for professions, occupations, and businesses--Determination by rule.

It shall be the policy of the state of Washington that the cost of each professional, occupational[,], or business licensing program be fully borne by the members of that profession, occupation[,], or business. The director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations[,], or

businesses, except for health professions, administered by the department of licensing. In fixing said fees, the director shall set the fees for each such program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

[1999 c 240 § 2; 1989 1st ex.s. c 9 § 315; 1987 c 467 § 7; 1983 c 168 § 12.]

Notes:

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability--1983 c 168: See RCW 18.120.910.

Regulation of health professions: Chapters 18.120 and 18.122 RCW.

RCW 43.24.090 Examination of handicapped persons.

Any person taking any written examination prescribed or authorized by law, for a license or permit to practice any trade, occupation, or profession, who, because of any handicap, is unable to write the examination himself, may dictate it to and have it written or typed by another, to the same effect as though the examination were written out by himself. Any expense connected therewith shall be borne by the person taking the examination.

[1965 c 8 § 43.24.090. Prior: 1947 c 143 § 1; Rem. Supp. 1947 § 8265-20.]

RCW 43.24.112 Suspension of license--Noncompliance with support order--Reissuance.

The department shall immediately suspend any license issued by the department of licensing of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

[1997 c 58 § 869.]

Notes:

***Reviser's note:** 1997 c 58 § 887 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates--Intent--1997 c 58: See notes following RCW 74.20A.320.

RCW 43.24.115 Director's duties as to refusal, revocation or suspension of licenses--Performance by assistants.

The director may deputize one or more of his assistants to perform his duties with

reference to refusal, revocation or suspension of licenses, including the power to preside at hearings and to render decisions therein subject to the approval of the director.

[1965 c 100 § 6.]

RCW 43.24.120 Appeal--Further review.

Except as provided in RCW 43.24.112, any person feeling aggrieved by the refusal of the director to issue a license, or to renew one, or by the revocation or suspension of a license shall have a right of appeal to superior court from the decision of the director of licensing, which shall be taken, prosecuted, heard, and determined in the manner provided in chapter 34.05 RCW.

The decision of the superior court may be reviewed by the supreme court or the court of appeals in the same manner as other civil cases.

[1997 c 58 § 868; 1987 c 202 § 212; 1979 c 158 § 102; 1971 c 81 § 112; 1965 c 8 § 43.24.120. Prior: 1921 c 7 § 106; RRS § 10864.]

Notes:

Rules of court: *Writ procedure superseded by RAP 2.1, 2.2, 18.22.*

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates--Intent--1997 c 58: See notes following RCW 74.20A.320.

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

RCW 43.24.125 Enforcement in accordance with RCW 43.05.100 and 43.05.110.

Enforcement action taken after July 23, 1995, by the director or the department of licensing shall be in accordance with RCW 43.05.100 and 43.05.110.

[1995 c 403 § 624.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 43.24.130 License moratorium for persons in service.

Notwithstanding any provision of law to the contrary, the license of any person licensed by the director of licensing to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The director shall renew the license of every such person who applies for renewal thereof within six months after being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period.

[1979 c 158 § 103; 1965 c 8 § 43.24.130. Prior: 1945 c 112 § 1; 1943 c 108 § 1; RRS § 10864-1.]

RCW 43.24.140 Extension or modification of licensing, certification, or registration period authorized--Rules and regulations, manner and content.

Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter, the director of licensing may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the director determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of licensing adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period.

[1984 c 279 § 25; 1979 c 158 § 104; 1971 c 52 § 1.]

Notes:

Severability--1984 c 279: See RCW 18.130.901.

**Chapter 43.27A RCW
WATER RESOURCES**

Sections

43.27A.015	Powers, duties and functions of department of water resources, director thereof, transferred to department of ecology.
43.27A.020	Definitions.
43.27A.090	Powers and duties of department.
43.27A.130	Department of ecology to inventory state water resources.
43.27A.190	Water resource orders.
43.27A.220	"Person" defined.
43.27A.900	Liberal construction.
43.27A.910	Severability--1967 c 242.

RCW 43.27A.015 Powers, duties and functions of department of water resources, director thereof, transferred to department of ecology.

See RCW 43.21A.064.

RCW 43.27A.020 Definitions.

As used in this chapter, and unless the context indicates otherwise, words and phrase shall mean:

"Department" means the department of ecology;

"Director" means the director of ecology;

"State agency" and "state agencies" mean any branch, department or unit of state government, however designated or constituted;

"Water resources" means all waters above, upon, or beneath the surface of the earth, located within the state and over which the state has sole or concurrent jurisdiction.

"Beneficial use" means, but its meaning shall not be limited to: Domestic water supplies; irrigation; fish, shellfish, game, and other aquatic life; recreation; industrial water supplies; generation of hydroelectric power; and navigation.

[1987 c 109 § 31; 1967 c 242 § 2.]

Notes:

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

RCW 43.27A.090 Powers and duties of department.

The department shall be empowered as follows:

(1) To represent the state at, and fully participate in, the activities of any basin or regional commission, interagency committee, or any other joint interstate or federal-state agency, committee or commission, or publicly financed entity engaged in the planning, development, administration, management, conservation or preservation of the water resources of the state.

(2) To prepare the views and recommendations of the state of Washington on any project, plan or program relating to the planning, development, administration, management, conservation and preservation of any waters located in or affecting the state of Washington, including any federal permit or license proposal, and appear on behalf of, and present views and recommendations of the state at any proceeding, negotiation or hearing conducted by the federal government, interstate agency, state or other agency.

(3) To cooperate with, assist, advise and coordinate plans with the federal government and its officers and agencies, and serve as a state liaison agency with the federal government in matters relating to the use, conservation, preservation, quality, disposal or control of water and activities related thereto.

(4) To cooperate with appropriate agencies of the federal government and/or agencies of other states, to enter into contracts, and to make appropriate contributions to federal or interstate projects and programs and governmental bodies to carry out the provisions of this chapter.

(5) To apply for, accept, administer and expend grants, gifts and loans from the federal government or any other entity to carry out the purposes of this chapter and make contracts and do such other acts as are necessary insofar as they are not inconsistent with other provisions hereof.

(6) To develop and maintain a coordinated and comprehensive state water and water resources related development plan, and adopt, with regard to such plan, such policies as are necessary to insure that the waters of the state are used, conserved and preserved for the best

interest of the state. There shall be included in the state plan a description of developmental objectives and a statement of the recommended means of accomplishing these objectives. To the extent the director deems desirable, the plan shall integrate into the state plan, the plans, programs, reports, research and studies of other state agencies.

(7) To assemble and correlate information relating to water supply, power development, irrigation, watersheds, water use, future possibilities of water use and prospective demands for all purposes served through or affected by water resources development.

(8) To assemble and correlate state, local and federal laws, regulations, plans, programs and policies affecting the beneficial use, disposal, pollution, control or conservation of water, river basin development, flood prevention, parks, reservations, forests, wildlife refuges, drainage and sanitary systems, waste disposal, water works, watershed protection and development, soil conservation, power facilities and area and municipal water supply needs, and recommend suitable legislation or other action to the legislature, the congress of the United States, or any city, municipality, or to responsible state, local or federal executive departments or agencies.

(9) To cooperate with federal, state, regional, interstate and local public and private agencies in the making of plans for drainage, flood control, use, conservation, allocation and distribution of existing water supplies and the development of new water resource projects.

(10) To encourage, assist and advise regional, and city and municipal agencies, officials or bodies responsible for planning in relation to water aspects of their programs, and coordinate local water resources activities, programs, and plans.

(11) To promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

(12) To hold public hearings, and make such investigations, studies and surveys as are necessary to carry out the purposes of the chapter.

(13) To subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and require the production of any books or papers when the department deems such measures necessary in the exercise of its rule-making power or in determining whether or not any license, certificate, or permit shall be granted or extended.

[1988 c 127 § 25; 1967 c 242 § 9.]

RCW 43.27A.130 Department of ecology to inventory state water resources.

The department of ecology may make complete inventories of the state's water resources and enter into such agreements with the director of the United States geological survey as will insure that investigations and surveys are carried on in an economical manner.

[1988 c 127 § 26; 1967 c 242 § 15.]

RCW 43.27A.190 Water resource orders.

Notwithstanding and in addition to any other powers granted to the department of ecology, whenever it appears to the department that a person is violating or is about to violate any of the provisions of the following:

- (1) Chapter 90.03 RCW; or
- (2) Chapter 90.44 RCW; or
- (3) Chapter 86.16 RCW; or
- (4) Chapter 43.37 RCW; or
- (5) Chapter 43.27A RCW; or
- (6) Any other law relating to water resources administered by the department; or

(7) A rule or regulation adopted, or a directive or order issued by the department relating to subsections (1) through (6) of this section; the department may cause a written regulatory order to be served upon said person either personally, or by registered or certified mail delivered to addressee only with return receipt requested and acknowledged by him. The order shall specify the provision of the statute, rule, regulation, directive or order alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. The regulation of a headgate or controlling works as provided in RCW 90.03.070, by a watermaster, stream patrolman, or other person so authorized by the department shall constitute a regulatory order within the meaning of this section. A regulatory order issued hereunder shall become effective immediately upon receipt by the person to whom the order is directed, except for regulations under RCW 90.03.070 which shall become effective when a written notice is attached as provided therein. Any person aggrieved by such order may appeal the order pursuant to RCW 43.21B.310.

[1987 c 109 § 11; 1969 ex.s. c 284 § 7.]

Notes:

Purpose--Short title--Construction--Rules--Severability--Captions--1987 c 109: See notes following RCW 43.21B.001.

Severability--1969 ex.s. c 284: See note following RCW 90.48.290.

RCW 43.27A.220 "Person" defined.

Whenever the word "person" is used in RCW 43.27A.190, it shall be construed to include any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual or any other entity whatsoever.

[1988 c 127 § 27; 1969 ex.s. c 284 § 11.]

Notes:

Severability--1969 ex.s. c 284: See note following RCW 90.48.290.

RCW 43.27A.900 Liberal construction.

The rule of strict construction shall have no application to this chapter, but the same shall be liberally construed, in order to carry out the purposes and objectives for which this chapter is intended.

[1967 c 242 § 22.]

RCW 43.27A.910 Severability--1967 c 242.

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

[1967 c 242 § 21.]

**Chapter 43.30 RCW
DEPARTMENT OF NATURAL RESOURCES**

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Notes:

Categories of trails--Policy statement as to certain state lands: RCW 79A.35.070.

Commissioner of public lands: Chapters 43.12, 79.01 RCW.

Disposition of off-road vehicle moneys: RCW 46.09.110.

Distribution of snowmobile registration fees: RCW 46.10.080.

Duties: RCW 50.70.050.

Forests and forest products: Title 76 RCW.

Infractions: Chapter 7.84 RCW.

Leases for onshore and offshore facilities: RCW 90.48.386.

Metals mining and milling operations, department of natural resources responsibilities: Chapter 78.56 RCW.

Multiple use concept in management and administration of state-owned lands: Chapter 79.68 RCW.

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Public lands: Title 79 RCW.

Refunds from motor vehicle fund of amounts taxed as off-road vehicle fuel--Distribution--Use: RCW 46.09.170.

Sale, lease, and disposal of lands within Seashore Conservation Area: RCW 79A.05.630.

Treasurer's duty to refund snowmobile fuel tax to general fund--Crediting--Use: RCW 46.10.150.

Trust lands--Periodic review to identify parcels appropriate for transfer to parks and recreation commission: RCW 79A.05.220.

Wildlife and recreation lands; funding of maintenance and operation: Chapter 79A.20 RCW.

Youth development and conservation corps: Chapter 79A.05 RCW.

RCW 43.30.010 Purpose.

The purpose of this chapter is to provide for more effective and efficient management of the forest and land resources in the state by consolidating into a department of natural resources certain powers, duties and functions of the division of forestry of the department of conservation and development, the board of state land commissioners, the state forest board, all state sustained yield forest committees, director of conservation and development, state capitol committee, director of licensing, secretary of state, director of revenue, and commissioner of public lands.

[1979 c 107 § 4; 1965 c 8 § 43.30.010. Prior: 1957 c 38 § 1.]

RCW 43.30.020 Definitions.

For the purpose of this chapter, except where a different interpretation is required by the context:

- (1) "Department" means the department of natural resources;
- (2) "Board" means the board of natural resources;
- (3) "Administrator" means the administrator of the department of natural resources;
- (4) "Supervisor" means the supervisor of natural resources;

(5) "Agency" and "state agency" means any branch, department, or unit of the state government, however designated or constituted;

(6) "Commissioner" means the commissioner of public lands.

[1965 c 8 § 43.30.020. Prior: 1957 c 38 § 2.]

RCW 43.30.030 Department created.

The department of natural resources is hereby created, to consist of a board of natural resources, an administrator and a supervisor.

[1965 c 8 § 43.30.030. Prior: 1957 c 38 § 3.]

RCW 43.30.040 Board of natural resources--Composition.

The board shall consist of six members: The governor or the governor's designee, the superintendent of public instruction, the commissioner of public lands, the dean of the college of forest resources of the University of Washington, the dean of the college of agriculture of Washington State University, and a representative of those counties that contain state forest lands acquired or transferred under chapter 76.12 RCW.

The county representative shall be selected by the legislative authorities of those counties that contain state forest lands acquired or transferred under chapter 76.12 RCW. In the selection of the county representative, each participating county shall have one vote. The Washington state association of counties shall conduct a meeting for the purpose of making the selection and shall notify the board of the selection. The county representative shall be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986.

[1986 c 227 § 1; 1979 ex.s. c 57 § 9; 1965 c 8 § 43.30.040. Prior: 1957 c 38 § 4.]

RCW 43.30.050 Administrator of department.

The commissioner of public lands shall be the administrator of the department.

[1965 c 8 § 43.30.050. Prior: 1957 c 38 § 5.]

RCW 43.30.060 Supervisor of natural resources--Appointment.

The supervisor shall be appointed by the administrator with the advice and consent of the board. He shall serve at the pleasure of the administrator.

[1965 c 8 § 43.30.060. Prior: 1957 c 38 § 6.]

RCW 43.30.095 Enforcement in accordance with RCW 43.05.100 and 43.05.110.

Enforcement action taken after July 23, 1995, by the commissioner or supervisor of

public lands shall be in accordance with RCW 43.05.100 and 43.05.110.

[1995 c 403 § 625.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 43.30.115 Park land trust revolving fund.

The park land trust revolving fund is to be utilized by the department of natural resources for the exclusive purpose of acquiring real property, including all reasonable costs associated with these acquisitions, as a replacement for the property transferred to the state parks and recreation commission, as directed by the legislature in order to maintain the land base of the affected trusts or under RCW 76.12.125. Proceeds from transfers of real property to the state parks and recreation commission or other proceeds identified from transfers of real property as directed by the legislature shall be deposited in this fund. Disbursement from the park land trust revolving fund to acquire replacement property shall be on the authorization of the department of natural resources. In order to maintain an effective expenditure and revenue control, the park land trust revolving fund is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

[2000 c 148 § 4; 1995 c 211 § 5.]

Notes:

Findings--Intent--Effective date--Severability--1995 c 211: See notes following RCW 79A.05.070.

RCW 43.30.125 Department to exercise certain powers and duties--State geological survey.

The department of natural resources shall assume full charge and supervision of the state geological survey and perform such other duties as may be prescribed by law.

[1988 c 127 § 3; 1965 c 8 § 43.21.050. Prior: 1921 c 7 § 69; RRS § 10827. Formerly RCW 43.21.050.]

Notes:

Mining survey reports, forwarding to: RCW 78.06.030.

Provisions relating to geological survey: Chapter 43.92 RCW, RCW 43.27A.130.

RCW 43.30.130 Department to exercise certain powers and duties--Commissioner of public lands.

The department shall exercise all of the powers, duties and functions now vested in the commissioner of public lands and such powers, duties and functions are hereby transferred to the department: PROVIDED, That nothing herein contained shall effect his ex officio membership on any committee provided by law.

[1965 c 8 § 43.30.130. Prior: 1957 c 38 § 13.]

RCW 43.30.135 Powers of department--Forested lands.

- (1) The department may:
 - (a) Inquire into the production, quality, and quantity of second growth timber to ascertain conditions for reforestation; and
 - (b) Publish information pertaining to forestry and forest products which it considers of benefit to the people of the state.
- (2) The department shall:
 - (a) Collect information through investigation by its employees, on forest lands owned by the state, including:
 - (i) Condition of the lands;
 - (ii) Forest fire damage;
 - (iii) Illegal cutting, trespassing, or thefts; and
 - (iv) The number of acres and the value of the timber that is cut and removed each year, to determine which state lands are valuable chiefly for growing timber;
 - (b) Prepare maps of each timbered county showing state land therein; and
 - (c) Protect state land as much as is practical and feasible from fire, trespass, theft, and the illegal cutting of timber.
- (3) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and any county, town, corporation, individual, or Indian tribe within the state of Washington in:
 - (a) Forest surveys;
 - (b) Forest studies;
 - (c) Forest products studies; and
 - (d) Preparation of plans for the protection, management, and replacement of trees, wood lots, and timber tracts.

[1986 c 100 § 50.]

Notes:

Study--1989 c 424: "The department of natural resources shall conduct a study of state-owned hardwood forests. The study shall include, but is not limited to: A comprehensive inventory of state-owned hardwood forests and a qualitative assessment of those stands, research into reforestation of hardwoods on state lands, and an analysis of management policies for increasing the supply of commercially harvestable hardwoods on state lands." [1989 c 424 § 5.]

Report to legislature--1989 c 424: "If by October 1, 1989, the United States congress makes an appropriation to the United States forest service for a Washington state forest inventory and timber supply study, the department of natural resources shall conduct an inventory and prepare a report on the timber supply in Washington state. The report shall identify the quantity of timber present now and the quantity of timber that may be available from forest lands in the future using various assumptions of landowner management, including changes in the forest land base, amount of capital invested in timber management, and expected harvest age. This report shall categorize the results according to region of the state, land ownership, land productivity, and according to major timber species.

The report shall contain an estimate of the acreage and volume of old growth and other timber on lands

restricted from commercial timber harvesting due to state or federal decisions, such as national parks, wilderness areas, national recreation areas, scenic river designations, natural areas, geologic areas, or other land allocations which restrict or limit timber harvesting activities. The department shall determine the definition of old growth for the purposes of this section.

State appropriations for these purposes in the 1989-91 budget may be expended if needed for project planning and design. The report shall be submitted to the appropriate committees of the senate and the house of representatives by June 1, 1991." [1989 c 424 § 8.]

RCW 43.30.138 Duties of department--Mining.

The department of natural resources shall:

- (1) Collect, compile, publish, and disseminate statistics and information relating to mining, milling, and metallurgy;
- (2) Make special studies of the mineral resources and industries of the state;
- (3) Collect and assemble an exhibit of mineral specimens, both metallic and nonmetallic, especially those of economic and commercial importance; such collection to constitute the museum of mining and mineral development;
- (4) Collect and assemble a library pertaining to mining, milling, and metallurgy of books, reports, drawings, tracings, and maps and other information relating to the mineral industry and the arts and sciences of mining and metallurgy;
- (5) Make a collection of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes;
- (6) Issue bulletins and reports with illustrations and maps with detailed description of the natural mineral resources of the state;
- (7) Preserve and maintain such collections and library open to the public for reference and examination and maintain a bureau of general information concerning the mineral and mining industry of the state, and issue from time to time at cost of publication and distribution such bulletins as may be deemed advisable relating to the statistics and technology of minerals and the mining industry;
- (8) Make determinative examinations of ores and minerals, and consider other scientific and economical problems relating to mining and metallurgy;
- (9) Cooperate with all departments of the state government, state educational institutions, the United States geological survey and the United States bureau of mines. All departments of the state government and educational institutions shall render full cooperation to the department in compiling useful and scientific information relating to the mineral industry within and without the state, without cost to the department.

[1988 c 127 § 4; 1965 c 8 § 43.21.070. Prior: 1935 c 142 § 2; RRS § 8614-2. Formerly RCW 43.21.070.]

Notes:

Mining survey reports forwarded to: RCW 78.06.030.

RCW 43.30.141 Gifts and bequests relating to mining.

The department of natural resources may receive on behalf of the state, for the benefit of mining and mineral development, gifts, bequests, devises, and legacies of real or personal

property and use them in accordance with the wishes of the donors and manage, use, and dispose of them for the best interests of mining and mineral development.

[1988 c 127 § 5; 1965 c 8 § 43.21.080. Prior: 1935 c 142 § 3; RRS § 8614-3. Formerly RCW 43.21.080.]

RCW 43.30.145 Collection of minerals for exhibition.

The department of natural resources may, from time to time, prepare special collections of ores and minerals representative of the mineral industry of the state to be displayed or used at any world fair, exposition, mining congress, or state exhibition, in order to promote information relating to the mineral wealth of the state.

[1988 c 127 § 6; 1965 c 8 § 43.21.090. Prior: 1935 c 142 § 4; RRS § 8614-4. Formerly RCW 43.21.090.]

RCW 43.30.150 Powers and duties of board--Personnel--Advisory committees--Organization--Travel expenses.

The board shall:

(1) Perform duties relating to appraisal, appeal, approval and hearing functions as provided by law;

(2) Establish policies to insure that the acquisition, management and disposition of all lands and resources within the department's jurisdiction are based on sound principles designed to achieve the maximum effective development and use of such lands and resources consistent with laws applicable thereto;

(3) Constitute the board of appraisers provided for in Article 16, section 2 of the state Constitution;

(4) Constitute the commission on harbor lines provided for in Article 15, section 1 of the state Constitution as amended;

(5) Hold regular monthly meetings at such times as it may determine, and such special meetings as may be called by the chairman or majority of the board membership upon written notice to all members thereof: PROVIDED, That the board may dispense with any regular meetings, except that the board shall not dispense with two consecutive regular meetings;

(6) Adopt and enforce such rules and regulations as may be deemed necessary and proper for carrying out the powers, duties and functions imposed upon it by this chapter;

(7) Employ and fix the compensation of such technical, clerical and other personnel as may be deemed necessary for the performance of its duties;

(8) Appoint such advisory committees as it may deem appropriate to advise and assist it to more effectively discharge its responsibilities. The members of such committees shall receive no compensation, but shall be entitled to reimbursement for travel expenses in attending committee meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended;

(9) Meet and organize within thirty days after March 6, 1957 and on the third Monday of each January following a state general election at which the elected ex officio members of the board are elected. The board shall select its own chairman. The commissioner of public lands

shall be the secretary of the board. The board may select a vice chairman from among its members. In the absence of the chairman and vice chairman at a meeting of the board, the members shall elect a chairman pro tem. No action shall be taken by the board except by the agreement of at least four members. The department and the board shall maintain its principal office at the capital;

(10) Be entitled to reimbursement individually for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

[1988 c 128 § 10; 1986 c 227 § 2; 1975-'76 2nd ex.s. c 34 § 107; 1965 c 8 § 43.30.150. Prior: 1957 c 38 § 15.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.30.160 Powers and duties of administrator--Personnel.

The administrator shall have responsibility for performance of all the powers, duties and functions of the department except those specifically assigned to the board. In the performance of his powers, duties and functions, the administrator shall conform to policies established by the board, and may employ and fix the compensation of such personnel as may be required to perform the duties of his office.

[1965 c 8 § 43.30.160. Prior: 1957 c 38 § 16.]

RCW 43.30.170 Powers and duties of supervisor--Personnel--Bond.

The supervisor shall:

- (1) Be charged with the direct supervision of the department's activities as delegated to him by the administrator;
- (2) Perform his duties in conformance with the policies established by the board;
- (3) Organize the department, with approval of the administrator, into such subordinate divisions as he may deem appropriate for the conduct of its operations;
- (4) Employ and fix the compensation of such technical, clerical and other personnel as may be required to carry on activities under his supervision;
- (5) Delegate by order any of his powers, duties and functions to one or more deputies or assistants as he may desire;
- (6) Furnish before entering upon his duties a surety bond payable to the state in such amount as may be determined by the board, conditioned for the faithful performance of his duties and for his accounting of all moneys and property of the state that may come into his possession or under his control by virtue of his office.

[1965 c 8 § 43.30.170. Prior: 1957 c 38 § 17.]

RCW 43.30.180 Oaths may be administered by supervisor and deputies.

The supervisor and his duly authorized deputies may administer oaths.

[1965 c 8 § 43.30.180. Prior: 1957 c 38 § 18.]

RCW 43.30.210 Administrator may designate substitute for member of board, commission, etc.

When any officer, member, or employee of an agency abolished by provisions of this chapter is, under provisions of existing law, designated as a member ex officio of another board, commission, committee, or other agency, and no provision is made in this chapter with respect to a substitute, the administrator shall designate the officer or other person to serve hereafter in that capacity.

[1965 c 8 § 43.30.210. Prior: 1957 c 38 § 21.]

RCW 43.30.250 Property transactions, restrictive conveyances, highway purpose--Existing law to continue.

Nothing in this chapter shall be interpreted as changing existing law with respect to:

- (1) Property given to a state agency on restrictive conveyance with provision for reversion to the grantor or for the vesting of title in another if and when such property is not used by the agency concerned for the stipulated purposes;
- (2) Land or other property acquired by any state agency for highway purposes.

[1965 c 8 § 43.30.250. Prior: 1957 c 38 § 25.]

RCW 43.30.260 Real property--Services and facilities available to other state agencies, cost.

Upon request by any state agency vested by law with the authority to acquire or manage real property, the department shall make available to such agency the facilities and services of the department of natural resources with respect to such acquisition or management, upon condition that such agency reimburse the department for the costs of such services.

[1965 c 8 § 43.30.260. Prior: 1957 c 38 § 26.]

RCW 43.30.265 Real property asset base--Natural resources real property replacement account.

(1) The legislature finds that the department of natural resources has a need to maintain the real property asset base it manages and needs an accounting mechanism to complete transactions without reducing the real property asset base.

(2) The natural resources real property replacement account is created in the state treasury. This account shall consist of funds transferred or paid for the disposal or transfer of real property by the department of natural resources under RCW 79.01.009. The funds in this account shall be used solely for the acquisition of replacement real property and may be spent only when,

and as, authorized by legislative appropriation.

[1992 c 167 § 1.]

RCW 43.30.270 Employees--Applicability of merit system.

All employees of the department of natural resources shall be governed by any merit system which is now or may hereafter be enacted by law governing such employment.

[1965 c 8 § 43.30.270. Prior: 1957 c 38 § 27.]

RCW 43.30.280 Natural resources equipment fund--Authorized--Purposes--Expenditure.

A revolving fund in the custody of the state treasurer, to be known as the natural resources equipment fund, is hereby created to be expended by the department of natural resources without appropriation solely for the purchase of equipment, machinery, and supplies for the use of the department and for the payment of the costs of repair and maintenance of such equipment, machinery, and supplies.

[1965 c 8 § 43.30.280. Prior: 1963 c 141 § 1.]

RCW 43.30.290 Natural resources equipment fund--Reimbursement.

The natural resources equipment fund shall be reimbursed by the department of natural resources for all moneys expended from it. Reimbursement may be prorated over the useful life of the equipment, machinery, and supplies purchased by moneys from the fund. Reimbursement may be made from moneys appropriated or otherwise available to the department for the purchase, repair and maintenance of equipment, machinery, and supplies and shall be prorated on the basis of relative benefit to the programs. For the purpose of making reimbursement, all existing and hereafter acquired equipment, machinery, and supplies of the department shall be deemed to have been purchased from the natural resources equipment fund.

[1965 c 8 § 43.30.290. Prior: 1963 c 141 § 2.]

RCW 43.30.300 Outdoor recreation--Construction, operation, and maintenance of primitive facilities--Right of way and public access--Use of state and federal outdoor recreation funds.

The department of natural resources is authorized:

(1) To construct, operate, and maintain primitive outdoor recreation and conservation facilities on lands under its jurisdiction which are of primitive character when deemed necessary by the department to achieve maximum effective development of such lands and resources consistent with the purposes for which the lands are held. This authority shall be exercised only after review by the interagency committee for outdoor recreation and determination by the

committee that the department is the most appropriate agency to undertake such construction, operation and maintenance. Such review is not required for campgrounds designated and prepared or approved by the department.

(2) To acquire right of way and develop public access to lands under the jurisdiction of the department of natural resources and suitable for public outdoor recreation and conservation purposes.

(3) To receive and expend funds from federal and state outdoor recreation funding measures for the purposes of RCW 43.30.300 and *79.08.109.

[1987 c 472 § 13; 1986 c 100 § 51; 1967 ex.s. c 64 § 1.]

Notes:

***Reviser's note:** RCW 79.08.109 was recodified as RCW 79A.50.110 pursuant to 1999 c 249 § 1601.

Severability--1987 c 472: See RCW 79.71.900.

Construction--1967 ex.s. c 64: "Nothing in this act shall be construed as affecting the jurisdiction or responsibility of any other state or local governmental agency, except as provided in section 1 of this act." [1967 ex.s. c 64 § 4.]

Severability--1967 ex.s. c 64: "If any provision of sections 1 through 4 of this act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 64 § 3.]

Exchange of lands to secure private lands for parks and recreation purposes: RCW 79A.50.110.

Interagency committee for outdoor recreation: Chapter 79A.25 RCW.

RCW 43.30.310 Rules pertaining to public use of state lands--Enforcement--Penalty.

For the promotion of the public safety and the protection of public property, the department of natural resources may, in accordance with chapter 34.05 RCW, issue, promulgate, adopt, and enforce rules pertaining to use by the public of state-owned lands and property which are administered by the department.

A violation of any rule adopted under this section shall constitute a misdemeanor unless the department specifies by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 7.84 RCW: PROVIDED, That violation of a rule relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

The commissioner of public lands and such of his employees as he may designate shall be vested with police powers when enforcing:

(1) The rules of the department adopted under this section; or

(2) The general criminal statutes or ordinances of the state or its political subdivisions where enforcement is necessary for the protection of state-owned lands and property.

[1987 c 380 § 14; 1979 ex.s. c 136 § 38; 1969 ex.s. c 160 § 1.]

Notes:

Effective date--Severability--1987 c 380: See RCW 7.84.900 and 7.84.901.

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 43.30.350 Department of natural resources to exercise mining and geology powers and duties of department of conservation.

See RCW 43.27A.120 and 43.27A.130.

RCW 43.30.355 Department to participate in and administer federal Safe Drinking Water Act in conjunction with other departments.

See RCW 43.21A.445.

RCW 43.30.360 Clarke-McNary fund.

The department and Washington State University may each receive funds from the federal government in connection with cooperative work with the United States department of agriculture, authorized by sections 4 and 5 of the Clarke-McNary act of congress, approved June 7, 1924, providing for the procurement, protection, and distribution of forestry seed and plants for the purpose of establishing windbreaks, shelter belts, and farm wood lots and to assist the owners of farms in establishing, improving, and renewing wood lots, shelter belts, and windbreaks; and are authorized to disburse such funds as needed.

[1986 c 100 § 46.]

RCW 43.30.370 Cooperative farm forestry funds.

The department and Washington State University may each receive funds from the federal government for cooperative work, as authorized by the cooperative forest management act of congress, approved May 18, 1937, and as subsequently authorized by any amendments to or substitutions for that act, for all purposes authorized by those acts, and to disburse the funds in cooperation with the federal government in accordance therewith.

[1986 c 100 § 47.]

RCW 43.30.390 Sustainable harvest sale.

The board of natural resources shall offer for sale the sustainable harvest as identified in the 1984-1993 forest land management program, or as subsequently revised. In the event that decisions made by entities other than the department cause a decrease in the sustainable harvest the department shall offer additional timber sales from state-managed lands.

[1989 c 424 § 9.]

Notes:

Effective date--1989 c 424: See note following RCW 76.12.210.

RCW 43.30.400 Senior environmental corps--Department powers and duties.

(1) The department of natural resources shall have the following powers and duties in

carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

- Appoint a representative to the coordinating council;
- Develop project proposals;
- Administer project activities within the agency;
- Develop appropriate procedures for the use of volunteers;
- Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;
- Maintain project records and provide project reports;
- Apply for and accept grants or contributions for corps-approved projects; and
- With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps-approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers.

[1992 c 63 § 10.]

Notes:

Severability--1992 c 63: See note following RCW 43.63A.240.

RCW 43.30.410 Watershed restoration projects--Permit processing.

A permit required by the department for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510.

[1995 c 378 § 13.]

RCW 43.30.420 Cost-reimbursement agreements for complex projects.

(1) The department may enter into a written cost-reimbursement agreement with a permit or lease applicant for a complex project to recover from the applicant the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, and permit or lease processing. The cost-reimbursement agreement shall identify the specific tasks, costs, and schedule for work to be conducted under the agreement. For purposes of this section, a complex project is a project for which an environmental impact statement is required under chapter 43.21C RCW. An applicant for a lease issued under chapter 79.90 RCW may not enter into a cost-reimbursement agreement under this section for projects conducted under the lease.

(2) The written cost-reimbursement agreement shall be negotiated with the permit or lease applicant. Under the provisions of a cost-reimbursement agreement, funds from the applicant shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to assign current staff to review the work of the

consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit or lease. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits or leases, and shall contract with consultants to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments. Use of cost-reimbursement agreements shall not reduce the current level of staff available to work on permits or leases not covered by cost-reimbursement agreements. The department may not use any funds under a cost-reimbursement agreement to replace or supplant existing funding. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement.

(3) The department may not enter into any new cost-reimbursement agreements on or after July 1, 2005. The department may continue to administer any cost-reimbursement agreement which was entered into before July 1, 2005, until the project is completed.

[2000 c 251 § 3.]

Notes:

Intent--Captions not law--Effective date--2000 c 251: See notes following RCW 43.21A.690.

Chapter 43.31 RCW

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

(Formerly: Department of trade and economic development)

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NOTES:

Chief assistants: RCW 43.17.040.

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Clean Washington center: Chapter 70.95H RCW.

Department created: RCW 43.17.010.

Department to arrange provision of information on environmental laws: RCW 43.21A.515.

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Occupational forecast--Agency consultation: RCW 50.38.030.

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Public disclosure: RCW 42.17.310.

Regulatory fairness act: Chapter 19.85 RCW.

Rules and regulations: RCW 43.17.060.

Steam generating facility, powers of director: RCW 43.21A.612.

RCW 43.31.055 Business expansion and trade development.

Notes:

Reviser's note: RCW 43.31.055 was amended by 1993 c 512 § 4 without reference to its repeal by 1993 c 280 § 82, effective July 1, 1994. It has been decodified, effective July 1, 1994, for publication purposes pursuant to RCW 1.12.025.

RCW 43.31.057 Washington products--Expansion of market--Pamphlet.

The department of community, trade, and economic development is directed to develop and promote means to stimulate the expansion of the market for Washington products and shall have the following powers and duties:

(1) To develop a pamphlet for state-wide circulation which will encourage the purchase of items produced in the state of Washington;

(2) To include in the pamphlet a listing of products of Washington companies which individuals can examine when making purchases so they may have the opportunity to select one of those products in support of this program;

(3) To distribute the pamphlets on the broadest possible basis through local offices of state agencies, business organizations, chambers of commerce, or any other means the department deems appropriate;

(4) In carrying out these powers and duties the department shall cooperate and coordinate with other agencies of government and the private sector.

[1993 c 280 § 39; 1986 c 183 § 2.]

Notes:

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative declaration--1986 c 183: "The legislature declares that:

(1) The development and sale of Washington business products is a vital element in expanding the state economy.

(2) The marketing of items produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, and provides an important stimulation to the economic strength of Washington companies.

(3) State government should play a significant role in the development and expansion of markets for Washington products." [1986 c 183 § 1.]

Severability--1986 c 183: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 183 § 5.]

RCW 43.31.086 *Business assistance center--Additional duties.

To assist state agencies in reducing regulatory costs to small business and to promote

greater public participation in the rule-making process, the *business assistance center shall:

(1) Develop agency guidelines for the preparation of a small business economic impact statement and compliance with chapter 19.85 RCW;

(2) Review and provide comments to agencies on draft or final small business economic impact statements;

(3) Advise the joint administrative rules review committee on whether an agency reasonably assessed the costs of a proposed rule and reduced the costs for small business as required by chapter 19.85 RCW; and

(4) Organize and chair a state rules coordinating committee, consisting of agency rules coordinators and interested members of the public, to develop an education and training program that includes, among other components, a component that addresses voluntary compliance, for agency personnel responsible for rule development and implementation. The *business assistance center shall submit recommendations to the department of personnel for an administrative procedures training program that is based on the sharing of interagency resources.

[1994 c 249 § 15.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

RCW 43.31.088 *Business assistance center--ISO-9000 quality standards.

(1) The department, through its *business assistance center, shall assist companies seeking to adopt ISO-9000 quality standards. The department shall:

(a) Prepare and disseminate information regarding ISO-9000;

(b) Assemble and maintain information on public and private sector individuals, organizations, educational institutions, and advanced technology centers that can provide technical assistance to firms that wish to become ISO-registered;

(c) Assemble and maintain information on Washington firms which have received ISO registration;

(d) Undertake other activities it deems necessary to execute this section;

(e) Survey appropriate sectors to determine the level of interest in receiving ISO-9000 certification and coordinate with the program;

(f) Establish a mechanism for businesses to make self-assessments of relative need to become ISO-9000 certified;

(g) Assist and support nonprofit organizations, and other organizations, currently providing education, screening, and certification training; and

(h) Coordinate the Washington program with other similar state, regional, and federal programs.

(2) For the purposes of this section, "ISO-9000" means the series of standards published in 1987, and subsequent revisions, by the international organization for standardization for quality assurance in design, development, production, final inspection and testing, and

installation and servicing of products, processes, and services.

(3) For the purposes of this section, registration to the American national standards institute/American society for quality control Q90 series shall be considered ISO-9000 registration.

[1994 c 140 § 2.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Findings--Intent--1994 c 140: "The legislature finds that since the publication by the international organization for standardization of its ISO-9000 series of quality systems standards, more than twenty thousand facilities in the United Kingdom and several thousand in Europe have become registered in the standards. By comparison, currently only about four hundred United States companies have adopted the standards. The international organization for standardization is a Geneva-based organization founded in 1947 to promote standardization with a view to facilitating trade.

The legislature further finds that the growing world-wide acceptance by over sixty nations of the ISO-9000 series of quality systems standards, including adoption by the twelve nations of the European Community, means that more Washington companies will need to look at the adoption of ISO-9000 to remain competitive in global markets. Adoption of ISO-9000, as well as other quality systems, may also help Washington companies improve quality. However, many small businesses know little about the standards or how registration is achieved.

It is the intent of the legislature that the department of community, trade, and economic development encourage and assist state businesses to adopt ISO-9000 and other quality systems as part of the state's strategy for global industrial competitiveness." [1994 c 140 § 1.]

Effective date--1994 c 140: "This act shall take effect July 1, 1994." [1994 c 140 § 4.]

RCW 43.31.0925 *Business assistance center--Minority and women business development office.

There is established within the department's *business assistance center the minority and women business development office. This office shall provide business-related assistance to minorities and women as well as serve as an outreach program to increase minority and women-owned businesses' awareness and use of existing business assistance services.

[1993 c 512 § 7.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Short title--Part headings and section captions--Severability--Effective date--1993 c 512: See RCW 43.172.900 through 43.172.903.

RCW 43.31.093 Minority and women-owned small businesses--Entrepreneurial training courses.

The department of community, trade, and economic development shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned small businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist

small businesses. The *business assistance center may recommend professional instructors, with practical knowledge and experience on how to start and operate a business, to teach the courses. Instruction shall be offered in major population centers throughout the state at times and locations which are convenient for minority and women small business owners and entrepreneurs.

[1995 c 399 § 71; 1993 c 512 § 6.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Short title--Part headings and section captions--Severability--Effective date--1993 c 512: See RCW 43.172.900 through 43.172.903.

RCW 43.31.125 Advisory groups.

The director may establish such advisory groups as in the director's discretion are necessary to carry out the purposes of this chapter. Members of and vacancies in such advisory groups shall be filled by appointment by the director. Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

[1985 c 466 § 16.]

Notes:

Effective date--1985 c 466: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 466 § 96.]

Severability--1985 c 466: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 466 § 95.]

Headings--1985 c 466: "As used in this act, section headings constitute no part of the law." [1985 c 466 § 77.]

Transfer of assets--1985 c 466: "All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce and economic development shall be delivered to the custody of the department of trade and economic development. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce and economic development shall be made available to the department of trade and economic development. All funds, credits, or other assets held by the department of commerce and economic development shall be assigned to the department of trade and economic development.

Any appropriations made to the department of commerce and economic development shall, June 30, 1985, be transferred and credited to the department of trade and economic development.

Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned." [1985 c 466 § 19.]

Transfer of employees--1985 c 466: "All classified employees of the department of commerce and economic development are transferred to the jurisdiction of the department of trade and economic development. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of trade and economic development to perform their usual duties upon the same terms as formerly, without any loss of

rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service." [1985 c 466 § 20.]

Continuation of rules and business and existing contracts and obligations--1985 c 466: "All rules and all pending business before the department of commerce and economic development shall be continued and acted upon by the department of trade and economic development. All existing contracts and obligations shall remain in full force and shall be performed by the department of trade and economic development." [1985 c 466 § 21.]

Savings--1985 c 466: "The transfer of the powers, duties, functions, and personnel of the department of commerce and economic development shall not affect the validity of any act performed prior to June 30, 1985." [1985 c 466 § 22.]

Apportionment of funds--1985 c 466: "If apportionments of budgeted funds are required because of the transfers directed by sections 19 through 22, chapter 466, Laws of 1985, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification." [1985 c 466 § 23.]

RCW 43.31.145 Foreign offices--Promotion of overseas trade and commerce.

The department is charged with the primary role within state government for the establishment and operation of foreign offices created for the purpose of promoting overseas trade and commerce.

[1991 c 24 § 7; 1985 c 466 § 18.]

Notes:

Effective date--1991 c 24: See RCW 43.290.900.

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

RCW 43.31.205 Hanford reservation--Promotion of sublease for nuclear-related industry.

In an effort to enhance the economy of the Tri-Cities area, the department of community, trade, and economic development is directed to promote the existence of the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington, and the opportunity of subleasing the land to entities for nuclear-related industry, in agreement with the terms of the lease. When promoting the existence of the lease, the department shall work in cooperation with any associate development organization located in or near the Tri-Cities area.

[1993 c 280 § 41; 1992 c 228 § 2; 1990 c 281 § 2.]

Notes:

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings--1992 c 228: "The legislature finds that the ninety-nine-year lease of one thousand acres of land by the state from the federal government requires that the state use any rent moneys from subleasing the land for the development of the leased land and nuclear-related industries in the Tri-Cities area. The legislature further finds that the new emphasis on waste cleanup at Hanford and the new technologies needed for environmental restoration warrant a renewed effort to promote development of the leased land and nuclear-related industries in the Tri-Cities area." [1992 c 228 § 1.]

Legislative findings--1990 c 281: "The legislature finds that the one thousand acres of land leased from the federal government to the state of Washington on the Hanford reservation constitutes an unmatched resource for development of high-technology industry, nuclear medicine research, and research into new waste immobilization

and reduction techniques. The legislature further finds that continued diversification of the Tri-Cities economy will help stabilize and improve the Tri-Cities economy, and that this effort can be aided by emphasizing the resources of local expertise and nearby facilities." [1990 c 281 § 1.]

RCW 43.31.215 Hanford reservation--Tri-Cities area--Emphasize work force and facilities.

When the department implements programs intended to attract or maintain industrial or high-technology investments in the state, the department shall, to the extent possible, emphasize the following:

- (1) The highly skilled and trained work force in the Tri-Cities area;
- (2) The world-class research facilities in the area, including the fast flux test facility and the Pacific Northwest laboratories;
- (3) The existence of the one thousand acres leased by the state from the federal government for the purpose of nuclear-related industries; and
- (4) The ability for high-technology and medical industries to safely dispose of low-level radioactive waste at the Hanford commercial low-level waste disposal facility.

[1990 c 281 § 3.]

Notes:

Legislative findings--1990 c 281: See note following RCW 43.31.205.

RCW 43.31.390 Information from environmental profile--Use in brochures and presentations--Availability to local economic development groups.

The department shall incorporate information from the environmental profile developed by the department of ecology in accordance with RCW 43.21A.510 in preparing promotional brochures and in its presentations to businesses considering locating in Washington state. It shall also make the information available to local economic development groups for use in local economic development efforts.

[1985 c 466 § 33; 1984 c 94 § 4.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

Findings--1984 c 94: See note following RCW 43.21A.510.

RCW 43.31.403 Investment opportunities office--Finding and purpose.

The legislature finds that the growth of small and young businesses will have a favorable impact on the Washington economy by creating jobs, increasing competition in the market place, and expanding tax revenues. Access to financial markets by entrepreneurs is vital to this process. Without reasonable access to financing, talented and aggressive entrepreneurs are cut out of the economic system and the state's economy suffers. It is the purpose of RCW 43.31.403 through 43.31.414 to guarantee that entrepreneurs and investors have an institutionalized means of meeting their respective needs for access to capital resources and information about promising business investments in Washington state.

[1989 c 312 § 1.]

Notes:

Severability--1989 c 312: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 312 § 10.]

RCW 43.31.406 Investment opportunities office--Definitions.

As used in RCW 43.31.403 through 43.31.414, the term:

(1) "Entrepreneur" means an individual, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, cooperative, corporation, or any other organization operating in this state, engaged in manufacturing, wholesaling, transportation services, traded services, or the development of destination tourism resorts, with fewer than two hundred fifty employees and paying more than fifty percent of its contributions or payments for the purposes of unemployment insurance to this state.

(2) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(3) "Traded services" means those commercial and professional services that are developed for sale outside the state.

(4) "Wholesaling" means activities related to the sale or storage of commodities in large quantities.

(5) "Transportation services" means those services which involve the transport of passengers or goods.

(6) "Destination tourism resort" means a tourism and recreation complex that is developed primarily as a location for recreation and tourism activities that will be used primarily by nonresidents of the immediate area.

[1989 c 312 § 2.]

Notes:

Severability--1989 c 312: See note following RCW 43.31.403.

RCW 43.31.409 Investment opportunities office--Created.

There is created in the *business assistance center of the department of community, trade, and economic development the Washington investment opportunities office.

[1993 c 280 § 42; 1989 c 312 § 3.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability--1989 c 312: See note following RCW 43.31.403.

RCW 43.31.411 Investment opportunities office--Duties.

The Washington investment opportunities office shall:

(1) Maintain a list of all entrepreneurs engaged in manufacturing, wholesaling, transportation services, development of destination tourism resorts, or traded services throughout the state seeking capital resources and interested in the services of the investment opportunities office.

(2) Maintain a file on each entrepreneur which may include the entrepreneur's business plan and any other information which the entrepreneur offers for review by potential investors.

(3) Assist entrepreneurs in procuring the managerial and technical assistance necessary to attract potential investors. Such assistance shall include the automatic referral to the small business innovators opportunity program of any entrepreneur with a new product meriting the services of the program.

(4) Provide entrepreneurs with information about potential investors and provide investors with information about those entrepreneurs which meet the investment criteria of the investor.

(5) Promote small business securities financing.

(6) Remain informed about investment trends in capital markets and preferences of individual investors or investment firms throughout the nation through literature surveys, conferences, and private meetings.

(7) Publicize the services of the investment opportunities office through public meetings throughout the state, appropriately targeted media, and private meetings. Whenever practical, the office shall use the existing services of local associate development organizations in outreach and identification of entrepreneurs and investors.

[1998 c 245 § 61; 1993 c 280 § 43; 1989 c 312 § 4.]

Notes:

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability--1989 c 312: See note following RCW 43.31.403.

RCW 43.31.414 Investment opportunities office--Service fees.

The *business assistance center may charge reasonable fees or other appropriate charges to participants using the services of the investment opportunities office for the purpose of defraying all or part of the costs of the *business assistance center in administering this program.

[1989 c 312 § 5.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Severability--1989 c 312: See note following RCW 43.31.403.

RCW 43.31.417 Investment opportunities office--Contracting authority.

The director of the *business assistance center may enter into contracts with nongovernmental agencies to provide any of the services under RCW 43.31.411.

[1989 c 312 § 6.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Severability--1989 c 312: See note following RCW 43.31.403.

RCW 43.31.422 Hanford area economic investment fund.

The Hanford area economic investment fund is established in the custody of the state treasurer. Moneys in the fund shall only be used for reasonable assistant attorney general costs in support of the committee or pursuant to the recommendations of the committee created in RCW 43.31.425 and the approval of the director of community, trade, and economic development for Hanford area revolving loan funds, Hanford area infrastructure projects, or other Hanford area economic development and diversification projects, but may not be used for government or nonprofit organization operating expenses. Up to five percent of moneys in the fund may be used for program administration. For the purpose of this chapter "Hanford area" means Benton and Franklin counties. Disbursements from the fund shall be on the authorization of the director of community, trade, and economic development or the director's designee after an affirmative vote of at least six members of the committee created in RCW 43.31.425 on any recommendations by the committee created in RCW 43.31.425. The fund is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements. The legislature intends to establish similar economic investment funds for areas that develop low-level radioactive waste disposal facilities.

[1998 c 76 § 1; 1993 c 280 § 44; 1991 c 272 § 19.]

Notes:

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective dates--1991 c 272: See RCW 81.108.901.

Surcharge on waste generators: RCW 43.200.230, 43.200.233, and 43.200.235.

RCW 43.31.425 Hanford area economic investment fund committee.

The Hanford area economic investment fund committee is hereby established.

(1) The committee shall have eleven members. The governor shall appoint the members,

in consultation with Hanford area elected officials, subject to the following requirements:

(a) All members shall either reside or be employed within the Hanford area.

(b) The committee shall have a balanced membership representing one member each from the elected leadership of Benton county, Franklin county, the city of Richland, the city of Kennewick, the city of Pasco, a Hanford area port district, the labor community, and four members from the Hanford area business and financial community.

(c) Careful consideration shall be given to assure minority representation on the committee.

(2) Each member appointed by the governor shall serve a term of three years, except that of the members first appointed, four shall serve two-year terms and four shall serve one-year terms. A person appointed to fill a vacancy of a member shall be appointed in a like manner and shall serve for only the unexpired term. A member is eligible for reappointment. A member may be removed by the governor for cause.

(3) The governor shall designate a member of the committee as its chairperson. The committee may elect such other officers as it deems appropriate. Six members of the committee constitute a quorum and six affirmative votes are necessary for the transaction of business or the exercise of any power or function of the committee.

(4) The members shall serve without compensation, but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in accordance with RCW 43.03.050 and 43.03.060.

(5) Members shall not be liable to the state, to the fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violations of law. The department may purchase liability insurance for members and may indemnify these persons against the claims of others.

[1998 c 76 § 2; 1991 c 272 § 20.]

Notes:

Effective dates--1991 c 272: See RCW 81.108.901.

RCW 43.31.428 Hanford area economic investment fund committee--Powers.

The Hanford area economic investment fund committee created under RCW 43.31.425 may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Utilize the services of other governmental agencies;

(3) Accept from any federal or state agency loans or grants for the purposes of funding Hanford area revolving loan funds, Hanford area infrastructure projects, or Hanford area economic development projects;

(4) Recommend to the director rules for the administration of the program, including the terms and rates pertaining to its loans, and criteria for awarding grants, loans, and financial guarantees;

(5) Recommend to the director a spending strategy for the moneys in the fund created in RCW 43.31.422. The strategy shall include five and ten year goals for economic development

and diversification for use of the moneys in the Hanford area;

(6) Recommend to the director no more than two allocations eligible for funding per calendar year, with a first priority on Hanford area revolving loan allocations, and Hanford area infrastructure allocations followed by other Hanford area economic development and diversification projects if the committee finds that there are no suitable allocations in the priority allocations described in this section;

(7) Establish and administer a revolving fund consistent with this section and RCW 43.31.422 and 43.31.425; and

(8) Make grants from the Hanford area economic investment fund consistent with this section and RCW 43.31.422 and 43.31.425.

[1998 c 76 § 3; 1991 c 272 § 21.]

Notes:

Effective dates--1991 c 272: See RCW 81.108.901.

RCW 43.31.502 Child care facility revolving fund--Purpose--Source of funds.

(1) A child care facility revolving fund is created. Money in the fund shall be used solely for the purpose of starting or improving a child care facility pursuant to RCW *43.31.085 and 43.31.502 through 43.31.514. Only moneys from private or federal sources may be deposited into this fund.

(2) Funds provided under this section shall not be subject to reappropriation. The child care facility fund committee may use loan and grant repayments and income for the revolving fund program.

[1991 c 248 § 1; 1989 c 430 § 3.]

Notes:

***Reviser's note:** RCW 43.31.085 was repealed by 1993 c 280 § 81, effective June 30, 1996.

Legislative findings--1989 c 430: "The legislature finds that increasing the availability and affordability of quality child care will enhance the stability of the family and facilitate expanded economic prosperity in the state. The legislature finds that balancing work and family life is a critical concern for employers and employees. The dramatic increase in participation of women in the work force has resulted in a demand for affordable child care exceeding the supply. The future of the state's work force depends in part upon the availability of quality affordable child care. There are not enough child care services and facilities to meet the needs of working parents, the costs of care are often beyond the resources of working parents, and facilities are not located conveniently to work places and neighborhoods. The prospect for labor shortages resulting from the aging of the population and the importance of the quality of the work force to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state's businesses.

The legislature further finds that a partnership between business and child care providers can help the market for child care adjust to the needs of businesses and working families and improve productivity, reduce absenteeism, improve recruitment, and improve morale among Washington's labor force. The legislature further finds that private and public partnerships and investments are necessary to increase the supply, affordability, and quality of child care in the state." [1989 c 430 § 1.]

Severability--1989 c 430: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 430 § 12.]

RCW 43.31.504 Child care facility fund committee--Generally.

The child care facility fund committee is established within the *business assistance center of the department of community, trade, and economic development. The committee shall administer the child care facility fund, with review by the director of community, trade, and economic development.

(1) The committee shall have five members. The director of community, trade, and economic development shall appoint the members, who shall include:

(a) Two persons experienced in investment finance and having skills in providing capital to new businesses, in starting and operating businesses, and providing professional services to small or expanding businesses;

(b) One person representing a philanthropic organization with experience in evaluating funding requests;

(c) One child care services expert; and

(d) One early childhood development expert.

In making these appointments, the director shall give careful consideration to ensure that the various geographic regions of the state are represented and that members will be available for meetings and are committed to working cooperatively to address child care needs in Washington state.

(2) The committee shall elect officers from among its membership and shall adopt policies and procedures specifying the lengths of terms, methods for filling vacancies, and other matters necessary to the ongoing functioning of the committee.

(3) Committee members shall serve without compensation, but may request reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) Committee members shall not be liable to the state, to the child care facility fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violation of the law. The department of community, trade, and economic development may purchase liability insurance for members and may indemnify these persons against the claims of others.

[1993 c 280 § 45; 1989 c 430 § 4.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings--Severability--1989 c 430: See notes following RCW 43.31.502.

RCW 43.31.506 Child care facility fund committee--Authority to award moneys from fund.

The child care facility fund committee is authorized to solicit applications for and award grants and loans from the child care facility fund to assist persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed

child care facility. Grants and loans shall be awarded on a one-time only basis, and shall not be awarded to cover operating expenses beyond the first three months of business. No grant shall exceed twenty-five thousand dollars. No loan shall exceed one hundred thousand dollars.

[1991 c 248 § 2; 1989 c 430 § 5.]

Notes:

Legislative findings--Severability--1989 c 430: See notes following RCW 43.31.502.

RCW 43.31.508 Child care facility fund committee--Loans to child care facilities.

The child care facility fund committee is authorized, upon application, to use the child care facility fund to guarantee loans made to persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility.

(1) Loan guarantees shall be awarded on a one-time only basis, and shall not be awarded for loans to cover operating expenses beyond the first three months of business.

(2) The total aggregate amount of the loan guarantee awarded to any applicant may not exceed twenty-five thousand dollars and may not exceed eighty percent of the loan.

(3) The total aggregate amount of guarantee from the child care facility fund, with respect to the guaranteed portions of loans, may not exceed at any time an amount equal to five times the balance in the child care facility fund.

[1989 c 430 § 6.]

Notes:

Legislative findings--Severability--1989 c 430: See notes following RCW 43.31.502.

RCW 43.31.512 Child care facility fund committee--Loans or grants to individuals, businesses, or organizations.

The child care facility fund committee shall award loan guarantees, loans or grants to those persons, businesses, or organizations meeting the minimum standards set forth in this chapter who will best serve the intent of the chapter to increase the availability of high quality, affordable child care in Washington state. The committee shall promulgate rules regarding the application for and disbursement of loan guarantees, loans, or grants from the fund, including loan terms and repayment procedures. At a minimum, such rules shall require an applicant to submit a plan which includes a detailed description of:

(1) The need for a new or improved child care facility in the area served by the applicant;

(2) The steps the applicant will take to serve a reasonable number of handicapped children as defined in *chapter 72.40 RCW, sick children, infants, children requiring night time or weekend care, or children whose costs of care are subsidized by government;

(3) Why financial assistance from the state is needed to start or improve the child care facility;

(4) How the guaranteed loan, loan, or grant will be used, and how such uses will meet the described need;

(5) The child care services to be available at the facility and the capacity of the applicant

to provide those services; and

(6) The financial status of the applicant, including other resources available to the applicant which will ensure the continued viability of the facility and the availability of its described services.

Recipients shall annually for two years following the receipt of the loan guarantee, loan, or grant, submit to the child care facility fund committee a report on the facility and how it is meeting the child care needs for which it was intended.

[1989 c 430 § 7.]

Notes:

***Reviser's note:** Chapter 72.40 RCW does not contain a definition of "handicapped children."

Legislative findings--Severability--1989 c 430: See notes following RCW 43.31.502.

RCW 43.31.514 Child care facility fund committee--Grants, repayment requirements.

Where the child care facility fund committee makes a grant to a person, organization, or business, the grant shall be repaid to the child care facility fund if the child care facility using the grant to start or expand ceases to provide child care earlier than the following time periods from the date the grant is made: (1) Twelve months for a grant up to five thousand dollars; (2) twenty-four months for a grant over five thousand dollars up to ten thousand dollars; (3) thirty-six months for a grant over ten thousand dollars up to fifteen thousand dollars; (4) forty-eight months for a grant over fifteen thousand dollars up to twenty thousand dollars; and (5) sixty months for a grant over twenty thousand dollars up to twenty-five thousand dollars.

[1989 c 430 § 8.]

Notes:

Legislative findings--Severability--1989 c 430: See notes following RCW 43.31.502.

RCW 43.31.522 Marketplace program--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.31.524 and 43.31.526:

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

(2) "Center" means the business assistance center established under *RCW 43.31.083.

(3) "Director" means the director of community, trade, and economic development.

(4) "Local nonprofit organization" means a local nonprofit organization organized to provide economic development or community development services, including but not limited to associate development organizations, economic development councils, and community development corporations.

[1993 c 280 § 46; 1990 c 57 § 2; 1989 c 417 § 2.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding--1990 c 57; 1989 c 417: "The legislature finds and declares that substantial benefits in increased employment and business activity can be obtained by assisting businesses in identifying opportunities to purchase the goods and services they need from Washington state suppliers rather than from out-of-state suppliers and in identifying new markets for Washington state firms to provide goods and services. The replacement of out-of-state imports with services and manufactured goods produced in-state can be an important source of economic growth in a local community especially in rural areas. Businesses in the state are often unaware that goods and services they purchase from out-of-state suppliers are available from in-state firms with substantial advantages in responsiveness, service, and price. Increasing the economic partnerships between businesses in Washington state can build bridges between urban and rural communities and can result in the identification of additional opportunities for successful economic development initiatives. Providing additional information to businesses regarding in-state sources of goods and services can be a particularly valuable component of revitalization strategies in economically distressed areas. The legislature finds and declares that it is the policy of the state to strengthen the economies of local communities by increasing the economic partnerships between in-state businesses and creating programs to assist businesses in identifying in-state sources of goods and services, and in addition to identify new markets for Washington firms to provide goods and services." [1990 c 57 § 1; 1989 c 417 § 1.]

Severability--1989 c 417: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 417 § 15.]

RCW 43.31.524 Marketplace program--Generally.

There is established a Washington marketplace program within the business assistance center established under *RCW 43.31.083. The program shall assist businesses to competitively meet their needs for goods and services within Washington state by providing information relating to the replacement of imports or the fulfillment of new requirements with Washington products produced in Washington state. The program shall place special emphasis on strengthening rural economies in economically distressed areas of the state meeting the criteria of an "eligible area" as defined in RCW 82.60.020(3).

[1993 c 280 § 47; 1990 c 57 § 3; 1989 c 417 § 3.]

Notes:

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding--1990 c 57; 1989 c 417: See note following RCW 43.31.522.

Severability--1989 c 417: See note following RCW 43.31.522.

RCW 43.31.526 Marketplace program--Contracts to foster linkages--Department duties.

(1) The department shall contract with governments, industry associations, or local nonprofit organizations to foster cooperation and linkages between distressed and nondistressed areas and between urban and rural areas, and between Washington and other Northwest states. The department may enter into joint contracts with multiple nonprofit organizations. Contracts with economic development organizations to foster cooperation and linkages between distressed

and nondistressed areas and urban and rural areas shall be structured by the department and the distressed area marketplace programs. Contracts with economic development organizations shall:

(a) Award contracts based on a competitive bidding process, pursuant to chapter 43.19 RCW; and

(b) Ensure that each location contain sufficient business activity to permit effective program operation.

The department may require that contractors contribute at least twenty percent local funding.

(2) The contracts with governments, industry associations, or local nonprofit organizations shall be for, but not limited to, the performance of the following services for the Washington marketplace program:

(a) Contacting Washington state businesses to identify goods and services they are currently buying or are planning in the future to buy out-of-state and determine which of these goods and services could be purchased on competitive terms within the state;

(b) Identifying locally sold goods and services which are currently provided by out-of-state businesses;

(c) Determining, in consultation with local business, goods and services for which the business is willing to make contract agreements;

(d) Advertising market opportunities described in (c) of this subsection;

(e) Receiving bid responses from potential suppliers and sending them to that business for final selection; and

(f) Establish linkages with federal, regional, and Northwest governments, industry associations, and nonprofit organizations to foster buying leads and information benefiting Washington suppliers and industry and trade associations.

(3) Contracts may include provisions for charging service fees of businesses that participate in the program.

(4) The center shall also perform the following activities in order to promote the goals of the program:

(a) Prepare promotional materials or conduct seminars to inform communities and organizations about the Washington marketplace program;

(b) Provide technical assistance to communities and organizations interested in developing an import replacement program;

(c) Develop standardized procedures for operating the local component of the Washington marketplace program; and

(d) Provide continuing management and technical assistance to local contractors.

[1998 c 245 § 62; 1994 c 47 § 2; 1993 c 280 § 48; 1990 c 57 § 4; 1989 c 417 § 4.]

Notes:

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding--1990 c 57; 1989 c 417: See note following RCW 43.31.522.

Severability--1989 c 417: See note following RCW 43.31.522.

RCW 43.31.545 Recycled materials and products--Market development.

The department is the lead state agency to assist in establishing and improving markets for recyclable materials generated in the state.

[1991 c 319 § 210; 1989 c 431 § 64.]

Notes:

Severability--Part headings not law--1991 c 319: See RCW 70.95F.900 and 70.95F.901.

Severability--Section captions not law--1989 c 431: See RCW 70.95.901 and 70.95.902.

Clean Washington center: Chapter 70.95H RCW.

RCW 43.31.800 State international trade fairs--"Director" defined.

"Director" as used in RCW *43.31.790 through 43.31.850 and **67.16.100 means the director of community, trade, and economic development.

[1993 c 280 § 52; 1987 c 195 § 4; 1965 c 148 § 2.]

Notes:

Reviser's note: *(1) RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

***(2) RCW 67.16.100 was amended by 1998 c 345 § 5, removing the reference to "director."

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

RCW 43.31.805 State trade fair fund.

The state trade fair fund is created in the custody of the state treasury. All moneys received by the department of community, trade, and economic development for the purposes of this fund shall be deposited into the fund. Expenditures from the fund may be used only for the purpose of assisting state trade fairs. Only the director of community, trade, and economic development or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

[1998 c 345 § 3.]

Notes:

Severability--Effective date--Contingent effective date--1998 c 345: See notes following RCW 15.04.090.

RCW 43.31.810 State international trade fairs--State aid eligibility requirements.

For the purposes of *RCW 43.31.790 through 43.31.850 and **67.16.100, as now or hereafter amended, state international trade fair organizations, to be eligible for state financial aid hereunder (1) must have had at least two or more years of experience in the presentation of or participation in state international trade fairs, whether held in this state, another state or territory of the United States or a foreign country, however these need not be consecutive years; (2) must be able to provide, from its own resources derived from general admission or otherwise, funds

sufficient to match at least one-half the amount of state financial aid allotted.

[1987 c 195 § 5; 1975 1st ex.s. c 292 § 3; 1965 c 148 § 3.]

Notes:

Reviser's note: *(1) RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

***(2) RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to state trade fairs.

RCW 43.31.820 State international trade fairs--Application for funds.

The board of trustees of any state international trade fair sponsored by any public agency, qualifying under the provisions of *RCW 43.31.790 through 43.31.850 and **67.16.100, as now or hereafter amended, may apply to the director for moneys to carry on the continued development as well as the operation of said fair, said money to be appropriated from the state trade fair fund as provided for in ***RCW 67.16.100, as now or hereafter amended.

[1987 c 195 § 6; 1975 1st ex.s. c 292 § 4; 1965 c 148 § 4.]

Notes:

Reviser's note: *(1) RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

***(2) RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to state trade fairs.

****(3) RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to the state trade fair fund, which is now regulated under RCW 43.31.805.

RCW 43.31.830 State international trade fairs--Certification of fairs--Allotments--Division and payment from state trade fair fund.

(1) It shall be the duty of the director of community, trade, and economic development to certify, from the applications received, the state international trade fair or fairs qualified and entitled to receive funds under *RCW 67.16.100, and under rules established by the director.

(2) The director shall make annual allotments to state international trade fairs determined qualified to be entitled to participate in the state trade fair fund and shall fix times for the division of and payment from the state trade fair fund: PROVIDED, That total payment to any one state international trade fair shall not exceed sixty thousand dollars in any one year, where participation or presentation occurs within the United States, and eighty thousand dollars in any one year, where participation or presentation occurs outside the United States: PROVIDED FURTHER, That a state international trade fair may qualify for the full allotment of funds under either category. Upon certification of the allotment and division of fair funds by the director the treasurer shall proceed to pay the same to carry out the purposes of RCW 67.16.100.

[1993 c 280 § 53; 1987 c 195 § 7; 1975 1st ex.s. c 292 § 5; 1965 c 148 § 5.]

Notes:

***Reviser's note:** RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to state trade fairs.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

RCW 43.31.832 State trade fairs--Transfer of surplus funds in state trade fair fund to general fund--Expenditure.

Funds determined to be surplus funds by the director may be transferred from the state trade fair fund to the general fund upon the recommendation of the director and the state treasurer: PROVIDED, That the director may also elect to expend up to one million dollars of such surplus on foreign trade related activities, including, but not limited to, promotion of investment, tourism, and foreign trade.

[1985 c 466 § 34; 1981 2nd ex.s. c 2 § 1; 1975 1st ex.s. c 292 § 8; 1972 ex.s. c 93 § 2.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.
State trade fair fund: RCW 43.31.805.

RCW 43.31.833 State trade fairs--Transfer of surplus funds in state trade fair fund to general fund--Construction.

RCW 43.31.832 through 43.31.834 shall not be construed to interfere with the state financial aid made available under the provisions of *RCW 43.31.790 through 43.31.850 regardless of whether such aid was made available before or after May 23, 1972.

[1987 c 195 § 8; 1985 c 466 § 35; 1972 ex.s. c 93 § 3.]

Notes:

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.
Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

RCW 43.31.834 State trade fairs--Transfer of surplus funds in state trade fair fund to general fund--Construction.

RCW 43.31.832 through 43.31.834 shall be construed to supersede any provision of existing law to the contrary.

[1985 c 466 § 36; 1972 ex.s. c 93 § 4.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

RCW 43.31.840 State international trade fairs--Post audit of participating fairs--Reports.

The director of community, trade, and economic development shall at the end of each year for which an annual allotment has been made, conduct a post audit of all of the books and records of each state international trade fair participating in the state trade fair fund. The purpose of such post audit shall be to determine how and to what extent each participating state international trade fair has expended all of its funds.

The audit required by this section shall be a condition to future allotments of money from the state international trade fair fund, and the director shall make a report of the findings of each post audit and shall use such report as a consideration in an application for any future allocations.

[1993 c 280 § 54; 1975 1st ex.s. c 292 § 6; 1965 c 148 § 6.]

Notes:

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

RCW 43.31.850 State international trade fairs--State international trade fair defined.

State international trade fair as used in *RCW 43.31.790 through 43.31.840 and **67.16.100, as now or hereafter amended, shall mean a fair supported by public agencies basically for the purpose of introducing and promoting the sale of manufactured or cultural products and services of a given area, whether presented in this state, the United States or its territories, or in a foreign country.

[1987 c 195 § 9; 1975 1st ex.s. c 292 § 7; 1965 c 148 § 8.]

Notes:

Reviser's note: *(1) RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

** (2) RCW 67.16.100 was amended by 1998 c 345 § 5, removing references to state trade fairs.

RCW 43.31.856 Rural development council--Successor organization. (Effective until June 30, 2002.)

(1) The rural development council executive committee and the department are authorized to establish a successor organization to the rural development council executive committee created under *RCW 43.31.855. The purpose of the successor organization is, at least in part, to improve the delivery and accessibility of public and private resources for meeting the needs of rural communities in Washington.

(2) For purposes of this section, "successor organization" means a private nonprofit corporation created specifically to assume responsibility for administering funds provided by the federal government and other sources to carry out the purpose state [stated] in subsection (1) of this section. A successor organization must qualify as a tax-exempt nonprofit corporation under section 501(c)(3) of the federal internal revenue code.

[1999 c 299 § 1.]

Notes:

***Reviser's note:** RCW 43.31.855 was repealed by 1999 c 151 § 901, effective July 1, 2001, and by 1999 c 299 § 5, effective June 30, 2000.

RCW 43.31.858 Rural development council--Transition to successor organization. (Effective until June 30, 2002.)

The executive committee and the department are authorized to take all steps reasonably necessary and proper to effect the orderly transition of the rural development council executive committee to the successor organization. This authorization includes, but is not necessarily limited to, the authority to:

(1) Transfer any equipment, records, other assets, or contracts for services to the successor organization under appropriate terms and conditions, including reasonable

compensation for assets acquired with state funds;

(2) Assist in the establishment of a successor organization, including entering into contracts preparatory to the establishment of the organization; and

(3) Unless otherwise provided by agreement, assign to the successor organization any membership agreements, contracts, license, and other duties and obligations related to the rural development council.

[1999 c 299 § 2.]

RCW 43.31.859 Rural development council--Successor organization--Funding.

Notwithstanding anything to the contrary in chapter 41.06 RCW or any other provision of law, the department may contract to provide funding to a successor organization under RCW 43.31.856 to carry out activities of the organization that are consistent with the department's powers and duties. All moneys for contracts entered into under this section are subject to appropriation.

[1999 c 299 § 4.]

RCW 43.31.942 Bond anticipation notes--Pacific Northwest festival facility construction account created--Deposit of proceeds from bonds and notes.

Notes:

Reviser's note: RCW 43.31.942 was amended by 1985 c 57 § 30 without reference to its repeal by 1985 c 466 § 76, effective June 30, 1985. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 43.31.956 General obligation bonds--Authorized--Issuance, sale, terms, conditions, etc.--Appropriation required--Pledge and promise--Seal.

For the purpose of providing matching funds for the planning, design, construction, renovation, furnishing, and landscaping of a regionally based performing arts facility, to be known as "the Washington center for the performing arts" facility located in Thurston county within the area of the city of Olympia, and for the purpose of providing matching funds for the restoration and renovation of "the Pantages theatre" facility located in Pierce county within the area of the city of Tacoma, the state finance committee is directed and authorized to issue general obligation bonds of the state of Washington in the sum of three million dollars, or so much thereof as may be required to finance that portion of the grant by the state for the projects as provided by law: PROVIDED, That one million five hundred thousand dollars shall be allocated for the Washington center for the performing arts, to be built or renovated on real estate provided by the city of Olympia as a performing arts recreational facility for the people of the state of Washington: AND PROVIDED FURTHER, That one million five hundred thousand dollars shall be allocated for the renovation and restoration of the "Pantages theatre" as a performing arts recreational facility for the people of the state of Washington.

No bonds may be issued for the Washington center for the performing arts unless

matching funds are provided or secured from the federal government, private sources, or any other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Washington center for the performing arts and the city of Olympia provides real estate for the site of the facility.

No bonds may be issued for the Pantages theatre unless matching funds are provided or secured from the federal government, private sources, or any other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Pantages theatre.

No bonds authorized by this section shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of the bonds, the time of sale of all or any portion or portions of the bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

[1981 c 244 § 1; 1979 ex.s. c 260 § 1.]

Notes:

Severability--1979 ex.s. c 260: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 260 § 7.]

RCW 43.31.960 Administration of proceeds.

The principal proceeds from the sale of the bonds authorized in RCW 43.31.956 shall be administered by the director of community, trade, and economic development.

[1995 c 399 § 72; 1987 c 195 § 10; 1979 ex.s. c 260 § 3.]

Notes:

Severability--1979 ex.s. c 260: See note following RCW 43.31.956.

RCW 43.31.962 Retirement of bonds from cultural facilities bond redemption fund of 1979--Retirement of bonds from state general obligation bond retirement fund--Remedies of bondholders.

The cultural facilities bond redemption fund of 1979, hereby created in the state treasury, shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.31.956 and *43.31.958. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the

ensuing twelve months to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury an amount equal to the amount certified by the state finance committee to be due on such payment date and deposit the same in the cultural facilities bond redemption fund of 1979.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.31.956 through 43.31.964, the state general obligation bond retirement fund shall be used for purposes of RCW 43.31.956 through 43.31.964 in lieu of the cultural facilities bond redemption fund of 1979, and the cultural facilities bond redemption fund of 1979 shall cease to exist.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed by this section.

[1979 ex.s. c 260 § 4.]

Notes:

***Reviser's note:** RCW 43.31.958 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

Severability--1979 ex.s. c 260: See note following RCW 43.31.956.

State general obligation bond retirement fund: RCW 43.83.160.

RCW 43.31.964 Bonds legal investment for public funds.

The bonds authorized by RCW 43.31.956 shall be a legal investment for all state funds under state control and all funds of municipal corporations.

[1979 ex.s. c 260 § 5.]

Notes:

Severability--1979 ex.s. c 260: See note following RCW 43.31.956.

**Chapter 43.31A RCW
ECONOMIC ASSISTANCE ACT OF 1972**

Sections

43.31A.400 Economic assistance authority abolished--Transfer of duties to department of revenue.

RCW 43.31A.400 Economic assistance authority abolished--Transfer of duties to department of revenue.

The economic assistance authority established by section 2, chapter 117, Laws of 1972 ex. sess. as amended by section 111, chapter 34, Laws of 1975-'76 2nd ex. sess. is abolished,

effective June 30, 1982. Any remaining duties of the economic assistance authority are transferred to the department of revenue on that date. The public facilities construction loan and grant revolving account within the state treasury is continued to service the economic assistance authority's loans.

[1991 sp.s. c 13 § 27; 1981 c 76 § 4.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Review--Report--1981 c 76: "The economic assistance authority shall be reviewed and analyzed during the interim between the 1981 and 1982 legislative sessions by the ways and means committees of the house of representatives and senate and a report shall be presented, with any recommendations, to the forty-seventh legislature which convenes in January 1, 1982." [1981 c 76 § 3.]

Savings--1981 c 76: "This act does not affect any duty owed by a taxpayer, political subdivision of the state, or Indian tribe under the statutes repealed under section 6 of this act. The duties owed shall be administered as if the laws in section 6 of this act were not repealed. New investment tax deferral certificates under chapter 43.31A RCW shall not be issued on or after June 30, 1982. The deferral of taxes and the repayment schedules under tax deferral certificates issued before June 30, 1982, are not affected." [1981 c 76 § 7.]

Severability--1981 c 76: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 76 § 8.]

Effective dates--1981 c 76: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions. Sections 1 and 2 of this act shall take effect March 1, 1981. Section 3 of this act shall take effect May 1, 1981. Sections 4, 5, 6, and 7 of this act shall take effect June 30, 1982." [1981 c 76 § 9.]

Chapter 43.31C RCW COMMUNITY EMPOWERMENT ZONES

Sections

43.31C.005	Findings--Declaration.
43.31C.010	Definitions.
43.31C.020	Community empowerment zone--Application.
43.31C.030	Community empowerment zone--Requirements.
43.31C.040	Community empowerment plan--Requirements--Annual progress report.
43.31C.050	Community empowerment zones--Amendment--Termination.
43.31C.060	Administration of chapter--Powers and duties of department.
43.31C.070	Administration of community empowerment zone--Jurisdiction of local government--Community empowerment zone administrator.
43.31C.900	Short title.
43.31C.901	Conflict with federal requirements--2000 c 212.
43.31C.902	Severability--2000 c 212.

RCW 43.31C.005 Findings--Declaration.

(1) The legislature finds that:

(a) There are geographic areas within communities that are characterized by a lack of

employment opportunities, an average income level that is below the median income level for the surrounding community, a lack of affordable housing, deteriorating infrastructure, and a lack of facilities for community services, job training, and education;

(b) Strategies to encourage reinvestment in these areas by assisting local businesses to become stronger and area residents to gain economic power involve a variety of activities and partnerships;

(c) Reinvestment in these areas cannot be accomplished with only governmental resources and require a comprehensive approach that integrates various incentives, programs, and initiatives to meet the economic, physical, and social needs of the area;

(d) Successful reinvestment depends on a local government's ability to coordinate public resources in a cohesive, comprehensive strategy that is designed to leverage long-term private investment in an area;

(e) Reinvestment can strengthen the overall tax base through increased tax revenue from expanded and new business activities and physical property improvement;

(f) Local governments, in cooperation with area residents, can provide leadership as well as planning and coordination of resources and necessary supportive services to address reinvestment in the area; and

(g) It is in the public interest to adopt a targeted approach to revitalization and enlist the resources of all levels of government, the private sector, community-based organizations, and community residents to revitalize an area.

(2) The legislature declares that the purposes of the community empowerment zone act are to:

(a) Encourage reinvestment through strong partnerships and cooperation between all levels of government, community-based organizations, area residents, and the private sector;

(b) Involve the private sector and stimulate private reinvestment through the judicious use of public resources;

(c) Target governmental resources to those areas of greatest need; and

(d) Include all levels of government, community individuals, organizations, and the private sector in the policy-making process.

[2000 c 212 § 1.]

RCW 43.31C.010 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Area" means a geographic area within a local government that is described by a close perimeter boundary.

(2) "Community empowerment zone" means an area meeting the requirements of RCW 43.31C.020 and officially designated by the director.

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

(4) "Director" means the director of the department of community, trade, and economic

development.

(5) "Local government" means a city, code city, town, or county.

[2000 c 212 § 2.]

RCW 43.31C.020 Community empowerment zone--Application.

(1) The department, in cooperation with the department of revenue, the employment security department, and the office of financial management, may approve applications submitted by local governments for an area's designation as a community empowerment zone under this chapter. The application for designation shall be in the form and manner and contain such information as the department may prescribe, provided that the application shall:

(a) Contain information sufficient for the director to determine if the criteria established in RCW 43.31C.030 have been met;

(b) Be submitted on behalf of the local government by its chief elected official, or, if none, by the governing body of the local government;

(c) Contain a five-year community empowerment plan that meets the requirements of RCW 43.31C.040; and

(d) Certify that area residents were given the opportunity to participate in the development of the five-year community empowerment strategy required under RCW 43.31C.040.

(2) No local government shall submit more than two areas to the department for possible designation as a community empowerment zone under this chapter.

(3)(a) The director may designate up to six community empowerment zones, state-wide, from among the applications submitted for designation as a community empowerment zone.

(b) The director shall make determinations of designated community empowerment zones on the basis of the following factors:

(i) The strength and quality of the local government commitments to meet the needs identified in the five-year community empowerment plan required under RCW 43.31C.040.

(ii) The level of private sector commitment of additional resources and contribution to the community empowerment zone.

(iii) The potential for revitalization of the area as a result of designation as a community empowerment zone.

(iv) Other factors the director deems necessary.

(c) The determination of the director as to the areas designated as community empowerment zones shall be final.

(4) Except as provided in RCW 43.31C.050, an area that was designated a community empowerment zone before January 1, 1996, under this section, automatically and without additional action by the local government continues its designation under this chapter.

(5) The department may not designate additional community empowerment zones after January 1, 2004, but may amend or rescind designation of community empowerment zones in accordance with RCW 43.31C.050.

[2000 c 212 § 3; 1994 sp.s. c 7 § 702; 1993 sp.s. c 25 § 401. Formerly RCW 43.63A.700.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Severability--Effective dates--Part headings, captions not law--1993 sp.s. c 25: See notes following RCW 82.04.230.

RCW 43.31C.030 Community empowerment zone--Requirements.

(1) The director may not designate an area as a community empowerment zone unless that area meets the following requirements:

(a) The area must be designated by the legislative authority of the local government as an area to receive federal, state, and local assistance designed to increase economic, physical, or social activity in the area;

(b) The area must have at least fifty-one percent of the households in the area with incomes at or below eighty percent of the county's median income, adjusted for household size;

(c) The average unemployment rate for the area, for the most recent twelve-month period for which data is available must be at least one hundred twenty percent of the average unemployment rate of the county; and

(d) A five-year community empowerment plan for the area that meets the requirements of RCW 43.31C.040 must be adopted.

(2) The director may establish, by rule, such other requirements as the director may reasonably determine necessary and appropriate to assure that the purposes of this chapter are satisfied.

(3) In determining if an area meets the requirements of this section, the director may consider data provided by the United States bureau of the census from the most recent census or any other reliable data that the director determines to be acceptable for the purposes for which the data is used.

[2000 c 212 § 4; 1994 sp.s. c 7 § 703; 1993 sp.s. c 25 § 402. Formerly RCW 43.63A.710.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Severability--Effective dates--Part headings, captions not law--1993 sp.s. c 25: See notes following RCW 82.04.230.

RCW 43.31C.040 Community empowerment plan--Requirements--Annual progress report.

(1) The five-year community empowerment plan required under RCW 43.31C.020 shall contain information that describes the community development needs of the proposed community empowerment zone and present a strategy for meeting those needs. The plan shall address the following categories:

(a) Housing needs for all economic segments of the proposed community empowerment

zone;

(b) Public infrastructure needs, such as transportation, water, sanitation, energy, and drainage and flood control;

(c) Other public facilities needs, such as neighborhood facilities or facilities for the provision of health, education, recreation, public safety, and other services;

(d) Community economic development needs, such as commercial and industrial revitalization, job creation and retention considering the unemployment and underemployment of area residents, accessibility to financial resources by area residents and businesses, investment within the area, and other related components of community economic development; and

(e) Social service needs of residents in the proposed community empowerment zone.

(2) The local government must provide a description of its strategy for meeting the needs identified in subsection (1) of this section. As part of the community empowerment zone strategy, the local government must identify the needs for which specific plans are currently in place and the source of funds expected to be used. For the balance of the area's needs, the local government must identify the source of funds expected to become available during the next two-year period and actions the local government will take to acquire those funds.

(3) The local government must submit an annual progress report to the department that details the extent to which the local government is working to meet the needs identified in the five-year community empowerment plan. If applicable, the progress report must also contain a discussion on the impediments to meeting the needs outlined in the five-year community empowerment plan. The department must determine the date the annual progress reports are due from each local government.

[2000 c 212 § 5.]

RCW 43.31C.050 Community empowerment zones--Amendment--Termination.

(1) The terms or conditions of a community empowerment zone approved under this chapter may be amended to:

(a) Alter the boundaries of the community empowerment zone; or

(b) Terminate the designation of a community empowerment zone.

(2)(a) A request for an amendment under subsection (1)(a) of this section may not be in effect until the department issues an amended designation for the community empowerment zone that approves the requested amendment. The local government must promptly file with the department a request for approval that contains information the department deems necessary to evaluate the proposed changes and its impact on the area's designation as a community empowerment zone under RCW 43.31C.030. The local government must hold at least two public hearings on the proposed changes and include the information in its request for an amendment to its community empowerment zone.

(b) The department shall approve or disapprove a proposed amendment to a community empowerment zone within sixty days of its receipt of a request under subsection (1)(a) of this section. The department may not approve changes to a community empowerment zone that are not in conformity with this chapter.

(3)(a) The termination of an area's designation as a community empowerment zone under subsection (1)(b) of this section is not effective until the department issues a finding stating the reasons for the termination, which may include lack of commitment of resources to activities in the community empowerment zone by the public, private, and community-based sectors. The local government may file an appeal to the department's findings within sixty days of the notice to terminate the area's designation. The department must notify the local government of the results within thirty days of the filing of the appeal.

(b) A termination of an area's designation as a community empowerment zone has no effect on benefits previously extended to individual businesses. The local government may not commit benefits to a business after the effective date of the termination of an area's designation as a community empowerment zone.

(4) The department may request applications from local governments for designation as community empowerment zones under this chapter as a result of a termination of an area's designation as a community empowerment zone under this section.

[2000 c 212 § 6.]

RCW 43.31C.060 Administration of chapter--Powers and duties of department.

The department must administer this chapter and has the following powers and duties:

(1) To monitor the implementation of chapter 212, Laws of 2000 and submit reports evaluating the effectiveness of the program and any suggestions for legislative changes to the governor and legislature by December 1, 2000;

(2) To develop evaluation and performance measures for local governments to measure the effectiveness of the program at the local level on meeting the objectives of this chapter;

(3) To provide information and appropriate assistance to persons desiring to locate and operate a business in a community empowerment zone;

(4) To work with appropriate state agencies to coordinate the delivery of programs, including but not limited to housing, community and economic development, small business assistance, social service, and employment and training programs which are carried on in a community empowerment zone; and

(5) To develop rules necessary for the administration of this chapter.

[2000 c 212 § 7.]

RCW 43.31C.070 Administration of community empowerment zone--Jurisdiction of local government--Community empowerment zone administrator.

The administration of a community empowerment zone is under the jurisdiction of the local government. Each local government must, by ordinance, designate a community empowerment zone administrator for the area designated as a community empowerment zone that is within its jurisdiction. A community empowerment zone administrator must be an officer or employee of the local government. The community empowerment zone administrator is the liaison between the local government, the department, the business community, and labor and

community-based organizations within the community empowerment zone.

[2000 c 212 § 8.]

RCW 43.31C.900 Short title.

This chapter may be known and cited as the Washington community empowerment zone act.

[2000 c 212 § 9.]

RCW 43.31C.901 Conflict with federal requirements--2000 c 212.

If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

[2000 c 212 § 12.]

RCW 43.31C.902 Severability--2000 c 212.

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

[2000 c 212 § 14.]

Chapter 43.32 RCW
COUNTY ROADS DESIGN STANDARDS
(Formerly: Design standards committee)

Sections

- | | |
|-----------|---------------------------|
| 43.32.010 | Composition of committee. |
| 43.32.020 | Duties of committee. |

RCW 43.32.010 Composition of committee.

There is created a state design standards committee of seven members, six of which shall be appointed by the executive committee of the Washington state association of counties to hold office at its pleasure and the seventh to be the state aid engineer for the department of transportation. The members to be appointed by the executive committee of the Washington state

association of counties shall be restricted to the membership of such association or to those holding the office and/or performing the functions of county engineer in any of the several counties of the state.

[1982 c 145 § 4; 1971 ex.s. c 85 § 6; 1965 c 8 § 43.32.010. Prior: 1949 c 165 § 2; RRS § 6450-8.]

Notes:

Design standards committee for arterial streets: Chapter 35.78 RCW.

RCW 43.32.020 Duties of committee.

On or before January 1, 1950, and from time to time thereafter the design standards committee shall adopt uniform design standards for the county primary road systems.

[1965 c 8 § 43.32.020. Prior: 1949 c 165 § 3; RRS § 6450-8j.]

Notes:

Design standards for county roads and bridges: Chapter 36.86 RCW.

**Chapter 43.33 RCW
STATE FINANCE COMMITTEE**

Sections

- 43.33.010 Composition of committee.
- 43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions.
- 43.33.030 Records--Administrative and clerical assistance.
- 43.33.040 Rules and regulations--Chairman.
- 43.33.130 Reports of debt management activities.

Notes:

Acquisition of highway property in advance of programmed construction, committee duties relating to: Chapter 47.12 RCW.

Bonds, notes and other evidences of indebtedness, finance committee duties: Chapter 39.42 RCW.

Committee created: RCW 43.17.070.

County held United States bonds, disposal: RCW 36.33.190.

Fiscal agencies: Chapter 43.80 RCW.

Industrial insurance, investments: RCW 51.44.100.

Intoxicating liquor warehouses, acquisition: RCW 66.08.160.

State depositories: Chapter 43.85 RCW.

State investment board: Chapter 43.33A RCW.

Washington State University Tree Fruit Research Center office-laboratory facility, financing, finance committee powers and duties: RCW 28B.30.600 through 28B.30.620.

RCW 43.33.010 Composition of committee.

The state treasurer, the lieutenant governor, and the governor, ex officio, shall constitute the state finance committee.

[1965 c 8 § 43.33.010. Prior: 1961 c 300 § 2; 1921 c 7 § 6, part; RRS § 10764, part.]

RCW 43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions.

See chapter 39.58 RCW.

RCW 43.33.030 Records--Administrative and clerical assistance.

The state finance committee shall keep a full and complete public record of its proceedings in appropriate books of record.

The state treasurer shall provide administrative and clerical assistance for the state finance committee.

[1981 c 3 § 24; 1965 c 8 § 43.33.030. Prior: 1961 c 300 § 4; 1907 c 12 § 2; RRS § 5537.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33.040 Rules and regulations--Chairman.

The state finance committee may make appropriate rules and regulations for the performance of its duties. The state treasurer shall act as chairman of the committee.

[1965 c 8 § 43.33.040. Prior: 1907 c 12 § 3; RRS § 5538.]

RCW 43.33.130 Reports of debt management activities.

The state finance committee shall prepare written reports at least annually summarizing the debt management activities of the finance committee, which reports shall be sent to agencies having a direct financial interest in the issuance and sale of bonds by the committee, and to other persons on written request.

[1998 c 245 § 63; 1981 c 3 § 25; 1977 ex.s. c 251 § 10.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

**Chapter 43.33A RCW
STATE INVESTMENT BOARD**

Sections

43.33A.010	General powers and duties.
43.33A.020	Board created--Membership--Terms--Vacancies--Removal.
43.33A.025	Criminal history record checks for board staff finalist candidates.
43.33A.030	Trusteeship of funds--Contracts--Delegation of powers and duties.

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43.33A.035	Delegation of authority--Investments or investment properties.
43.33A.040	Quorum--Meetings--Chairperson--Vice chairperson.
43.33A.050	Compensation of members--Travel expenses.
43.33A.060	Employment restrictions.
43.33A.070	Liability of members.
43.33A.080	Investment of funds in farm, soil, water conservation loans and in Washington land bank.
43.33A.090	Records.
43.33A.100	Offices--Personnel--Officers--Compensation--Transfer of employees--Existing contracts and obligations.
43.33A.110	Rules and regulations--Investment policies and procedures.
43.33A.120	Examination of accounts, files, and other records.
43.33A.130	Securities--State treasurer may cause same to be registered in the name of the nominee.
43.33A.135	Investment policy--Investment options.
43.33A.140	Investments--Standard of investment and management.
43.33A.150	Reports of investment activities.
43.33A.160	Funding of board--State investment board expense account.
43.33A.170	Commingled trust funds--Participation of funds in investments of board.
43.33A.180	Investment accounting--Transfer of functions and duties from state treasurer's office.
43.33A.190	Self-directed investment--Board's duties.
43.33A.200	Creation of entities for investment purposes--Liability--Tax status.
43.33A.210	Assets not publicly traded--Treatment of rent and income--Management accounts--Application of this chapter and chapter 39.58 RCW.
43.33A.220	Emergency reserve fund--Board's duties.
43.33A.230	Basic health plan self-insurance reserve account--Board duties and powers.

RCW 43.33A.010 General powers and duties.

The state investment board shall exercise all the powers and perform all duties prescribed by law with respect to the investment of public trust and retirement funds.

[1981 c 3 § 1.]

Notes:

Effective dates--1981 c 3: "Sections 2, 4, 5, 6, 7, 10, 11, 16, and 47 of this 1980 act shall take effect on July 1, 1980. The remaining sections of this 1980 act shall take effect on July 1, 1981." [1981 c 3 § 46.]

Reviser's note: Substitute House Bill No. 1610 was enacted during the 1980 legislative session, but was vetoed. The veto was overridden by the legislature as follows: Passed the House of Representatives on January 30, 1981; passed the Senate on February 6, 1981. The bill became chapter 3, Laws of 1981.

Severability--1981 c 3: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 3 § 49.]

RCW 43.33A.020 Board created--Membership--Terms--Vacancies--Removal.

There is hereby created the state investment board to consist of fourteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and

has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and fire fighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer or the assistant state treasurer if designated by the state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority.

[1985 c 195 § 1; 1981 c 219 § 1; 1981 c 3 § 2.]

Notes:

Effective dates--1981 c 219: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect

immediately [May 14, 1981], except sections 1 and 2 of this act shall take effect July 1, 1981." [1981 c 219 § 6.]

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.025 Criminal history record checks for board staff finalist candidates.

(1) Notwithstanding any provision of RCW 43.43.700 through 43.43.815, the state investment board shall require a criminal history record check for conviction records through the Washington state patrol criminal identification system, and through the federal bureau of investigation, for the purpose of conducting preemployment evaluations of each finalist candidate for a board staff position exempt from the provisions of chapter 41.06 RCW, or for any other position in which the employee will have authority for or access to: (a) Funds under the jurisdiction or responsibility of the investment board; or (b) data or security systems of the investment board or designs for such systems. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card, which shall be forwarded by the state patrol to the federal bureau of investigation.

(2) Information received by the investment board pursuant to this section shall be made available by the investment board only to board employees involved in the selection, hiring, background investigation, or job assignment of the person who is the subject of the record check, or to that subject person, and it shall be used only for the purposes of making, supporting, or defending decisions regarding the appointment or hiring of persons for these positions, or securing any necessary bonds or other requirements for such employment. Otherwise, the reports, and information contained therein, shall remain confidential and shall not be subject to the disclosure requirements of chapter 42.17 RCW.

(3) Fees charged by the Washington state patrol, or the federal bureau of investigation, for conducting these investigations and providing these reports shall be paid by the investment board.

[2000 c 188 § 1; 1999 c 226 § 1.]

RCW 43.33A.030 Trusteeship of funds--Contracts--Delegation of powers and duties.

Trusteeship of those funds under the authority of the board is vested in the voting members of the board. The nonvoting members of the board shall advise the voting members on matters of investment policy and practices.

The board may enter into contracts necessary to carry out its powers and duties. The board may delegate any of its powers and duties to its executive director as deemed necessary for efficient administration and when consistent with the purposes of chapter 3, Laws of 1981.

Subject to guidelines established by the board, the board's executive director may delegate to board staff any of the executive director's powers and duties including, but not limited to, the power to make investment decisions and to execute investment and other contracts on behalf of the board.

[1997 c 161 § 1; 1981 c 3 § 3.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.035 Delegation of authority--Investments or investment properties.

The board or its executive director may delegate by contract to private sector or other external advisors or managers the discretionary authority, as fiduciaries, to purchase or otherwise acquire, sell, or otherwise dispose of or manage investments or investment properties on behalf of the board, subject to investment or management criteria established by the board or its executive director. Such criteria relevant to particular investments or class of investment applicable under the board's contract with an advisor or manager must be incorporated by reference into the contract.

[1997 c 161 § 2.]

RCW 43.33A.040 Quorum--Meetings--Chairperson--Vice chairperson.

(1) A quorum to conduct the business of the state investment board consists of at least four voting members of the board before January 10, 1983, and five voting members thereafter. No action may be taken by the board without the affirmative vote of four members before January 10, 1983, and five members thereafter.

(2) The state investment board shall meet at least quarterly at such times as it may fix. The board shall elect a chairperson and vice chairperson annually: PROVIDED, That the legislative members are not eligible to serve as chairperson.

[1981 c 219 § 2; 1981 c 3 § 4.]

Notes:

Effective dates--1981 c 219: See note following RCW 43.33A.020.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.050 Compensation of members--Travel expenses.

Members of the state investment board who are public employees shall serve without compensation but shall suffer no loss because of absence from their regular employment. Members of the board who are not public employees shall be compensated in accordance with RCW 43.03.240. Members of the board who are not legislators shall be reimbursed for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060. Legislative members shall receive allowances provided for in RCW 44.04.120.

[1984 c 287 § 80; 1981 c 3 § 5.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.060 Employment restrictions.

No member during the term of appointment may be employed by any investment brokerage or mortgage servicing firm doing business with the state investment board. A trust department of a commercial bank or trust company organized under federal or state law is not

considered a mortgage servicing firm for purposes of this section.

[1981 c 3 § 6.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.070 Liability of members.

No member of the state investment board is liable for the negligence, default, or failure of any other person or other member of the board to perform the duties of the member's office and no member of the board shall be considered or held to be an insurer of the funds or assets of any of the trust and retirement funds nor is any nonvoting member liable for actions performed with the exercise of reasonable diligence within the scope of the member's authorized activities as a member of the board.

[1981 c 3 § 7.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.080 Investment of funds in farm, soil, water conservation loans and in Washington land bank.

The state investment board may invest those funds which are not under constitutional prohibition in: (1) Farm ownership and soil and water conservation loans fully guaranteed as to principal and interest under the Bankhead-Jones farm tenant act administered by the United States department of agriculture; and (2) the Washington land bank established by *chapter 31.30 RCW.

[1987 c 29 § 2; 1981 c 3 § 8.]

Notes:

***Reviser's note:** Chapter 31.30 RCW was repealed by 1998 c 12 § 1.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.090 Records.

The state investment board shall keep a full and complete public record of its proceedings in appropriate books of record. Within sixty days of July 1, 1981, the state investment board shall assume physical custody of all investment accounts, files, and other records of each fund placed under the investment authority of the board.

[1981 c 3 § 9.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.100 Offices--Personnel--Officers--Compensation--Transfer of employees--Existing contracts and obligations.

The state investment board shall maintain appropriate offices and employ such personnel

as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the executive director, a confidential secretary, and all investment officers, including the deputy director for investment management, employed by the investment board shall be established by the state investment board. The investment board is authorized to maintain a retention pool, from the earnings of the funds managed by the board, in order to address recruitment and retention problems. The compensation levels for investment officers shall be limited to the average of state funds of similar size, based upon a biennial survey conducted by the investment board, with review and comment by the joint legislative audit and review committee. However, in any fiscal year the salary increases granted by the investment board from the retention pool to investment officers pursuant to this section may not exceed an average of five percent.

The investment board shall provide notice to the director of the department of personnel, the director of financial management, and the chairs of the house of representatives and senate fiscal committees of proposed changes to the compensation levels for the positions. The notice shall be provided not less than sixty days prior to the effective date of the proposed changes.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in *this 1980 act shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by *this 1980 act shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981.

[2001 c 302 § 1; 1993 c 281 § 50; 1981 c 219 § 3; 1981 c 3 § 10.]

NOTES:

***Reviser's note:** For "this 1980 act," see note following RCW 43.33A.030.

Effective date--1993 c 281: See note following RCW 41.06.022.

Effective dates--1981 c 219: See note following RCW 43.33A.020.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.110 Rules and regulations--Investment policies and procedures.

The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall establish investment policies and procedures designed exclusively to maximize return at a prudent level of risk. However, in the case of the department of labor and industries' accident, medical aid, and reserve funds, the board shall establish

investment policies and procedures designed to attempt to limit fluctuations in industrial insurance premiums and, subject to this purpose, to maximize return at a prudent level of risk. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.52 RCW. Rules adopted by the board shall be adopted pursuant to chapter 34.05 RCW.

[1994 c 154 § 310; 1989 c 179 § 1; 1988 c 130 § 1; 1981 c 219 § 4; 1981 c 3 § 11.]

Notes:

Parts and captions not law--Effective date--Severability--1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

Effective dates--1981 c 219: See note following RCW 43.33A.020.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.120 Examination of accounts, files, and other records.

All accounts, files, and other records of the state investment board which pertain to each retirement system are subject at any time or from time to time to such reasonable periodic, special, or other examinations by the department of retirement systems as the director of the department of retirement systems deems necessary or appropriate.

[1981 c 3 § 12.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.130 Securities--State treasurer may cause same to be registered in the name of the nominee.

The state treasurer may cause any securities in which the state investment board deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the state treasurer, the federal reserve system, the designee of the state treasurer, or, at the election of the designee and upon approval of the state treasurer, the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only upon the order of the state investment board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities are vested in the actual owners of the securities, and not in the nominee.

[1999 c 228 § 1; 1981 c 3 § 13.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.135 Investment policy--Investment options.

The state investment board has the full power to establish investment policy, develop participant investment options, and manage investment funds for the state deferred compensation

plan, consistent with the provisions of RCW 41.50.770 and 41.50.780. The board may continue to offer the investment options provided as of June 11, 1998, until the board establishes a deferred compensation plan investment policy and adopts new investment options after considering the recommendations of the employee retirement benefits board.

[1998 c 116 § 13.]

RCW 43.33A.140 Investments--Standard of investment and management.

The state investment board shall invest and manage the assets entrusted to it with reasonable care, skill, prudence, and diligence under circumstances then prevailing which a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an activity of like character and purpose.

The board shall:

(1) Consider investments not in isolation, but in the context of the investment of the particular fund as a whole and as part of an overall investment strategy, which should incorporate risk and return objectives reasonably suited for that fund; and

(2) Diversify the investments of the particular fund unless, because of special circumstances, the board reasonably determines that the purposes of that fund are better served without diversifying. However, no corporate fixed-income issue or common stock holding may exceed three percent of the cost or six percent of the market value of the assets of that fund.

[1998 c 14 § 1; 1981 c 3 § 14.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.150 Reports of investment activities.

(1) The state investment board shall prepare written reports at least quarterly summarizing the investment activities of the state investment board, which reports shall be sent to the governor, the senate ways and means committee, the house appropriations committee, the department of retirement systems, and other agencies having a direct financial interest in the investment of funds by the board, and to other persons on written request. The state investment board shall provide information to the department of retirement systems necessary for the preparation of monthly reports.

(2) At least annually, the board shall report on the board's investment activities for the department of labor and industries' accident, medical aid, and reserve funds to the senate financial institutions and insurance committee, the senate economic development and labor committee, and the house commerce and labor committee, or appropriate successor committees.

[1989 c 179 § 2; 1981 c 3 § 15.]

Notes:

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.160 Funding of board--State investment board expense account.

(1) The state investment board shall be funded from the earnings of the funds managed by the state investment board, proportional to the value of the assets of each fund, subject to legislative appropriation.

(2) There is established in the state treasury a state investment board expense account from which shall be paid the operating expenses of the state investment board. Prior to November 1 of each even-numbered year, the state investment board shall determine and certify to the state treasurer and the office of financial management the value of the various funds managed by the investment board in order to determine the proportional liability of the funds for the operating expenses of the state investment board. Pursuant to appropriation, the state treasurer is authorized to transfer such moneys from the various funds managed by the investment board to the state investment board expense account as are necessary to pay the operating expenses of the investment board.

[1991 sp.s. c 13 § 32; 1985 c 57 § 32; 1982 c 10 § 10. Prior: 1981 c 242 § 1; 1981 c 219 § 5; 1981 c 3 § 16.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--1982 c 10: See note following RCW 6.13.080.

Effective dates--1981 c 242: See note following RCW 43.79.330.

Effective dates--1981 c 219: See note following RCW 43.33A.020.

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

RCW 43.33A.170 Commingled trust funds--Participation of funds in investments of board.

The state investment board is authorized to establish commingled trust funds in the state treasury for the implementation of specific investment programs for any combination of funds under its jurisdiction. At the discretion of the state investment board, the funds under the jurisdiction of the board may participate in the investments made by the board through state investment board commingled trust funds. The state investment board may establish accounts within any such commingled trust fund as necessary for the implementation of specific investment programs. The combining of moneys from funds located outside the state treasury with moneys from funds located within the state treasury for investment under this section shall not affect the nature, character, or purpose of a participating fund.

[1999 c 227 § 1; 1982 c 58 § 1.]

RCW 43.33A.180 Investment accounting--Transfer of functions and duties from state treasurer's office.

The state investment board shall account for and report on the investments authorized by this chapter in the manner prescribed by the office of financial management under chapter 43.88 RCW.

After approval of the director of financial management, all positions, reports, documents, and office equipment along with any appropriation necessary for carrying out the functions and

duties transferred shall, on July 1, 1992, be transferred from the state treasurer's office to the state investment board. All employees assigned to such classified positions to be transferred, are assigned, without any loss of rights, to the state investment board.

[1992 c 232 § 905.]

Notes:

Severability--1992 c 232: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 232 § 911.]

RCW 43.33A.190 Self-directed investment--Board's duties. (Effective until March 1, 2002.)

Pursuant to RCW 41.34.130, the state investment board shall invest all self-directed investment moneys under teachers' retirement system plan III and the school employees' retirement system plan III, with full power to establish investment policy, develop investment options, and manage self-directed investment funds.

[1998 c 341 § 707; 1995 c 239 § 321.]

Notes:

Effective date--1998 c 341: See note following RCW 41.34.060.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 43.33A.190 Self-directed investment--Board's duties. (Effective March 1, 2002.)

Pursuant to RCW 41.34.130, the state investment board shall invest all self-directed investment moneys under teachers' retirement system plan 3, the school employees' retirement system plan 3, and the public employees' retirement system plan 3 with full power to establish investment policy, develop investment options, and manage self-directed investment funds.

[2000 c 247 § 701; 1998 c 341 § 707; 1995 c 239 § 321.]

Notes:

Effective dates--Subchapter headings not law--2000 c 247: See RCW 41.40.931 and 41.40.932.

Effective date--1998 c 341: See note following RCW 41.34.060.

Intent--Purpose--1995 c 239: See note following RCW 41.32.831.

Effective date--Part and subchapter headings not law--1995 c 239: See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

RCW 43.33A.200 Creation of entities for investment purposes--Liability--Tax status.

(1) The board is authorized to create corporations under Title 23B RCW, limited liability

companies under chapter 25.15 RCW, and limited partnerships under chapter 25.10 RCW, of which it may or may not be the general partner, for the purposes of transferring, acquiring, holding, overseeing, operating, or disposing of real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange. The liability of each entity created by the board is limited to the assets or properties of that entity. No creditor or other person has any right of action against the board, its members or employees, or the state of Washington on account of any debts, obligations, or liabilities of the entity. Entities created under this section may be authorized by the board to make any investment that the board may make, including but not limited to the acquisition of: Equity interests in operating companies, the indebtedness of operating companies, and real estate.

(2) Directors, officers, and other principals of entities created under this section must be board members, board staff, or principals or employees of an advisor or manager engaged by contract by the board or the entity to manage real estate or other investment assets of the entity. Directors of entities created under this section must be appointed by the board. Officers and other principals of entities created under this section are appointed by the directors.

(3) A public corporation, limited liability company, or limited partnership created under this section has the same immunity or exemption from taxation as that of the state. The entity shall pay an amount equal to the amounts that would be paid for taxes otherwise levied upon real property and personal property to the public official charged with the collection of such real property and personal property taxes as if the property were in private ownership. The proceeds of such payments must be allocated as though the property were in private ownership.

[1997 c 359 § 1.]

RCW 43.33A.210 Assets not publicly traded--Treatment of rent and income--Management accounts--Application of this chapter and chapter 39.58 RCW.

Rent and other income from real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange that are acquired and being held for investment by the board or by an entity created under RCW 43.33A.200 by the board, and being managed by an external advisor or other property manager under contract, shall not be deemed income or state funds for the purposes of chapter 39.58 RCW and this title, until distributions are made to the board of such income from the advisor or manager. Bank and other accounts established by the advisor or property manager for the purpose of the management of such investment assets shall not be deemed accounts established by the state for the purpose of chapter 39.58 RCW and this title.

[1997 c 359 § 2.]

RCW 43.33A.220 Emergency reserve fund--Board's duties.

Pursuant to RCW 43.135.051, the state investment board shall invest moneys in the emergency reserve fund established in chapter 43.135 RCW with full power to establish investment policies for the fund.

[1999 c 288 § 2.]

Notes:

Effective date--1999 c 288: See note following RCW 43.135.051.

RCW 43.33A.230 Basic health plan self-insurance reserve account--Board duties and powers.

(1) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the basic health plan self-insurance reserve account. All investment and operating costs associated with the investment of money shall be paid under RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the account.

(2) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care under RCW 43.33A.140 and the investment policy established by the state investment board.

(3) As deemed appropriate by the investment board, money in the account may be commingled for investment with other funds subject to investment by the board.

(4) The investment board shall routinely consult and communicate with the health care authority on the investment policy, earnings of the account, and related needs of the account.

[2000 c 80 § 6.]

**Chapter 43.34 RCW
CAPITOL COMMITTEE**

Sections

43.34.010	Composition of committee.
43.34.015	Secretary of committee--Committee records.
43.34.040	Buildings--Erection--Improvements.
43.34.080	Capitol campus design advisory committee--Generally.

Notes:

Capitol building lands: Chapter 79.24 RCW.

Committee created: RCW 43.17.070.

East capitol site, powers and duties concerning: RCW 79.24.500.

Housing for state offices, duties: RCW 43.82.010.

RCW 43.34.010 Composition of committee.

The governor or the governor's designee, the lieutenant governor, the secretary of state, and the commissioner of public lands, ex officio, shall constitute the state capitol committee.

[1997 c 279 § 1; 1979 ex.s. c 57 § 10; 1965 c 8 § 43.34.010. Prior: 1961 c 300 § 5; 1921 c 7 § 8; RRS § 10766.]

RCW 43.34.015 Secretary of committee--Committee records.

The commissioner of public lands shall be the secretary of the state capitol committee, but the committee may appoint a suitable person as acting secretary thereof, and fix his or her compensation. However, all records of the committee shall be filed in the office of the commissioner of public lands.

[1997 c 279 § 2; 1965 c 8 § 43.34.015. Prior: 1959 c 257 § 45; 1909 c 69 § 1; RRS § 7897. Formerly RCW 79.24.080.]

RCW 43.34.040 Buildings--Erection--Improvements.

The state capitol committee may erect one or more permanent buildings; one or more temporary buildings; excavate or partially excavate for any such building or buildings; partially erect any such building or buildings; make other temporary or permanent improvements wholly or in part; upon the capitol grounds belonging to the state and known as the "Sylvester site" or "Capitol place" in Olympia, Washington.

[1965 c 8 § 43.34.040. Prior: 1933 ex.s. c 34 § 1; RRS § 7915-1.]

RCW 43.34.080 Capitol campus design advisory committee--Generally.

(1) The capitol campus design advisory committee is established as an advisory group to the capitol committee and the director of general administration to review programs, planning, design, and landscaping of state capitol facilities and grounds and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in design and maintenance of capitol facilities on campus and located in neighboring communities.

(2) The advisory committee shall consist of the following persons who shall be appointed by and serve at the pleasure of the governor:

- (a) Two architects;
- (b) A landscape architect; and
- (c) An urban planner.

The governor shall appoint the chair and vice-chair and shall instruct the director of general administration to provide the staff and resources necessary for implementing this section. The advisory committee shall meet at least once every ninety days and at the call of the chair.

The members of the committee shall be reimbursed as provided in RCW 43.03.220 and 44.04.120.

(3) The advisory committee shall also consist of the secretary of state and two members of the house of representatives, one from each caucus, who shall be appointed by the speaker of the house of representatives, and two members of the senate, one from each caucus, who shall be appointed by the president of the senate.

(4) The advisory committee shall review plans and designs affecting state capitol facilities as they are developed. The advisory committee's review shall include:

(a) The process of solicitation and selection of appropriate professional design services including design-build proposals;

(b) Compliance with the capitol campus master plan and design concepts as adopted by the capitol committee;

(c) The design, siting, and grouping of state capitol facilities relative to the service needs of state government and the impact upon the local community's economy, environment, traffic patterns, and other factors;

(d) The relationship of overall state capitol facility planning to the respective comprehensive plans for long-range urban development of the cities of Olympia, Lacey, and Tumwater, and Thurston county; and

(e) Landscaping plans and designs, including planting proposals, street furniture, sculpture, monuments, and access to the capitol campus and buildings.

[1990 c 93 § 1.]

Chapter 43.37 RCW WEATHER MODIFICATION

Sections

43.37.010	Definitions.
43.37.030	Powers and duties.
43.37.040	Promotion of research and development activities--Contracts and agreements.
43.37.050	Hearing procedure.
43.37.060	Acceptance of gifts, donations, etc.
43.37.080	License and permit required.
43.37.090	Exemptions.
43.37.100	Licenses--Requirements, duration, renewal, fees.
43.37.110	Permits--Requirements--Hearing as to issuance.
43.37.120	Separate permit for each operation--Filing and publishing notice of intention--Activities restricted by permit and notice.
43.37.130	Notice of intention--Contents.
43.37.140	Notice of intention--Publication.
43.37.150	Financial responsibility.
43.37.160	Fees--Sanctions for failure to pay.
43.37.170	Records and reports--Open to public examination.
43.37.180	Revocation, suspension, modification of license or permit.
43.37.190	Liability of state denied--Legal rights of private persons not affected.
43.37.200	Penalty.
43.37.210	Legislative declaration.
43.37.215	Program of emergency cloud seeding authorized.
43.37.220	Exemption of licensee from certain requirements.
43.37.910	Effective date--1973 c 64.

RCW 43.37.010 Definitions.

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

- (1) "Department" means the department of ecology;
- (2) "Operation" means the performance of weather modification and control activities pursuant to a single contract entered into for the purpose of producing or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year; or, in case the performance of weather modification and control activities is to be undertaken individually or jointly by a person or persons to be benefited and not undertaken pursuant to a contract, "operation" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year;
- (3) "Research and development" means theoretical analysis exploration and experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes;
- (4) "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

[1973 c 64 § 1; 1965 c 8 § 43.37.010. Prior: 1957 c 245 § 1.]

RCW 43.37.030 Powers and duties.

In the performance of its functions the department may, in addition to any other acts authorized by law:

- (1) Establish advisory committees to advise with and make recommendations to the department concerning legislation, policies, administration, research, and other matters;
- (2) Establish by regulation or order such standards and instructions to govern the carrying out of research or projects in weather modification and control as the department may deem necessary or desirable to minimize danger to health or property; and make such rules and regulations as are necessary in the performance of its powers and duties;
- (3) Make such studies, investigations, obtain such information, and hold such hearings as the department may deem necessary or proper to assist it in exercising its authority or in the administration or enforcement of this chapter or any regulations or orders issued thereunder;
- (4) Appoint and fix the compensation of such personnel, including specialists and consultants, as are necessary to perform its duties and functions;
- (5) Acquire, in the manner provided by law, such materials, equipment, and facilities as are necessary to perform its duties and functions;
- (6) Cooperate with public or private agencies in the performance of the department's functions or duties and in furtherance of the purposes of this chapter;

(7) Represent the state in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control.

[1973 c 64 § 2; 1965 c 8 § 43.37.030. Prior: 1957 c 245 § 3.]

RCW 43.37.040 Promotion of research and development activities--Contracts and agreements.

The department shall exercise its powers in such manner as to promote the continued conduct of research and development activities in the fields specified below by private or public institutions or persons and to assist in the acquisition of an expanding fund of theoretical and practical knowledge in such fields. To this end the department may conduct, and make arrangements, including contracts and agreements, for the conduct of, research and development activities relating to:

- (1) The theory and development of methods of weather modification and control, including processes, materials, and devices related thereto;
- (2) Utilization of weather modification and control for agricultural, industrial, commercial, and other purposes;
- (3) The protection of life and property during research and operational activities.

[1973 c 64 § 3; 1965 c 8 § 43.37.040. Prior: 1957 c 245 § 4.]

RCW 43.37.050 Hearing procedure.

In the case of hearings pursuant to RCW 43.37.180 the department shall, and in other cases may, cause a record of the proceedings to be taken and filed with the department, together with its findings and conclusions. For any hearing, the director of the department or a representative designated by him is authorized to administer oaths and affirmations, examine witnesses, and issue, in the name of the department, notice of the hearing or subpoenas requiring any person to appear and testify, or to appear and produce documents, or both, at any designated place.

[1973 c 64 § 4; 1965 c 8 § 43.37.050. Prior: 1957 c 245 § 5.]

RCW 43.37.060 Acceptance of gifts, donations, etc.

(1) The department may, subject to any limitations otherwise imposed by law, receive and accept for and in the name of the state any funds which may be offered or become available from federal grants or appropriations, private gifts, donations, or bequests, or any other source, and may expend such funds, subject to any limitations otherwise provided by law, for the encouragement of research and development by a state, public, or private agency, either by direct grant, by contract or other cooperative means.

(2) All license and permit fees paid to the department shall be deposited in the state general fund.

[1973 c 64 § 5; 1965 c 8 § 43.37.060. Prior: 1957 c 245 § 6.]

RCW 43.37.080 License and permit required.

Except as provided in RCW 43.37.090, no person shall engage in activities for weather modification and control except under and in accordance with a license and a permit issued by the department authorizing such activities.

[1973 c 64 § 6; 1965 c 8 § 43.37.080. Prior: 1957 c 245 § 8.]

RCW 43.37.090 Exemptions.

The department, to the extent it deems practical, shall provide by regulation for exempting from license, permit, and liability requirements, (1) research and development and experiments by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations; (2) laboratory research and experiments; (3) activities of an emergent character for protection against fire, frost, sleet, or fog; and (4) activities normally engaged in for purposes other than those of inducing, increasing, decreasing, or preventing precipitation or hail.

[1973 c 64 § 7; 1965 c 8 § 43.37.090. Prior: 1957 c 245 § 9.]

RCW 43.37.100 Licenses--Requirements, duration, renewal, fees.

(1) Licenses to engage in activities for weather modification and control shall be issued to applicants therefor who pay the license fee required and who demonstrate competence in the field of meteorology to the satisfaction of the department, reasonably necessary to engage in activities for weather modification and control. If the applicant is an organization, these requirements must be met by the individual or individuals who will be in control and in charge of the operation for the applicant.

(2) The department shall issue licenses in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter. Each license shall be issued for a period to expire at the end of the calendar year in which it is issued and, if the licensee possesses the qualifications necessary for the issuance of a new license, shall upon application be renewed at the expiration of such period. A license shall be issued or renewed only upon the payment to the department of one hundred dollars for the license or renewal thereof.

[1973 c 64 § 8; 1965 c 8 § 43.37.100. Prior: 1957 c 245 § 10.]

RCW 43.37.110 Permits--Requirements--Hearing as to issuance.

The department shall issue permits in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter only:

- (1) If the applicant is licensed pursuant to this chapter;

(2) If a sufficient notice of intention is published and proof of publication is filed as required by RCW 43.37.140;

(3) If the applicant furnishes proof of financial responsibility, as provided in RCW 43.37.150, in an amount to be determined by the department but not to exceed twenty thousand dollars;

(4) If the fee for a permit is paid as required by RCW 43.37.160;

(5) If the weather modification and control activities to be conducted under authority of the permit are determined by the department to be for the general welfare and public good;

(6) If the department has held an open public hearing in Olympia as to such issuance.

[1973 c 64 § 9; 1965 c 8 § 43.37.110. Prior: 1961 c 154 § 2; 1957 c 245 § 11.]

RCW 43.37.120 Separate permit for each operation--Filing and publishing notice of intention--Activities restricted by permit and notice.

A separate permit shall be issued for each operation. Prior to undertaking any weather modification and control activities the licensee shall file with the department and also cause to be published a notice of intention. The licensee, if a permit is issued, shall confine his activities for the permitted operation within the time and area limits set forth in the notice of intention, unless modified by the department; and his activities shall also conform to any conditions imposed by the department upon the issuance of the permit or to the terms of the permit as modified after issuance.

[1973 c 64 § 10; 1965 c 8 § 43.37.120. Prior: 1961 c 154 § 3; 1957 c 245 § 12.]

RCW 43.37.130 Notice of intention--Contents.

The notice of intention shall set forth at least all the following:

(1) The name and address of the licensee;

(2) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;

(3) The area in which and the approximate time during which the operation will be conducted;

(4) The area which is intended to be affected by the operation;

(5) The materials and methods to be used in conducting the operation.

[1965 c 8 § 43.37.130. Prior: 1957 c 245 § 13.]

RCW 43.37.140 Notice of intention--Publication.

(1) The applicant shall cause the notice of intention, or that portion thereof including the items specified in RCW 43.37.130, to be published at least once a week for three consecutive weeks in a legal newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the

operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a legal newspaper having a general circulation and published within each of such counties. In case there is no legal newspaper published within the appropriate county, publication shall be made in a legal newspaper having a general circulation within the county;

(2) Proof of publication, made in the manner provided by law, shall be filed by the licensee with the department within fifteen days from the date of the last publication of the notice.

[1973 c 64 § 11; 1965 c 8 § 43.37.140. Prior: 1961 c 154 § 4; 1957 c 245 § 14.]

RCW 43.37.150 Financial responsibility.

Proof of financial responsibility may be furnished by an applicant by his showing, to the satisfaction of the department, his ability to respond in damages for liability which might reasonably be attached to or result from his weather modification and control activities in connection with the operation for which he seeks a permit.

[1973 c 64 § 12; 1965 c 8 § 43.37.150. Prior: 1957 c 245 § 15.]

RCW 43.37.160 Fees--Sanctions for failure to pay.

The fee to be paid by each applicant for a permit shall be equivalent to one and one-half percent of the estimated cost of such operation, the estimated cost to be computed by the department from the evidence available to it. The fee is due and payable to the department as of the date of the issuance of the permit; however, if the applicant is able to give to the department satisfactory security for the payment of the balance, he may be permitted to commence the operation, and a permit may be issued therefor, upon the payment of not less than fifty percent of the fee. The balance due shall be paid within three months from the date of the termination of the operation as prescribed in the permit. Failure to pay a permit fee as required shall be grounds for suspension or revocation of the license of the delinquent permit holder and grounds for refusal to renew his license or to issue any further permits to such person.

[1973 c 64 § 13; 1965 c 8 § 43.37.160. Prior: 1957 c 245 § 16.]

RCW 43.37.170 Records and reports--Open to public examination.

(1) Every licensee shall keep and maintain a record of all operations conducted by him pursuant to his license and each permit, showing the method employed, the type of equipment used, materials and amounts thereof used, the times and places of operation of the equipment, the name and post office address of each individual participating or assisting in the operation other than the licensee, and such other general information as may be required by the department and shall report the same to the department at the time and in the manner required.

(2) The department shall require written reports in such manner as it provides but not

inconsistent with the provisions of this chapter, covering each operation for which a permit is issued. Further, the department shall require written reports from such organizations as are exempted from license, permit, and liability requirements as provided in RCW 43.37.090.

(3) The reports and records in the custody of the department shall be open for public examination.

[1973 c 64 § 14; 1965 c 8 § 43.37.170. Prior: 1957 c 245 § 17.]

RCW 43.37.180 Revocation, suspension, modification of license or permit.

(1) The department may suspend or revoke any license or permit issued if it appears that the licensee no longer possesses the qualifications necessary for the issuance of a new license or permit. The department may suspend or revoke any license or permit if it appears that the licensee has violated any of the provisions of this chapter. Such suspension or revocation shall occur only after notice to the licensee and a reasonable opportunity granted such licensee to be heard respecting the grounds of the proposed suspension or revocation. The department may refuse to renew the license of, or to issue another permit to, any applicant who has failed to comply with any provision of this chapter.

(2) The department may modify the terms of a permit after issuance thereof if the licensee is first given notice and a reasonable opportunity for a hearing respecting the grounds for the proposed modification and if it appears to the department that it is necessary for the protection of the health or the property of any person to make the modification proposed.

[1973 c 64 § 15; 1965 c 8 § 43.37.180. Prior: 1957 c 245 § 18.]

RCW 43.37.190 Liability of state denied--Legal rights of private persons not affected.

Nothing in this chapter shall be construed to impose or accept any liability or responsibility on the part of the state, the department, or any state officials or employees for any weather modification and control activities of any private person or group, nor to affect in any way any contractual, tortious, or other legal rights, duties, or liabilities between any private persons or groups.

[1973 c 64 § 16; 1965 c 8 § 43.37.190. Prior: 1957 c 245 § 19.]

RCW 43.37.200 Penalty.

Any person violating any of the provisions of this chapter or any lawful regulation or order issued pursuant thereto, shall be guilty of a misdemeanor; and a continuing violation is punishable as a separate offense for each day during which it occurs.

[1965 c 8 § 43.37.200. Prior: 1957 c 245 § 20.]

RCW 43.37.210 Legislative declaration.

The legislature finds and declares that when prolonged lack of precipitation or shortages of water supply in the state cause severe hardships affecting the health, safety, and welfare of the people of the state, a program to increase precipitation is occasionally needed for the generation of hydroelectric power, for domestic purposes, and to alleviate hardships created by the threat of forest fires and shortages of water for agriculture. Cloud seeding has been demonstrated to be such a program of weather modification with increasing scientific certainty.

[1981 c 278 § 1.]

RCW 43.37.215 Program of emergency cloud seeding authorized.

The director of ecology may establish by rule under chapter 34.05 RCW a program of emergency cloud seeding. The director may include in these rules standards and guidelines for determining the situations which warrant cloud seeding and the means to be used for cloud seeding.

[1981 c 278 § 2.]

Notes:

Actions during state of emergency exempt from chapter 43.21C RCW: RCW 43.21C.210.

RCW 43.37.220 Exemption of licensee from certain requirements.

Upon a proclamation of a state of emergency, related to a lack of precipitation or a shortage of water supply, by the governor under RCW 43.06.210, the department shall exempt a licensee from the requirements of RCW 43.37.110 (2) and (6) and RCW 43.37.140.

[1981 c 278 § 3.]

Notes:

Actions during state of emergency exempt from chapter 43.21C RCW: RCW 43.21C.210.

RCW 43.37.910 Effective date--1973 c 64.

The effective date of this 1973 amendatory act shall be July 1, 1973.

[1973 c 64 § 18.]

**Chapter 43.41 RCW
OFFICE OF FINANCIAL MANAGEMENT**

Sections

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- 43.41.905 Interagency task force on unintended pregnancy.
- 43.41.940 Central budget agency abolished.
- 43.41.950 Saving--1969 ex.s. c 239.
- 43.41.970 Federal requirements for receipt of federal funds.
- 43.41.980 Severability--1969 ex.s. c 239.

NOTES:

Reviser's note: Throughout this chapter the phrase "this 1969 amendatory act" or "this act" has been changed to "this chapter". The phrase also includes RCW 43.88.020, 43.88.025 and 41.06.075.

Assessments and charges against state lands: Chapter 79.44 RCW.

Budgeting, accounting, and reporting system, powers and duties: Chapter 43.88 RCW.

Checks and drafts, form prescribed by: RCW 43.88.160.

Classes and number of positions for agencies fixed by: RCW 43.88.160.

Corrective measures by agencies, duties to enforce: RCW 43.88.160.

Development of definitions, criteria, and procedures for the operating cost of instruction--Educational cost study: RCW 28B.15.070.

Efficiency surveys and analyses of agencies: RCW 43.88.160.

Employee training authorized: RCW 43.88.160.

Inventory of state-owned or leased facilities--Report: RCW 43.82.150.

Motor vehicle fund, distribution of amount to counties, office to furnish information: RCW 46.68.124.

Moving expenses of state officers and employees, approval by: RCW 43.03.110.

Occupational forecast--Agency consultation: RCW 50.38.030.

Pay and classification plans, review of: RCW 43.88.160.

Personal service contracts, filing with office of financial management, duties: Chapter 39.29 RCW.

Public printing, duties concerning: Chapter 43.78 RCW.
Regulations, duty to promulgate: RCW 43.88.160.
Regulatory fairness act, office of financial management participation: Chapter 19.85 RCW.
Reports of agencies, authority to require: RCW 43.88.160.
Reports to governor, duplication of effort or lack of coordination between agencies: RCW 43.88.160.
Requirements to seek federal waivers and state law changes to medical assistance programs: RCW 43.20A.860.
State employees' retirement system, duties: RCW 41.40.048.
Subsistence allowance for officials and employees, director to prescribe: RCW 43.03.050.
Tort claims against state, duties: Chapter 4.92 RCW.
Warrants or checks, form prescribed by: RCW 43.88.160.

RCW 43.41.030 Purpose.

The legislature finds that the need for long-range state program planning and for the short-range planning carried on through the budget process, complement each other. The biennial budget submitted to the legislature must be considered in the light of the longer-range plans and goals of the state. The effectiveness of the short-range plan presented as budget proposals, cannot be measured without being aware of these longer-range goals. Thus efficient management requires that the planning and fiscal activities of state government be integrated into a unified process. It is the purpose of this chapter to bring these functions together in a new division of the office of the governor to be called the office of financial management.

[1979 c 151 § 109; 1969 ex.s. c 239 § 1.]

RCW 43.41.035 Office of program planning and fiscal management redesignated office of financial management.

From and after September 21, 1977, the office of program planning and fiscal management shall be known and designated as the office of financial management.

[1977 ex.s. c 114 § 1.]

RCW 43.41.040 Definitions.

As used in this chapter, unless the context indicates otherwise:

- (1) "Office" means the office of financial management.
- (2) "Director" means the director of financial management.
- (3) "Agency" means and includes every state agency, office, officer, board, commission, department, state institution, or state institution of higher education, which includes all state universities, regional universities, The Evergreen State College, and community and technical colleges.

[1993 c 500 § 4; 1979 c 151 § 110; 1969 ex.s. c 239 § 2.]

Notes:

Finding--Severability--Effective date--1993 c 500: See notes following RCW 43.41.180.

RCW 43.41.050 Office of financial management created--Transfer of powers, duties, and functions.

There is created in the office of the governor, the office of financial management which shall be composed of the present central budget agency and the state planning, program management, and population and research divisions of the present *planning and community affairs agency. Any powers, duties and functions assigned to the central budget agency, or any state planning, program management, or population and research functions assigned to the present *planning and community affairs agency by the 1969 legislature, shall be transferred to the office of financial management.

[1979 c 151 § 111; 1969 ex.s. c 239 § 3.]

Notes:

***Reviser's note:** "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

RCW 43.41.060 Director--Appointment--Salary--Vacancy--Delegation of powers and duties.

The executive head of the office of financial management shall be the director, who shall be appointed by the governor with the consent of the senate, and who shall serve at the pleasure of the governor. He shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to that body his nomination for the office. The director may delegate such of his powers, duties and functions to other officers and employees of the department as he may deem necessary to the fulfillment of the purposes of this chapter.

[1979 c 151 § 112; 1969 ex.s. c 239 § 4.]

RCW 43.41.070 Personnel.

The director shall have the power to employ such personnel as may be necessary for the general administration of the office: PROVIDED, That, except as elsewhere specified in this chapter, such employment is in accordance with the rules of the state civil service law, chapter 41.06 RCW.

[1969 ex.s. c 239 § 5.]

RCW 43.41.080 Deputy and assistant directors.

The director may appoint such deputy directors and assistant directors as shall be needed to administer the office of financial management. The officers appointed under this section and exempt from the provisions of the state civil service law by the terms of RCW 41.06.075, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law.

[1979 c 151 § 113; 1969 ex.s. c 239 § 6.]

RCW 43.41.090 State civil service law--Certain personnel of office of financial management exempted.

See RCW 41.06.075.

RCW 43.41.100 Director's powers and duties.

The director of financial management shall:

- (1) Supervise and administer the activities of the office of financial management.
- (2) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of the state budget and accounting system.
- (3) Advise the governor and the legislature with respect to matters affecting program management and planning.
- (4) Make efficiency surveys of all state departments and institutions, and the administrative and business methods pursued therein, examine into the physical needs and industrial activities thereof, and make confidential reports to the governor, recommending necessary betterments, repairs, and the installation of improved and more economical administrative methods, and advising such action as will result in a greater measure of self-support and remedies for inefficient functioning.

The director may enter into contracts on behalf of the state to carry out the purposes of this chapter; he may act for the state in the initiation of or participation in any multi-governmental agency program relative to the purposes of this chapter; and he may accept gifts and grants, whether such grants be of federal or other funds.

[1979 c 151 § 114; 1969 ex.s. c 239 § 8.]

RCW 43.41.102 Director--Contract for collection and tabulation of census block statistics.

Subject to a specific appropriation for that purpose, the director of financial management is hereby authorized and directed to contract with the United States bureau of census for collection and tabulation of block statistics in any or all cities and towns.

[1979 c 151 § 115; 1977 ex.s. c 128 § 5.]

Notes:

Severability--1977 ex.s. c 128: See note following RCW 29.04.040.

RCW 43.41.104 Settlement and payment of accounts--Duty to require.

Upon receipt of information from the state auditor as provided in *RCW 43.09.050(5) as now or hereafter amended, the director of financial management shall require all persons who have received any moneys belonging to the state and have not accounted therefor, to settle their

accounts and make payment thereof.

[1979 c 151 § 116; 1977 ex.s. c 144 § 10.]

Notes:

***Reviser's note:** RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (5) to subsection (6).

RCW 43.41.106 Settlement and payment of accounts--Authority to require testimony and evidence.

The director of financial management may, in his discretion, require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it.

[1979 c 151 § 117; 1977 ex.s. c 144 § 11.]

RCW 43.41.110 Powers and duties of office of financial management.

The office of financial management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

(8) Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

(9) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

(10) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

(11) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates.

(12) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW.

(13) Be the official state agency to estimate and manage the cash flow of all public funds as provided in chapter 43.88 RCW. To this end, the office shall adopt such rules as are necessary to manage the cash flow of public funds.

[1981 2nd ex.s. c 4 § 13; 1979 c 10 § 3. Prior: 1977 ex.s. c 110 § 4; 1977 ex.s. c 25 § 6; 1969 ex.s. c 239 § 11.]

Notes:

Severability--1981 2nd ex.s. c 4: See note following RCW 43.85.130.

RCW 43.41.120 Advisory or coordinating councils.

The director or the governor may establish such additional advisory or coordinating councils as may be necessary to carry out the purposes of this chapter. Members of such councils shall serve at the pleasure of the governor. They shall receive no compensation for their services, but shall be reimbursed for travel expenses while engaged in business of the councils in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

[1975-'76 2nd ex.s. c 34 § 114; 1969 ex.s. c 239 § 12.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.41.130 Passenger motor vehicles owned or operated by state agencies--Duty to establish policies as to acquisition, operation, authorized use, etc.--Use of gasohol and alternative fuels.

The director of financial management, after consultation with other interested or affected state agencies, shall establish overall policies governing the acquisition, operation, management, maintenance, repair, and disposal of, all passenger motor vehicles owned or operated by any state agency. Such policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use.

Such policies shall also include the widest possible use of gasohol and cost-effective alternative fuels in all motor vehicles owned or operated by any state agency. As used in this section, "gasohol" means motor vehicle fuel which contains more than nine and one-half percent alcohol by volume.

[1982 c 163 § 13; 1980 c 169 § 1; 1979 c 111 § 12; 1975 1st ex.s. c 167 § 5.]

Notes:

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

Severability--1979 c 111: See note following RCW 46.74.010.

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

Commuter ride sharing: Chapter 46.74 RCW.

Motor vehicle management and transportation: RCW 43.19.500 through 43.19.635.

RCW 43.41.140 Employee commuting in state-owned or leased vehicle--Policies and regulations.

Pursuant to policies and regulations promulgated by the office of financial management, an elected state officer or delegate or a state agency director or delegate may permit an employee to commute in a state-owned or leased vehicle if such travel is on official business, as determined in accordance with RCW 43.41.130, and is determined to be economical and advantageous to the state, or as part of a commute trip reduction program as required by RCW 70.94.551.

[1993 c 394 § 3; 1979 c 151 § 119; 1975 1st ex.s. c 167 § 15.]

Notes:

Finding--Purpose--1993 c 394: See note following RCW 43.01.220.

Severability--1975 1st ex.s. c 167: See note following RCW 43.19.010.

RCW 43.41.150 Inventory of state land resources--Developing and maintaining--Summaries.

The office of financial management shall provide by administrative regulation for the maintenance of an inventory of all state owned or controlled land resources by all state agencies owning or controlling land. That office shall cooperate with the state departments and agencies charged with administering state owned or controlled land resources to assist them in developing and maintaining land resources inventories that will permit their respective inventories to be summarized into meaningful reports for the purposes of providing executive agencies with information for planning, budgeting, and managing state owned or administered land resources and to provide the legislature, its members, committees, and staff with data needed for formulation of public policy.

Such departments or agencies shall maintain and make available such summary inventory information as may be prescribed by the rules of the office of financial management. That office shall give each affected department or agency specific written notice of hearings for consideration, adoption, or modification of such rules. All information submitted to that office under this section are a matter of public record and shall be available from said agency upon request.

[1981 c 157 § 5.]

RCW 43.41.160 State health care cost containment policies.

(1) It is the purpose of this section to ensure implementation and coordination of chapter 70.14 RCW as well as other legislative and executive policies designed to contain the cost of

health care that is purchased or provided by the state. In order to achieve that purpose, the director may:

- (a) Establish within the office of financial management a health care cost containment program in cooperation with all state agencies;
 - (b) Implement lawful health care cost containment policies that have been adopted by the legislature or the governor, including appropriation provisos;
 - (c) Coordinate the activities of all state agencies with respect to health care cost containment policies;
 - (d) Study and make recommendations on health care cost containment policies;
 - (e) Monitor and report on the implementation of health care cost containment policies;
 - (f) Appoint a health care cost containment technical advisory committee that represents state agencies that are involved in the direct purchase, funding, or provision of health care; and
 - (g) Engage in other activities necessary to achieve the purposes of this section.
- (2) All state agencies shall cooperate with the director in carrying out the purpose of this section.

[1986 c 303 § 11.]

Notes:

Health care authority: Chapter 41.05 RCW.

RCW 43.41.170 Budgeting process--Agencies implementing energy conservation to retain cost savings.

The office of financial management shall ensure that to the extent possible the budget process shall allow state agencies implementing energy conservation to retain the resulting cost savings for other purposes, including further energy conservation.

[1989 c 11 § 15; 1986 c 325 § 3.]

Notes:

Severability--1989 c 11: See note following RCW 9A.56.220.

Findings--1986 c 325: "The legislature finds that:

- (1) Capital investments in energy conservation in buildings can produce significant reductions in energy use, reducing the need to import or extract fossil fuels and lowering the cost of operating buildings.
- (2) The state of Washington has an obligation to operate state buildings efficiently and to implement all cost-effective energy conservation measures so that citizens are assured that public funds are spent wisely and so that citizens have an example of the savings possible from energy conservation.
- (3) The state has completed energy consumption and walk-through surveys of its buildings and other facilities and has established a schedule for technical assistance studies which is the basis for implementing energy conservation measure installations to meet the milestones in RCW 43.19.680. However, there is uncertainty that the milestones will be met.
- (4) The potential savings from energy conservation can be more readily realized by explicitly considering conservation measures and procedures in the state's budgeting and long-range planning process." [1986 c 325 § 1.]

RCW 43.41.180 Electronic funds and information transfer--State agency use.

- (1) The office of financial management is authorized to approve the use of electronic and

other technological means to transfer both funds and information whenever economically feasible, to eliminate paper documentation wherever possible, and to provide greater fiscal responsibility. This authorization includes but is not limited to the authority to approve use of electronic means to transfer payroll, vendor payments, and benefit payments and acceptance of credit cards, debit cards, and other consumer debt instruments for payment of taxes, licenses, and fees. The office of financial management shall adopt rules under RCW 43.41.110(13) to specify the manner in which electronic and other technological means, including credit cards, are available to state agencies.

(2) No state agency may use electronic or other technological means, including credit cards, without specific continuing authorization from the office of financial management.

[1993 c 500 § 2.]

Notes:

Finding--1993 c 500: "The legislature finds that:

(1) Effective and efficient management of the state's cash resources requires expeditious revenue collection, aggregation, and investment of available balances and timely payments;

(2) The use of credit cards, debit cards, and electronic transfers of funds and information are customary and economical business practices to improve cash management that the state should consider and use when appropriate;

(3) Statutory changes are necessary to aid the state in complying with the federal cash management improvement act of 1990; and

(4) The policies, procedures, and practices of cash management should be reviewed and revised as required to ensure that the state achieves the most effective cash management possible." [1993 c 500 § 1.]

Severability--1993 c 500: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 500 § 12.]

Effective date--1993 c 500: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 500 § 13.]

RCW 43.41.190 Community network programs--Recommended legislation.

The office of financial management shall review the administration of funds for programs identified under RCW 70.190.110 and propose legislation to complete interdepartmental transfers of funds or programs as necessary. The office of financial management shall review statutes that authorize the programs identified under RCW 70.190.110 and suggest legislation to eliminate statutory requirements that may interfere with the administration of that policy.

[1994 sp.s. c 7 § 318.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

RCW 43.41.195 Community networks--Fund distribution formula.

(1) The office of financial management, in consultation with affected parties, shall establish a fund distribution formula for determining allocations to the community networks authorized under RCW 70.190.130. The formula shall reflect the local needs assessment for

at-risk children and consider:

- (a) The number of arrests and convictions for juvenile violent offenses;
 - (b) The number of arrests and convictions for crimes relating to juvenile drug offenses and alcohol-related offenses;
 - (c) The number of teen pregnancies and parents;
 - (d) The number of child and teenage suicides and attempted suicides; and
 - (e) The high school graduation rate.
- (2) In developing the formula, the office of financial management shall reserve five percent of the funds for the purpose of rewarding community networks.

(3) The reserve fund shall be used by the council to reward community networks that show exceptional reductions in: State-funded out-of-home placements, violent criminal acts by juveniles, substance abuse, teen pregnancy and male parentage, teen suicide attempts, or school dropout rates.

[1999 c 372 § 8; 1994 sp.s. c 7 § 319.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

**RCW 43.41.220 Review of boards and commissions by
governor--Report--Termination--Transfers.**

(1) The governor shall conduct a review of all of the boards and commissions identified under RCW 43.41.230 and, by January 8th of every odd-numbered year, submit to the legislature a report recommending which boards and commissions should be terminated or consolidated based upon the criteria set forth in subsection (3) of this section. The report must state which of the criteria were relied upon with respect to each recommendation. The governor shall submit an executive request bill by January 8th of every odd-numbered year to implement the recommendations by expressly terminating the appropriate boards and commissions and by providing for the transfer of duties and obligations under this section. The governor shall accept and review with special attention recommendations made, not later than June 1st of each even-numbered year, by the standing committees of the legislature in determining whether to include any board or commission in the report and bill required by this section.

(2) In addition to terminations and consolidations under subsection (1) of this section, the governor may recommend the transfer of duties and obligations from a board or commission to another existing state entity.

(3) In preparing his or her report and legislation, the governor shall make an evaluation based upon answers to the questions set forth in this subsection. The governor shall give these criteria priority in the order listed.

(a) Has the mission of the board or commission been completed or ceased to be critical to effective state government?

(b) Does the work of the board or commission directly affect public safety, welfare, or health?

(c) Can the work of the board or commission be effectively done by another state agency without adverse impact on public safety, welfare, or health?

(d) Will termination of the board or commission have a significant adverse impact on state revenue because of loss of federal funds?

(e) Will termination of the board or commission save revenues, be cost neutral, or result in greater expenditures?

(f) Is the work of the board or commission being done by another board, commission, or state agency?

(g) Could the work of the board or commission be effectively done by a nonpublic entity?

(h) Will termination of the board or commission result in a significant loss of expertise to state government?

(i) Will termination of the board or commission result in operational efficiencies that are other than fiscal in nature?

(j) Could the work of the board or commission be done by an ad hoc committee?

[1994 sp.s. c 9 § 873.]

Notes:

Declaration--Purpose--1994 sp.s. c 9: "The legislature declares there has been an excessive proliferation of boards and commissions within state government. These boards and commissions are often created without legislative review or input and without an assessment of whether there is a resulting duplication of purpose or process. Once created, they frequently duplicate the duties of existing governmental entities, create additional expense, and obscure responsibility. It has been difficult to control the growth of boards and commissions because of the many special interests involved. Accordingly, the legislature establishes the process in this chapter to eliminate redundant and obsolete boards and commissions and to restrict the establishment of new boards and commissions." [1994 sp.s. c 9 § 872.]

Effective date--1994 sp.s. c 9 §§ 872-876: "Sections 872 through 876 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 6, 1994]." [1994 sp.s. c 9 § 877.]

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

RCW 43.41.230 Boards and commissions reviewed--Exceptions.

The boards and commissions to be reviewed by the governor must be all entities that are required to be included in the list prepared by the office of financial management under RCW 43.88.505, other than entities established under: (1) Constitutional mandate; (2) court order or rule; (3) requirement of federal law; or (4) requirement as a condition of the state or a local government receiving federal financial assistance if, in the judgment of the governor, no other state agency, board, or commission would satisfy the requirement.

[1994 sp.s. c 9 § 874.]

Notes:

Declaration--Purpose--Effective date--1994 sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

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

RCW 43.41.240 Approval of board or commission not established or required by statute.

A new board or commission not established or required in statute that must be included in the report required by RCW 43.88.505 may not be established without the express approval of the director of financial management.

[1998 c 245 § 64; 1994 sp.s. c 9 § 875.]

Notes:

Declaration--Purpose--Effective date--1994 sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.
Severability--Headings and captions not law--Effective date--1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

RCW 43.41.250 Criteria for new board or commission not established or required by statute.

When acting on a request to establish a new board or commission under RCW 43.41.240, the director of the office of financial management shall consider the following criteria giving priority in the order listed:

- (1) If approval is critical to public safety, health, or welfare or to the effectiveness of state government;
 - (2) If approval will not result in duplication of the work or responsibilities of another governmental agency;
 - (3) If approval will not have a significant impact on state revenues;
 - (4) If approval is for a limited duration or on an ad hoc basis;
 - (5) If the work of the board or commission could be effectively done by a nonpublic entity;
 - (6) If approval will result in significant enhancement of expertise in state government;
- and
- (7) If approval will result in operational efficiencies other than fiscal savings.

[1994 sp.s. c 9 § 876.]

Notes:

Declaration--Purpose--Effective date--1994 sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.
Severability--Headings and captions not law--Effective date--1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

RCW 43.41.260 Monitoring enrollee level in basic health plan and medicaid caseload of children--Funding levels adjustment.

The health care authority, the office of financial management, and the department of social and health services shall together monitor the enrollee level in the basic health plan and the medicaid caseload of children funded from the health services account. The office of

financial management shall adjust the funding levels by interagency reimbursement of funds between the basic health plan and medicaid and adjust the funding levels between the health care authority and the medical assistance administration of the department of social and health services to maximize combined enrollment.

[1995 c 265 § 21.]

Notes:

Captions not law--Effective dates--Savings--Severability--1995 c 265: See notes following RCW 70.47.015.

RCW 43.41.270 Natural resource-related and environmentally based grant and loan programs--Administration and monitoring assistance--Report to legislative committees.

(1) The office of financial management shall assist natural resource-related agencies in developing outcome-focused performance measures for administering natural resource-related and environmentally based grant and loan programs. These performance measures are to be used in determining grant eligibility, for program management and performance assessment.

(2) The office of financial management and the governor's salmon recovery office shall assist natural resource-related agencies in developing recommendations for a monitoring program to measure outcome-focused performance measures required by this section. The recommendations must be consistent with the framework and coordinated monitoring strategy developed by the monitoring oversight committee established in RCW 77.85.210.

(3) Natural resource agencies shall consult with grant or loan recipients including local governments, tribes, nongovernmental organizations, and other interested parties, and report to the office of financial management on the implementation of this section. The office of financial management shall report to the appropriate legislative committees of the legislature on the agencies' implementation of this section, including any necessary changes in current law, and funding requirements by July 31, 2002. Natural resource agencies shall assist the office of financial management in preparing the report, including complying with time frames for submitting information established by the office of financial management.

(4) For purposes of this section, "natural resource-related agencies" include the department of ecology, the department of natural resources, the department of fish and wildlife, the state conservation commission, the interagency committee for outdoor recreation, the salmon recovery funding board, and the public works board within the department of community, trade, and economic development.

(5) For purposes of this section, "natural resource-related environmentally based grant and loan programs" includes the conservation reserve enhancement program; dairy nutrient management grants under chapter 90.64 RCW; state conservation commission water quality grants under chapter 89.08 RCW; coordinated prevention grants, public participation grants, and remedial action grants under RCW 70.105D.070; water pollution control facilities financing under chapter 70.146 RCW; aquatic lands enhancement grants under RCW 79.24.580; habitat grants under the Washington wildlife and recreation program under RCW 79A.15.040; salmon

recovery grants under chapter 77.85 RCW; and the public work[s] trust fund program under chapter 43.155 RCW. The term also includes programs administered by the department of fish and wildlife related to protection or recovery of fish stocks which are funded with moneys from the capital budget.

[2001 c 227 § 2.]

NOTES:

Findings--Intent--2001 c 227: "The legislature finds that the amount of overall requests for funding for natural resource-related programs in the capital budget has been steadily growing. The legislature also finds that there is an increasing interest by the public in examining the performance of the projects and programs to determine the return on their investments and that a coordinated and integrated response by state agencies will allow for better targeting of resources. The legislature further finds that there is a need to improve the data and the integration of data that is collected by state agencies and grant and loan recipients in order to better measure the outcomes of projects and programs. The legislature intends to begin implementing the recommendations contained in the joint legislative audit and review committee's report number 01-1 on investing in the environment in order to improve the efficiency, effectiveness, and accountability of these natural resource-related programs funded in the state capital budget." [2001 c 227 § 1.]

RCW 43.41.905 Interagency task force on unintended pregnancy.

The legislature finds that, according to the department of health's monitoring system, sixty percent of births to women on medicaid were identified as unintended by the women themselves. The director of the office of financial management shall establish an interagency task force on unintended pregnancy in order to:

- (1) Review existing research on the short and long-range costs;
- (2) Analyze the impact on the temporary assistance for needy families program; and
- (3) Develop and implement a state strategy to reduce unintended pregnancy.

[1997 c 58 § 1001.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 43.41.940 Central budget agency abolished.

On August 11, 1969, the central budget agency is abolished.

[1969 ex.s. c 239 § 17.]

RCW 43.41.950 Saving--1969 ex.s. c 239.

Nothing in this chapter shall be construed as affecting any existing rights acquired under the sections amended or repealed herein except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activities or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, resolution or order promulgated thereunder, nor any administrative action taken thereunder; nor shall the transfer of powers, duties and functions provided for herein affect the

validity of any act performed by such agency or any officer thereof prior to August 11, 1969.

[1969 ex.s. c 239 § 18.]

RCW 43.41.970 Federal requirements for receipt of federal funds.

If any part of this chapter is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict. No such ruling shall affect the operation of the remainder of this chapter. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state.

[1969 ex.s. c 239 § 20.]

RCW 43.41.980 Severability--1969 ex.s. c 239.

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

[1969 ex.s. c 239 § 21.]

**Chapter 43.43 RCW
WASHINGTON STATE PATROL**

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NOTES:

Abatement of certain structures, signs or devices on city streets, county roads or state highways as public nuisances, chief's duties relating to: RCW 47.36.180.

Abating as public nuisance signs erected or maintained contrary to highway advertising control act, chief's duties relating to: RCW 47.42.080.

Aircraft cost sharing: See 1990 c 298 § 4.

Amateur radio operators with special license plates, list of furnished to: RCW 46.16.340.

Authority: Chapter 10.93 RCW.

Chaplain authorized: RCW 41.22.020.

Civil disorder, use of patrol: RCW 43.06.270.

Control of traffic on capitol grounds, chief enforcing officer: RCW 46.08.160.

Coroner's report of deaths by vehicle accidents, to be made to: RCW 46.52.050.

Disturbances at state penal facilities

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Driver license fees for use of state patrol: RCW 46.68.041.

Enforcement of laws on limited access facilities, state patrol to have independent and concurrent jurisdiction: RCW 47.52.200.

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Funding, state patrol highway account: RCW 46.68.030.

Hazardous materials incident command agency, state patrol as: RCW 70.136.030.

Index cross-reference record of accidents of motor vehicle operators, chief to furnish: RCW 46.52.120.

Inspection of railroad company passenger-carrying vehicles by state patrol: RCW 81.61.040.

Insurance, group life, generally: RCW 48.24.090.

Intoxicating liquor, report of seizure: RCW 66.32.090.

Jurisdiction: Chapter 10.93 RCW.

Motor vehicle

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Portability of public retirement benefits: Chapter 41.54 RCW.

Private carrier drivers, rules: RCW 46.73.010.

Prohibited practices relating to motor vehicle inspection by members of: RCW 46.32.050.

School buses, regulations for design, marking and mode of operation, chief to advise on: RCW 46.61.380.

Snowmobile act enforcement: RCW 46.10.200.

State patrol highway account: RCW 46.68.030.

Teletypewriter communications network, powers and duties of chief: Chapter 43.89 RCW.

Towing operators, appointment by the state patrol: RCW 46.55.115.

Traffic safety commission, chief of state patrol member of: RCW 43.59.030.

Transportation of hazardous materials, chief's powers and duties relating to: RCW 46.48.170 through 46.48.180.

RCW 43.43.010 Patrol created.

There shall be a department of state government known as the "Washington state patrol." The chief thereof shall be known as the chief of the Washington state patrol, and members thereof shall be known as Washington state patrol officers.

[1965 c 8 § 43.43.010. Prior: 1933 c 25 § 1; RRS § 6362-59.]

RCW 43.43.015 Affirmative action.

For the purposes of this chapter, "affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

[1985 c 365 § 4.]

RCW 43.43.020 Appointment of personnel.

The governor, with the advice and consent of the senate, shall appoint the chief of the Washington state patrol, determine his compensation, and may remove him at will.

The chief shall appoint a sufficient number of competent persons to act as Washington state patrol officers, may remove them for cause, as provided in this chapter, and shall make promotional appointments, determine their compensation, and define their rank and duties, as

hereinafter provided.

The chief may appoint employees of the Washington state patrol to serve as special deputies, with such restricted police authority as the chief shall designate as being necessary and consistent with their assignment to duty. Such appointment and conferral of authority shall not qualify said employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

The chief may personally appoint, with the consent of the state treasurer, employees of the office of the state treasurer who are qualified under the standards of the criminal justice training commission, or who have comparable training and experience, to serve as special deputies. The law enforcement powers of any special deputies appointed in the office of the state treasurer shall be designated by the chief and shall be restricted to those powers necessary to provide for state-wide security of the holdings or property of or under the custody of the office of the state treasurer. These appointments may be revoked by the chief at any time and shall be revoked upon the written request of the state treasurer or by operation of law upon termination of the special deputy's employment with the office of the state treasurer or thirty days after the chief who made the appointment leaves office. The chief shall be civilly immune for the acts of such special deputies. Such appointment and conferral of authority shall not qualify such employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

[1983 c 144 § 1; 1981 c 338 § 4; 1973 1st ex.s. c 80 § 1; 1965 c 8 § 43.43.020. Prior: 1949 c 192 § 1; 1933 c 25 § 3; Rem. Supp. 1949 § 6362-61.]

Notes:

Civil service exemptions: RCW 41.06.070.

RCW 43.43.030 Powers and duties--Peace officers.

The chief and other officers of the Washington state patrol shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally, and such other powers and duties as are prescribed by law.

[1965 c 8 § 43.43.030. Prior: 1933 c 25 § 2; RRS § 6362-60.]

Notes:

General authority law enforcement agency: RCW 10.93.020.

RCW 43.43.035 Governor, lieutenant governor, and governor-elect--Security and protection--Duty to provide.

The chief of the Washington state patrol is directed to provide security and protection for the governor, the governor's family, and the lieutenant governor to the extent and in the manner the governor and the chief of the Washington state patrol deem adequate and appropriate.

In the same manner the chief of the Washington state patrol is directed to provide security and protection for the governor-elect from the time of the November election.

[1991 c 63 § 1; 1965 ex.s. c 96 § 1.]

RCW 43.43.037 Legislature--Security and protection--Duty to provide.

The chief of the Washington state patrol is directed to provide such security and protection for both houses of the legislative building while in session as in the opinion of the speaker of the house and the president of the senate may be necessary therefor upon the advice of the respective sergeant-at-arms of each legislative body.

[1965 ex.s. c 96 § 2.]

RCW 43.43.040 Disability of patrol officers.

(1) The chief of the Washington state patrol shall relieve from active duty Washington state patrol officers who, while in the performance of their official duties, or while on standby or available for duty, have been or hereafter may be injured or incapacitated to such an extent as to be mentally or physically incapable of active service: PROVIDED, That:

(a) Any officer disabled while performing line duty who is found by the chief to be physically incapacitated shall be placed on disability leave for a period not to exceed six months from the date of injury or the date incapacitated. During this period, the officer shall be entitled to all pay, benefits, insurance, leave, and retirement contributions awarded to an officer on active status, less any compensation received through the department of labor and industries. No such disability leave shall be approved until an officer has been unavailable for duty for more than forty consecutive work hours. Prior to the end of the six-month period, the chief shall either place the officer on disability status or return the officer to active status.

For the purposes of this section, "line duty" is active service which encompasses the traffic law enforcement duties and/or other law enforcement responsibilities of the state patrol. These activities encompass all enforcement practices of the laws, accident and criminal investigations, or actions requiring physical exertion or exposure to hazardous elements.

The chief shall define by rule the situations where a disability has occurred during line duty;

(b) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the officer receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability;

(c) An officer injured while engaged in willfully tortious or criminal conduct shall not be entitled to disability benefits under this section; and

(d) Should a disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty, engage in a gainful occupation, the chief shall reduce the amount of his retirement allowance to an amount which when added to the compensation earned by him in such occupation shall not exceed the basic salary currently being paid for the rank the retired officer held at the time he was disabled. All such disability beneficiaries under age fifty shall file with the chief every six months a signed and sworn statement of earnings and any person who

shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the chief may further alter his disability retirement allowance as indicated above. The failure of any officer to file the required statement of earnings shall be cause for cancellation of retirement benefits.

(2) Officers on disability status shall receive one-half of their compensation at the existing wage, during the time the disability continues in effect, less any compensation received through the department of labor and industries. They shall be subject to mental or physical examination at any state institution or otherwise under the direction of the chief of the patrol at any time during such relief from duty to ascertain whether or not they are able to resume active duty.

[1998 c 194 § 1; 1987 c 185 § 17; 1981 c 165 § 1; 1973 2nd ex.s. c 20 § 1; 1965 c 8 § 43.43.040. Prior: 1947 c 174 § 1; 1943 c 215 § 1; RRS § 6362-65.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Severability--1981 c 165: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 165 § 2.]

Effective date--1981 c 165: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect January 1, 1981." [1981 c 165 § 3.]

RCW 43.43.050 Tenure of patrol officers.

Washington state patrol officers shall be entitled to retain their ranks and positions until death or resignation, or until suspended, demoted, or discharged in the manner hereinafter provided.

[1965 c 8 § 43.43.050. Prior: 1943 c 205 § 1; Rem. Supp. 1943 § 6362-66.]

RCW 43.43.060 Suspension or demotion of probationary officers.

The chief of the Washington state patrol may suspend or demote any officer with probationary status, without preferring charges against the officer, and without a hearing.

[1984 c 141 § 1; 1965 c 8 § 43.43.060. Prior: 1943 c 205 § 2; Rem. Supp. 1943 § 6362-67.]

RCW 43.43.070 Discharge of probationary officers--Discharge, demotion, or suspension of nonprobationary officers--Complaint--Hearing.

Discharge of any officer with probationary status and discharge, demotion, or suspension of any officer with nonprobationary status shall be only for cause, which shall be clearly stated in a written complaint, sworn to by the person preferring the charges, and served upon the officer complained of.

Upon being so served, any such officer shall be entitled to a public hearing before a trial board consisting of two Washington state patrol officers of the rank of captain, and one officer of

equal rank with the officer complained of, who shall be selected by the chief of the Washington state patrol by lot from the roster of the patrol. In the case of complaint by an officer, such officer shall not be a member of the trial board.

[1984 c 141 § 2; 1965 c 8 § 43.43.070. Prior: 1943 c 205 § 3; Rem. Supp. 1943 § 6362-68.]

RCW 43.43.080 Criminal complaint--Authority to suspend officer--Hearing.

When the complaint served upon an officer is of a criminal nature calling for the discharge of the officer, the chief of the patrol may immediately suspend the officer without pay pending a trial board hearing. The board shall be convened no later than forty-five days from the date of suspension. However, this does not preclude the granting of a mutually agreed upon extension; in such cases the officer shall remain on suspension without pay.

An officer complained of may waive a hearing and accept the proposed discipline by written notice to the chief of the patrol.

[1989 c 28 § 1; 1965 c 8 § 43.43.080. Prior: 1943 c 205 § 4; Rem. Supp. 1943 § 6362-69.]

RCW 43.43.090 Procedure at hearing.

At the hearing, an administrative law judge appointed under chapter 34.12 RCW shall be the presiding officer, and shall make all necessary rulings in the course of the hearing, but shall not be entitled to vote.

The complainant and the officer complained of may submit evidence, and be represented by counsel, and a full and complete record of the proceedings, and all testimony, shall be taken down by a stenographer.

After hearing, the findings of the trial board shall be submitted to the chief. Such findings shall be final if the charges are not sustained. In the event the charges are sustained the chief may determine the proper disciplinary action and declare it by written order served upon the officer complained of.

[1989 c 28 § 2; 1984 c 141 § 3; 1965 c 8 § 43.43.090. Prior: 1943 c 205 § 5; Rem. Supp. 1943 § 6362-70.]

RCW 43.43.100 Review of order.

Any officer subjected to disciplinary action may, within ten days after the service of the order upon the officer, apply to the superior court of Thurston county for a writ of review to have the reasonableness and lawfulness of the order inquired into and determined.

The superior court shall review the determination of the chief of the Washington state patrol in a summary manner, based upon the record of the hearing before the trial board, and shall render its decision within ninety days, either affirming or reversing the order of the chief, or remanding the matter to the chief for further action. A transcript of the trial board hearing shall be provided to the court by the state patrol after being paid for by the officer subjected to disciplinary action. However, if the officer prevails before the court, the state patrol shall

reimburse the officer for the cost of the transcript.

[1984 c 141 § 4; 1965 c 8 § 43.43.100. Prior: 1943 c 205 § 6; Rem. Supp. 1943 § 6362-71.]

RCW 43.43.110 Reinstatement on acquittal.

If as a result of any trial board hearing, or review proceeding, an officer complained of is found not guilty of the charges against him, he shall be immediately reinstated to his former position, and be reimbursed for any loss of salary suffered by reason of the previous disciplinary action.

[1965 c 8 § 43.43.110. Prior: 1943 c 205 § 7; Rem. Supp. 1943 § 6362-72.]

RCW 43.43.112 Private law enforcement off-duty employment--Guidelines.

Washington state patrol officers may engage in private law enforcement off-duty employment in uniform for private benefit, subject to guidelines adopted by the chief of the Washington state patrol. These guidelines must ensure that the integrity and professionalism of the Washington state patrol is preserved. Use of Washington state patrol officer's uniforms shall be considered de minimis use of state property.

[1997 c 375 § 1.]

RCW 43.43.115 Real property--Sale of surplus at fair market value--Distribution of proceeds.

Whenever real property owned by the state of Washington and under the jurisdiction of the Washington state patrol is no longer required, it may be sold at fair market value. All proceeds received from the sale of real property, less any real estate broker commissions, shall be deposited into the state patrol highway account: PROVIDED, That if accounts or funds other than the state patrol highway account have contributed to the purchase or improvement of the real property, the office of financial management shall determine the proportional equity of each account or fund in the property and improvements, and shall direct the proceeds to be deposited proportionally therein.

[1993 c 438 § 1.]

RCW 43.43.120 Patrol retirement system--Definitions.

As used in the following sections, unless a different meaning is plainly required by the context:

- (1) "Retirement system" means the Washington state patrol retirement system.
- (2) "Retirement fund" means the Washington state patrol retirement fund.
- (3) "State treasurer" means the treasurer of the state of Washington.
- (4) "Member" means any person included in the membership of the retirement fund.

(5) "Employee" means any commissioned employee of the Washington state patrol.

(6)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrolmen; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehousemen.

(7) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(8) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(9) "Retirement board" means the board provided for in this chapter.

(10) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(11) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(12) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(13) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(14) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(15)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service

credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(16) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(17) Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

(18) "Director" means the director of the department of retirement systems.

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

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

(21) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(22) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(23)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001.

(b) "Salary," for members commissioned on or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay.

(24) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

[2001 c 329 § 3; 1999 c 74 § 1; 1983 c 81 § 1; 1982 1st ex.s. c 52 § 24; 1980 c 77 § 1; 1973 1st ex.s. c 180 § 1; 1969 c 12 § 1; 1965 c 8 § 43.43.120. Prior: 1955 c 244 § 1; 1953 c 262 § 1; 1951 c 140 § 1; 1947 c 250 § 1; Rem. Supp. 1947 § 6362-81.]

NOTES:

Effective date--2001 c 329: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 329 § 14.]

Effective date--1983 c 81: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1983." [1983 c 81 § 4.]

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction--1969 c 12: "The provisions of this 1969 amendatory act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as a part of this act." [1969 c 12 § 8.]

RCW 43.43.130 Retirement fund created--Membership.

(1) A Washington state patrol retirement fund is hereby established for members of the Washington state patrol which shall include funds created and placed under the management of a retirement board for the payment of retirement allowances and other benefits under the provisions hereof.

(2) Any employee of the Washington state patrol, upon date of commissioning, shall be eligible to participate in the retirement plan and shall start contributing to the fund immediately. Any employee of the Washington state patrol employed by the state of Washington or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington shall receive full credit for such prior service but after that date each new commissioned employee must automatically participate in the fund. If a member shall terminate service in the patrol and later reenter, he shall be treated in all respects as a new employee.

(3)(a) A member who reenters or has reentered service within ten years from the date of his termination, shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions, plus interest as determined by the director, which restoration must be completed within five years after resumption of service, be returned to the status of membership he earned at the time of termination.

(b) A member who does not meet the time limitations for restoration under (a) of this subsection, may restore the service credit destroyed by the withdrawn contributions by paying the amount required under RCW 41.50.165(2) prior to retirement.

(4)(a) An employee of the Washington state patrol who becomes a member of the retirement system after June 12, 1980, and who has service as a cadet in the patrol training program may make an irrevocable election to transfer the service to the retirement system. Any member upon making such election shall have transferred all existing service credited in a prior public retirement system in this state for periods of employment as a cadet. Transfer of credit under this subsection is contingent on completion of the transfer of funds specified in (b) of this subsection.

(b) Within sixty days of notification of a member's cadet service transfer as provided in (a) of this subsection, the department of retirement systems shall transfer the employee's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest.

(5) A member of the retirement system who has served or shall serve on active federal service in the armed forces of the United States pursuant to and by reason of orders by competent federal authority, who left or shall leave the Washington state patrol to enter such service, and who within one year from termination of such active federal service, resumes employment as a state employee, shall have his service in such armed forces credited to him as a member of the retirement system: PROVIDED, That no such service in excess of five years shall be credited unless such service was actually rendered during time of war or emergency.

(6) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, and who has prior service as a cadet in the public

employees' retirement system may make an irrevocable election to transfer such service to the retirement system within a period ending June 30, 1985, or, if not an active employee on July 1, 1983, within one year of returning to commissioned service, whichever date is later. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system which constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in this subsection for making the elective transfer.

(7) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, or who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system if they have not met the time limitations of subsection (6) of this section by paying the amount required under RCW 41.50.165(2) less the contributions transferred. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system that constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in subsection (6) of this section for making the elective transfer.

(8) An active employee of the Washington state patrol may establish up to six months' retirement service credit in the state patrol retirement system for any period of employment by the Washington state patrol as a cadet if service credit for such employment was not previously established in the public employees' retirement system, subject to the following:

(a) Certification by the patrol that such employment as a cadet was for the express purpose of receiving on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper.

(b) Payment by the member of employee contributions in the amount of seven percent of the total salary paid for each month of service to be established, plus interest at seven percent from the date of the probationary service to the date of payment. This payment shall be made by the member no later than July 1, 1988.

(c) If the payment required under (b) of this subsection was not made by July 1, 1988, the member may establish the probationary service by paying the amount required under RCW 41.50.165(2).

(d) A written waiver by the member of the member's right to ever establish the same service in the public employees' retirement system at any time in the future.

(9) The department of retirement systems shall make the requested transfer subject to the conditions specified in subsections (6) and (7) of this section or establish additional credit as provided in subsection (8) of this section. Employee contributions and credited interest transferred shall be credited to the employee's account in the Washington state patrol retirement system.

[1994 c 197 § 33; 1987 c 215 § 1; 1986 c 154 § 1; 1983 c 81 § 2; 1980 c 77 § 2; 1965 c 8 § 43.43.130. Prior: 1953 c 262 § 2; 1951 c 140 § 2; 1947 c 250 § 2; Rem. Supp. 1947 § 6362-82.]

Notes:

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Effective date--1987 c 215: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 215 § 3.]

Effective date--1983 c 81: See note following RCW 43.43.120.

RCW 43.43.135 Membership in more than one retirement system.

In any case where the Washington state patrol retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, an employee holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who is by reason of his current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan, shall be allowed membership rights should the agreement so provide.

[1965 c 8 § 43.43.135. Prior: 1951 c 140 § 10.]

RCW 43.43.137 Reestablishment of service credit by former members who are members of the public employees' retirement system--Conditions.

Former members of the retirement system established under this chapter who are currently members of the retirement system governed by chapter 41.40 RCW are permitted to reestablish service credit with the system subject to the following:

- (1) The former member must have separated and withdrawn contributions from the system prior to January 1, 1966, and not returned to membership since that date;
- (2) The former member must have been employed by the department of licensing, or its predecessor agency, in a capacity related to drivers' license examining within thirty days after leaving commissioned status with the state patrol; and
- (3) The former member must make payment to the system of the contributions withdrawn with interest at the rate set by the director from the date of withdrawal to the date of repayment. Such payment must be made no later than June 30, 1986.

[1986 c 154 § 2.]

RCW 43.43.138 Establishing, restoring service credit.

Notwithstanding any provision to the contrary, persons who fail to:

- (1) Establish allowable membership service not previously credited;
- (2) Restore all or a part of that previously credited membership service represented by withdrawn contributions; or
- (3) Restore service credit represented by a lump sum payment in lieu of benefits, before

the deadline established by statute, may do so under the conditions set forth in RCW 41.50.165.

[1998 c 17 § 5.]

RCW 43.43.139 Membership while serving as state legislator--Conditions.

Any member of the retirement system who, on or after January 1, 1995, is on leave of absence for the purpose of serving as a state legislator, may elect to continue to be a member of this retirement system. The member shall continue to receive service credit subject to the following:

(1) The member will not receive more than one month's service credit in a calendar month;

(2) Employer contributions shall be paid by the legislature;

(3) Contributions shall be based on the regular compensation which the member would have received had such a member not served in the legislature;

(4) The service and compensation credit under this section shall be granted only for periods during which the legislature is in session; and

(5) No service credit for service as a legislator will be allowed after a member separates from employment with the Washington state patrol.

[1997 c 123 § 1.]

RCW 43.43.142 Retirement board abolished--Transfer of powers, duties, and functions.

The retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems.

[1982 c 163 § 18.]

Notes:

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

RCW 43.43.165 Board may receive contributions from any source.

Contributions may be received by the Washington state patrol retirement board from any public or private source for deposit into the Washington state patrol retirement fund, and said contributions shall be dealt with in the same manner as other state patrol retirement funds and subject to the terms of the contribution.

[1965 c 8 § 43.43.165. Prior: 1955 c 244 § 4.]

RCW 43.43.220 Retirement fund--Expenses.

The Washington state patrol retirement fund shall be the fund from which shall be paid all retirement allowances or benefits in lieu thereof which are payable as provided herein. The

expenses of operating the retirement system shall be paid from appropriations made for the operation of the Washington state patrol.

[1989 c 273 § 25; 1973 1st ex.s. c 180 § 2; 1965 c 8 § 43.43.220. Prior: 1961 c 93 § 1; 1957 c 162 § 2; 1951 c 140 § 3; 1947 c 250 § 11; Rem. Supp. 1947 § 6362-91.]

Notes:

Severability--1989 c 273: See RCW 41.45.900.

RCW 43.43.230 Total service credit.

Subject to the provisions of RCW 43.43.260, at retirement, the total service credited to a member shall consist of all the member's current service and accredited prior service.

[1982 1st ex.s. c 52 § 25; 1965 c 8 § 43.43.230. Prior: 1953 c 262 § 3; 1947 c 250 § 12; Rem. Supp. 1947 § 6362-92.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 43.43.235 Service credit for paid leave of absence.

(1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided under the provisions of RCW 43.43.120 through 43.43.310.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement.

[2000 c 78 § 1.]

Notes:

Retroactive application--2000 c 78 § 1: "Section 1 of this act applies on a retroactive basis to members for whom compensation and hours were reported under the circumstances described in section 1 of this act. Section 1 of this act may also be applied on a retroactive basis to November 23, 1987, to members for whom compensation and hours would have been reported except for explicit instructions from the department of retirement systems."

[2000 c 78 § 2.]

RCW 43.43.240 Legal adviser.

The attorney general shall be the legal adviser of the retirement board.

[1965 c 8 § 43.43.240. Prior: 1947 c 250 § 13; Rem. Supp. 1947 § 6362-93.]

RCW 43.43.250 Retirement of members.

(1) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty: PROVIDED, That the requirement to retire at age sixty shall not apply to a member serving as chief of the Washington state patrol.

(2) Any member who has completed twenty-five years of credited service or has attained the age of fifty-five may apply to retire as provided in RCW 43.43.260, by completing and submitting an application form to the department, setting forth at what time the member desires to be retired.

[1982 1st ex.s. c 52 § 26; 1975-'76 2nd ex.s. c 116 § 1; 1969 c 12 § 3; 1965 c 8 § 43.43.250. Prior: 1963 c 175 § 1; 1957 c 162 § 3; 1951 c 140 § 4; 1947 c 250 § 14; Rem. Supp. 1947 § 6362-94.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction--1969 c 12: See note following RCW 43.43.120.

RCW 43.43.260 Benefits.

Upon retirement from service as provided in RCW 43.43.250, a member shall be granted a retirement allowance which shall consist of:

(1) A prior service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of prior service rendered by the member.

(2) A current service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of service rendered while a member of the retirement system.

(3)(a) Any member commissioned prior to January 1, 2003, with twenty-five years service in the Washington state patrol may have the member's service in the armed forces credited as a member whether or not the individual left the employ of the Washington state patrol to enter such armed forces: PROVIDED, That in no instance shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance, a member must restore all withdrawn accumulated contributions, which restoration must be completed on the date of the member's retirement, or as provided under RCW 43.43.130, whichever occurs first: AND PROVIDED FURTHER, That this section shall not apply to any individual, not a veteran within the meaning of RCW 41.06.150, as now or hereafter amended: AND PROVIDED FURTHER, That in no instance shall military service be credited to any member who is receiving full military retirement benefits pursuant to Title 10 United States Code, as now or hereafter amended.

(b) A member who leaves the Washington state patrol to enter the armed forces of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(i) The member qualifies for service credit under this subsection if:

(A) Within ninety days of the member's honorable discharge from the United States armed forces, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the United States armed forces; and

(B) The member makes the employee contributions required under RCW 41.45.0631 and 41.45.067 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(C) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2).

(ii) Upon receipt of member contributions under (b)(i)(B) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.45.060 for the period of military service, plus interest as determined by the department.

(iii) The contributions required under (b)(i)(B) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

(4) In no event shall the total retirement benefits from subsections (1), (2), and (3) of this section, of any member exceed seventy-five percent of the member's average final salary.

(5) Beginning July 1, 2001, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(a) The original dollar amount of the retirement allowance;

(b) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(c) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(d) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(i) Produce a retirement allowance which is lower than the original retirement allowance;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index for the Seattle-Tacoma-Bremerton Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

The provisions of this section shall apply to all members presently retired and to all members who shall retire in the future.

[2001 c 329 § 4; 1994 c 197 § 34; 1982 1st ex.s. c 52 § 27; 1973 1st ex.s. c 180 § 3; 1971 ex.s. c 278 § 1; 1969 c 12

§ 4; 1965 c 8 § 43.43.260. Prior: 1963 c 175 § 2; 1957 c 162 § 4; 1955 c 244 § 2; 1951 c 140 § 5; 1947 c 250 § 15; Rem. Supp. 1947 § 6362-95.]

NOTES:

Effective date--2001 c 329: See note following RCW 43.43.120.

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date--1971 ex.s. c 278: "This 1971 amendatory act shall have an effective date of July 1, 1971."
[1971 ex.s. c 278 § 2.]

Construction--1969 c 12: See note following RCW 43.43.120.

RCW 43.43.263 Effect of certain accumulated vacation leave on retirement benefits.

RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter.

[1983 c 283 § 5.]

RCW 43.43.264 Benefit calculation--Limitation.

(1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section.

[1995 c 145 § 4.]

RCW 43.43.270 Retirement allowances--Members commissioned before January 1, 2003.

For members commissioned prior to January 1, 2003:

(1) The normal form of retirement allowance shall be an allowance which shall continue as long as the member lives.

(2) If a member should die while in service the member's lawful spouse shall be paid an allowance which shall be equal to fifty percent of the average final salary of the member. If the member should die after retirement the member's lawful spouse shall be paid an allowance which shall be equal to the retirement allowance then payable to the member or fifty percent of the final average salary used in computing the member's retirement allowance, whichever is less. The allowance paid to the lawful spouse shall continue as long as the spouse lives: PROVIDED, That if a surviving spouse who is receiving benefits under this subsection marries another member of this retirement system who subsequently predeceases such spouse, the spouse shall then be entitled to receive the higher of the two survivors' allowances for which eligibility requirements were met, but a surviving spouse shall not receive more than one survivor's allowance from this system at the same time under this subsection. To be eligible for an allowance the lawful surviving spouse of a retired member shall have been married to the member prior to the member's retirement and continuously thereafter until the date of the

member's death or shall have been married to the retired member at least two years prior to the member's death.

(3) If a member should die, either while in service or after retirement, the member's surviving unmarried children under the age of eighteen years shall be provided for in the following manner:

(a) If there is a surviving spouse, each child shall be entitled to a benefit equal to five percent of the final average salary of the member or retired member. The combined benefits to the surviving spouse and all children shall not exceed sixty percent of the final average salary of the member or retired member; and

(b) If there is no surviving spouse or the spouse should die, the child or children shall be entitled to a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary of the member or retired member. Payments under this subsection shall be prorated equally among the children, if more than one.

(4) If a member should die in the line of duty while employed by the Washington state patrol, the member's surviving children under the age of twenty years and eleven months if attending any high school, college, university, or vocational or other educational institution accredited or approved by the state of Washington shall be provided for in the following manner:

(a) If there is a surviving spouse, each child shall be entitled to a benefit equal to five percent of the final average salary of the member. The combined benefits to the surviving spouse and all children shall not exceed sixty percent of the final average salary of the member;

(b) If there is no surviving spouse or the spouse should die, the unmarried child or children shall be entitled to receive a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary. Payments under this subsection shall be prorated equally among the children, if more than one; and

(c) If a beneficiary under this subsection reaches the age of twenty-one years during the middle of a term of enrollment the benefit shall continue until the end of that term.

(5) The provisions of this section shall apply to members who have been retired on disability as provided in RCW 43.43.040 if the officer was a member of the Washington state patrol retirement system at the time of such disability retirement.

[2001 c 329 § 6; 1989 c 108 § 1; 1984 c 206 § 1; 1982 1st ex.s. c 52 § 28; 1973 2nd ex.s. c 14 § 3; 1973 1st ex.s. c 180 § 4. Prior: 1969 c 12 § 6; 1965 c 8 § 43.43.270; prior: 1963 c 175 § 3; 1961 c 93 § 2; 1951 c 140 § 6; 1947 c 250 § 16; Rem. Supp. 1947 § 6362-96.]

NOTES:

Effective date--2001 c 329: See note following RCW 43.43.120.

Effective date--1989 c 108: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 108 § 2.]

Applicability--1984 c 206: "This act shall apply only to surviving spouses receiving benefits under RCW

43.43.270(2) on or after March 27, 1984. No surviving spouse whose benefits under RCW 43.43.270(2) were terminated before March 27, 1984, due to remarriage shall be governed by this act, and this act shall neither retroactively nor prospectively restore such terminated benefits. This act shall apply only to surviving unmarried children receiving benefits under RCW 43.43.270 (3) or (4) on or after March 27, 1984. No benefits shall be paid under RCW 43.43.270 (3)(b) or (4)(b) for any period before March 27, 1984." [1984 c 206 § 2.]

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction--1969 c 12: See note following RCW 43.43.120.

RCW 43.43.271 Retirement allowances--Members commissioned on or after January 1, 2003.

(1) A member commissioned on or after January 1, 2003, upon retirement for service as prescribed in RCW 43.43.250 or disability retirement under RCW 43.43.040, shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. However, if the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. This benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) No later than January 1, 2003, the department shall adopt rules that allow a member

additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

[2001 c 329 § 5.]

NOTES:

Effective date--2001 c 329: See note following RCW 43.43.120.

RCW 43.43.274 Minimum retirement allowance--Annual adjustment.

Effective January 1, 2003, the minimum retirement allowance under RCW 43.43.260 and 43.43.270(2) in effect on January 1, 2002, shall be increased by three percent. Each January 1st thereafter, the minimum retirement allowance of the preceding year shall be increased by three percent.

[2001 c 329 § 8; 1999 c 74 § 3; 1997 c 72 § 1.]

NOTES:

Effective date--2001 c 329: See note following RCW 43.43.120.

RCW 43.43.278 Retirement option.

By July 1, 2000, the department of retirement systems shall adopt rules that allow a member to select an actuarially equivalent retirement option that pays the member a reduced retirement allowance and upon death shall be continued throughout the life of a lawful surviving spouse. The continuing allowance to the lawful surviving spouse shall be subject to the yearly increase provided by RCW 43.43.260(5). The allowance to the lawful surviving spouse under this section, and the allowance for an eligible child or children under RCW 43.43.270, shall not be subject to the limit for combined benefits under RCW 43.43.270.

[2001 c 329 § 9; 2000 c 186 § 9; 1999 c 74 § 4.]

NOTES:

Effective date--2001 c 329: See note following RCW 43.43.120.

RCW 43.43.280 Repayment of contributions on death or termination of employment--Election to receive reduced retirement allowance at age fifty-five.

(1) If a member dies before retirement, and has no surviving spouse or children under the age of eighteen years, all contributions made by the member, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to such person or persons as the member shall have nominated by written designation duly executed and filed with the department, or if there be no such designated person or persons, then to the member's legal representative.

(2) If a member should cease to be an employee before attaining age sixty for reasons other than the member's death, or retirement, the individual shall thereupon cease to be a member except as provided under *RCW 43.43.130 (2) and (3) and, the individual may withdraw the member's contributions to the retirement fund, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, by making application therefor to the department, except that: A member who ceases to be an employee after having completed at least five years of service shall remain a member during the period of the member's absence from employment for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty, however such a member may upon written notice to the department elect to receive a reduced retirement allowance on or after age fifty-five which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions, the individual shall thereupon cease to be a member and this subsection shall not apply.

[1994 c 197 § 35; 1991 c 365 § 32; 1987 c 215 § 2; 1982 1st ex.s. c 52 § 29; 1973 1st ex.s. c 180 § 5; 1969 c 12 § 7; 1965 c 8 § 43.43.280. Prior: 1961 c 93 § 3; 1951 c 140 § 7; 1947 c 250 § 17; Rem. Supp. 1947 § 6363-97.]

Notes:

***Reviser's note:** RCW 43.43.130 was amended by 1994 c 197 § 33 changing subsections (2) and (3) to subsections (2), (3), and (4).

Intent--Severability--Effective date--1994 c 197: See notes following RCW 41.50.165.

Severability--1991 c 365: See note following RCW 41.50.500.

Effective date--1987 c 215: See note following RCW 43.43.130.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction--1969 c 12: See note following RCW 43.43.120.

RCW 43.43.285 Special death benefit--Death in the course of employment.

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) The benefit under this section shall be paid only where death occurs as a result of injuries sustained in the course of employment. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

[1996 c 226 § 2.]

Notes:

Effective date--1996 c 226: See note following RCW 41.26.048.

RCW 43.43.290 Status in case of disablement.

A person receiving benefits under RCW 43.43.040 will be a nonactive member. If any person who is or has been receiving benefits under RCW 43.43.040 returns or has returned to active duty with the Washington state patrol, the person shall become an active member of the retirement system on the first day of reemployment. The person may acquire service credit for the period of disablement by paying into the retirement fund all contributions required based on the compensation which would have been received had the person not been disabled. To acquire service credit, the person shall complete the required payment within five years of return to active service or prior to retirement, whichever occurs first. Persons who return to active service prior to July 1, 1982, shall complete the required payment within five years of July 1, 1982, or prior to retirement, whichever occurs first. No service credit for the disability period may be allowed unless full payment is made. Interest shall be charged at the rate set by the director of retirement systems from the date of return to active duty or from July 1, 1982, whichever is later, until the date of payment. The Washington state patrol shall pay into the retirement system the amount which it would have contributed had the person not been disabled. The payment shall become due and payable, in total, when the person makes the first payment. If the person fails to complete the full payment required within the time period specified, any payments made to the retirement fund under this section shall be refunded with interest and any payment by the Washington state patrol to the retirement fund for this purpose shall be refunded.

[1982 1st ex.s. c 52 § 30; 1965 c 8 § 43.43.290. Prior: 1947 c 250 § 18; Rem. Supp. 1947 § 6362-98.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 43.43.295 Accumulated contributions--Payment upon death of member.

(1) For members commissioned on or after January 1, 2003, except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of

the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 43.43.260, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 43.43.278 and if the member was not eligible for normal retirement at the date of death a further reduction from age fifty-five or when the member could have attained twenty-five years of service, whichever is less; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated under this section making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have

nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

[2001 c 329 § 7.]

NOTES:

Effective date--2001 c 329: See note following RCW 43.43.120.

RCW 43.43.310 Benefits exempt from taxation and legal process--Assignability--Exceptions--Deductions for group insurance premiums or for state patrol memorial foundation contributions.

(1) Except as provided in subsections (2) and (3) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington, or for contributions to the Washington state patrol memorial foundation.

[1991 c 365 § 23; 1989 c 360 § 29. Prior: 1987 c 326 § 25; 1987 c 63 § 1; 1982 1st ex.s. c 52 § 31; 1979 ex.s. c 205 § 8; 1977 ex.s. c 256 § 1; 1965 c 8 § 43.43.310; prior: 1951 c 140 § 8; 1947 c 250 § 20; Rem. Supp. 1947 § 6362-100.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

Effective date--1987 c 326: See RCW 41.50.901.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 43.43.320 Penalty for falsification.

Any person who knowingly makes any false statement or falsifies or permits to be falsified any record or records of the Washington state patrol retirement fund in any attempt to defraud such fund shall be guilty of a gross misdemeanor.

[1965 c 8 § 43.43.320. Prior: 1947 c 250 § 21; Rem. Supp. 1947 § 6362-101.]

RCW 43.43.330 Examinations for promotion.

Appropriate examinations shall be conducted for the promotion of commissioned patrol officers to the rank of sergeant and lieutenant. The examinations shall be prepared and conducted under the supervision of the chief of the Washington state patrol, who shall cause at least thirty days written notice thereof to be given to all patrol officers eligible for such examinations. The written notice shall specify the expected type of examination and relative weights to be assigned if a combination of tests is to be used. Examinations shall be given once every two years, or whenever the eligible list becomes exhausted as the case may be. After the giving of each such examination a new eligible list shall be compiled replacing any existing eligible list for such rank. Only grades attained in the last examination given for a particular rank shall be used in compiling each eligible list therefor. The chief, or in his discretion a committee of three individuals appointed by him, shall prepare and conduct the examinations, and thereafter grade and evaluate them in accordance with the following provisions, or factors: For promotion to the rank of sergeant or lieutenant, the examination shall consist of one or more of the following components: (1) Oral examination; (2) written examination; (3) service rating; (4) personnel record; (5) assessment center or other valid tests that measures the skills, knowledge, and qualities needed to perform these jobs. A cutoff score may be set for each testing component that allows only those scoring above the cutoff on one component to proceed to take a subsequent component.

[1993 c 155 § 1; 1985 c 4 § 1; 1969 ex.s. c 20 § 1; 1965 c 8 § 43.43.330. Prior: 1959 c 115 § 1; 1949 c 192 § 2; Rem. Supp. 1949 § 6362-61a.]

RCW 43.43.340 Eligible list, and promotions therefrom--Affirmative action.

(1) The names of all officers who have passed examinations satisfactorily shall be placed on an eligible list in the order of the grade attained in the examinations. The chief, or the committee mentioned in RCW 43.43.330 at the chief's request, may determine the lowest examination grade which will qualify an officer for inclusion of his or her name on an eligible list. Examination papers shall be graded promptly and an eligible list shall be made up immediately thereafter. All officers taking an examination shall be informed of the grade earned.

(2) After an eligible list is made up all promotions shall be made from the five top names on the applicable list, and if needed to comply with affirmative action goals three additional names referred under subsection (3) of this section. Not all three additional names need be promoted at the time they are referred and they may be referred more than once. Each officer shall be informed in writing as his or her name is included in the top five on an eligible list or referred under subsection (3) of this section. No officer whose name appears within the top five on any eligible list shall be passed over for promotion more than three times.

(3) If the vacancy to be filled is identified as part of the state patrol's affirmative action goals as established under its affirmative action plan, the chief may refer for consideration up to

three additional names per vacancy of individuals who are on the eligible list and who are members of one or more of the protected groups under Title VII of the 1964 Civil Rights Act and chapter 49.60 RCW, or for federal contract compliance purposes, veterans and disabled veterans as defined in the Vietnam Era Veterans Readjustment Act of 1974, Title 41 C.F.R., chapter 60, part 60-250.

The three additional names referred for each vacancy shall be the top three members of the protected groups designated by the chief for referral for that vacancy in accordance with the state patrol's affirmative action goals. These names shall be drawn in rank order from the remaining names of protected group members on the eligible list, after ranking by examination grade. For each vacancy, a total of three supplementary names may be referred.

(4) After having qualified for promotion hereunder an officer must pass a medical examination and must be certified as to physical fitness to perform the duties of the advanced position by one of three doctors designated by the chief of the Washington state patrol.

(5) The state patrol shall consult with the human rights commission in the development of rules pertaining to affirmative action. The state patrol shall transmit a report annually to the human rights commission which states the progress the state patrol has made in meeting affirmative action goals and timetables.

[1985 c 365 § 6; 1965 c 8 § 43.43.340. Prior: 1949 c 192 § 3; Rem. Supp. 1949 § 6362-61b.]

RCW 43.43.350 Determination of eligibility for examination for promotion.

Eligibility for examination for promotion shall be determined as follows:

Patrol officers with one year of probationary experience, in addition to three years experience as a regular patrolman before the date of the first examination occurrence, shall be eligible for examination for the rank of sergeant; patrol officers with one year of probationary experience in the rank of sergeant before the date of the first examination occurrence, in addition to two years as a regular sergeant, shall be eligible for examination for the rank of lieutenant.

[1998 c 193 § 1; 1969 ex.s. c 20 § 2; 1965 c 8 § 43.43.350. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

RCW 43.43.360 Probationary period.

All newly appointed or promoted officers shall serve a probationary period of one year after appointment or promotion, whereupon their probationary status shall terminate, and they shall acquire regular status in the particular grade, unless given notice in writing to the contrary by the chief prior to the expiration of the probationary period.

[1984 c 141 § 5; 1965 c 8 § 43.43.360. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

RCW 43.43.370 Staff or technical officers.

The chief of the Washington state patrol may appoint such staff or technical officers as he deems necessary for the efficient operation of the patrol, and he may assign whatever rank he

deems necessary to such staff or technical officers for the duration of their service as such.

Staff or technical officers may be returned to their line rank or position whenever the chief so desires. Staff or technical officers without line command assignment and whose duties are of a special or technical nature shall hold their staff or technical rank on a continuing probationary basis; however, such staff or technical officers, if otherwise eligible, shall not be prevented from taking the line promotion examinations, and qualifying for promotion whenever the examinations may be held.

If a staff or technical officer returns to line operations he shall return in the rank that he holds in the line command, unless promoted to a higher rank through examination and appointment as herein provided: PROVIDED, Nothing contained herein shall be construed as giving the chief the right to demote or to reduce the rank of any officer of the patrol who was holding such office on April 1, 1949.

[1965 c 8 § 43.43.370. Prior: 1949 c 192 § 5; Rem. Supp. 1949 § 6362-61d.]

RCW 43.43.380 Minimum salaries.

The minimum monthly salary paid to state patrol officers shall be as follows: Officers, three hundred dollars; staff or technical sergeants, three hundred twenty-five dollars; line sergeants, three hundred fifty dollars; lieutenants, three hundred seventy-five dollars; captains, four hundred twenty-five dollars.

[1965 c 8 § 43.43.380. Prior: 1949 c 192 § 6; Rem. Supp. 1949 § 6362-61e.]

RCW 43.43.390 Bicycle awareness program--Generally.

Bicycling is increasing in popularity as a form of recreation and as an alternative mode of transportation. To make bicycling safer, the various law enforcement agencies should enforce traffic regulations for bicyclists. By enforcing bicycle regulations, law enforcement officers are reinforcing educational programs. Bicycling takes more skill than most people realize. Since bicyclists have a low profile in traffic and are unprotected, they need more defensive riding skills than motorists do.

A bicycle awareness program is created within the Washington state patrol. In developing the curriculum for the bicycle awareness program the patrol shall consult with the traffic safety commission and with bicycling groups providing bicycle safety education. The patrol shall conduct the program in conjunction with the safety education officer program and may use other law enforcement personnel and volunteers to implement the program for children in grades kindergarten through six. The patrol shall ensure that each safety educator presenting the bicycle awareness program has received specialized training in bicycle safety education and has been trained in effective defensive bicycle riding skills.

[1991 c 214 § 1.]

Notes:

Bicycle transportation management program: RCW 47.04.190.

RCW 43.43.480 Routine traffic enforcement information--Report to the legislature.

(1) Beginning May 1, 2000, the Washington state patrol shall collect, and report semiannually to the criminal justice training commission, the following information:

(a) The number of individuals stopped for routine traffic enforcement, whether or not a citation or warning was issued;

(b) Identifying characteristics of the individual stopped, including the race or ethnicity, approximate age, and gender;

(c) The nature of the alleged violation that led to the stop;

(d) Whether a search was instituted as a result of the stop; and

(e) Whether an arrest was made, or a written citation issued, as a result of either the stop or the search.

(2) The criminal justice training commission and the Washington state patrol shall compile the information required under subsection (1) of this section and make a report to the legislature no later than December 1, 2000.

[2000 c 118 § 1.]

Notes:

Effective date--2000 c 118: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 24, 2000]." [2000 c 118 § 4.]

RCW 43.43.490 Routine traffic enforcement information--Data collection--Training materials on racial profiling.

(1) The Washington state patrol shall work with the criminal justice training commission and the Washington association of sheriffs and police chiefs to develop (a) further criteria for collection and evaluation of the data collected under RCW 43.43.480, and (b) training materials for use by the state patrol and local law enforcement agencies on the issue of racial profiling.

(2) The Washington state patrol, criminal justice training commission, and Washington association of sheriffs and police chiefs shall encourage local law enforcement agencies to voluntarily collect the data set forth under RCW 43.43.480(1).

[2000 c 118 § 2.]

Notes:

Effective date--2000 c 118: See note following RCW 43.43.480.

RCW 43.43.500 Crime information center--Established--Purpose--Functions.

There is established the Washington state crime information center to be located in the records division of the Washington state patrol and to function under the direction of the chief of the Washington state patrol. The center shall serve to coordinate crime information, by means of data processing, for all law enforcement agencies in the state. It shall make such use of the facilities of the law enforcement teletype system as is practical. It shall provide access to the national crime information center, to motor vehicle and driver license information, to the sex

offender central registry, and to such other public records as may be accessed by data processing and which are pertinent to law enforcement.

[1998 c 67 § 1; 1967 ex.s. c 27 § 1.]

Notes:

Effective date--1998 c 67: "This act takes effect June 30, 1999." [1998 c 67 § 3.]

RCW 43.43.510 Crime information center--Files of general assistance to law enforcement agencies established.

As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifying children whose parents, custodians, or legal guardians have reported as having run away from home or the custodial residence, identifiable stolen property, files maintaining the central registry of sex offenders required to register under chapter 9A.44 RCW, and such other files as may be of general assistance to law enforcement agencies.

[1998 c 67 § 2; 1995 c 312 § 45; 1967 ex.s. c 27 § 2.]

Notes:

Effective date--1998 c 67: See note following RCW 43.43.500.

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

RCW 43.43.530 Crime information center--Cost of terminal facilities.

The cost of additional terminal facilities necessary to gain access to the Washington state crime information center shall be borne by the respective agencies operating the terminal facilities.

[1967 ex.s. c 27 § 4.]

RCW 43.43.540 Sex offenders and kidnapping offenders--Central registry--Reimbursement to counties.

The county sheriff shall forward the information, photographs, and fingerprints obtained pursuant to RCW 9A.44.130, including any notice of change of address, to the Washington state patrol within five working days. The state patrol shall maintain a central registry of sex offenders and kidnapping offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the offender registration, including taking the fingerprints and the photographs.

[1998 c 220 § 4; 1997 c 113 § 6; 1990 c 3 § 403.]

Notes:

Severability--1998 c 220: See note following RCW 9A.44.130.

Findings--1997 c 113: See note following RCW 4.24.550.

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

Sex offense and kidnapping offense defined: RCW 9A.44.130.

RCW 43.43.550 Traffic safety education officers--Powers--Pay and reimbursement.

(1) The chief of the Washington state patrol shall designate twenty-four or more officers as traffic safety education officers. The chief of the Washington state patrol shall make the designations in a manner designed to ensure that the programs under subsection (2) of this section are reasonably available in all areas of the state.

(2) The chief of the Washington state patrol may permit these traffic safety education officers to appear in their off-duty hours in uniform to give programs in schools or the community on the duties of the state patrol, traffic safety, or crime prevention.

(3) The traffic safety education officers may accept such pay and reimbursement of expenses as are approved by the state patrol from the sponsoring organization.

(4) The state patrol is encouraged to work with community organizations to set up these programs state-wide.

[1984 c 217 § 1.]

RCW 43.43.560 Automatic fingerprint information system--Report.

(1) To support criminal justice services in the local communities throughout this state, the state patrol shall develop a plan for and implement an automatic fingerprint information system. In implementing the automatic fingerprint information system, the state patrol shall either purchase or lease the appropriate computer systems. If the state patrol leases a system, the lease agreement shall include purchase options. The state patrol shall procure the most efficient system available.

(2) The state patrol shall report on the automatic fingerprint information system to the legislature no later than January 1, 1987. The report shall include a time line for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management.

[1986 c 196 § 1.]

RCW 43.43.565 Automatic fingerprint information system account.

(1) The automatic fingerprint information system account is established in the custody of the state treasurer. Moneys in the account may be spent only for the purposes of purchasing or leasing automatic fingerprint information systems after appropriation by the legislature.

(2) Any moneys received by the state from bureau of justice assistance grants shall be deposited in the automatic fingerprint information system account if not inconsistent with the

terms of the grant.

[1986 c 196 § 2.]

RCW 43.43.570 Automatic fingerprint identification system--Conditions for local establishment or operation--Exemption--Rules.

(1) No local law enforcement agency may establish or operate an automatic fingerprint identification system unless:

(a) Both the hardware and software of the local system are compatible with the state system under RCW 43.43.560; and

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol automatic fingerprint identification system and transmit data to the Washington state patrol automatic fingerprint identification system.

(2) A local law enforcement agency operating an automatic fingerprint identification system shall transmit data on fingerprint entries to the Washington state patrol electronically by computer. This requirement shall be in addition to those under RCW 10.98.050 and 43.43.740.

(3) Counties or local agencies that purchased or signed a contract to purchase an automatic fingerprint identification system prior to January 1, 1987, are exempt from the requirements of this section. The Washington state patrol shall charge fees for processing latent fingerprints submitted to the patrol by counties or local jurisdictions exempted from the requirements of this section. The fees shall cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such fingerprints.

(4) The Washington state patrol shall adopt rules to implement this section.

[1987 c 450 § 1.]

RCW 43.43.600 Drug control assistance unit--Created.

There is hereby created in the Washington state patrol a drug control assistance unit.

[1970 ex.s. c 63 § 1.]

RCW 43.43.610 Drug control assistance unit--Duties.

The drug control assistance unit shall provide investigative assistance for the purpose of enforcement of the provisions of chapter 69.40 RCW.

[1983 c 3 § 107; 1980 c 69 § 1; 1970 ex.s. c 63 § 2.]

RCW 43.43.620 Drug control assistance unit--Additional duties--Information system on violations--Inter-unit communications network.

The drug control assistance unit shall:

(1) Establish a record system to coordinate with all law enforcement agencies in the state

a comprehensive system of information concerning violations of the narcotic and drug laws.

(2) Provide a communications network capable of interconnecting all offices and investigators of the unit.

[1970 ex.s. c 63 § 3.]

RCW 43.43.630 Drug control assistance unit--Use of existing facilities and systems.

In order to maximize the efficiency and effectiveness of state resources, the drug control assistance unit shall, where feasible, use existing facilities and systems.

[1970 ex.s. c 63 § 4.]

RCW 43.43.640 Drug control assistance unit--Certain investigators exempt from state civil service act.

Any investigators employed pursuant to RCW 43.43.610 shall be exempt from the state civil service act, chapter 41.06 RCW.

[1980 c 69 § 3; 1970 ex.s. c 63 § 5.]

RCW 43.43.650 Drug control assistance unit--Employment of necessary personnel.

The chief of the Washington state patrol may employ such criminalists, chemists, clerical and other personnel as are necessary for the conduct of the affairs of the drug control assistance unit.

[1970 ex.s. c 63 § 6.]

RCW 43.43.655 Drug control assistance unit--Special narcotics enforcement unit.

A special narcotics enforcement unit is established within the Washington state patrol drug control assistance unit. The unit shall be coordinated between the Washington state patrol, the attorney general, and the Washington association of sheriffs and police chiefs. The initial unit shall consist of attorneys, investigators, and the necessary accountants and support staff. It is the responsibility of the unit to: (1) Conduct criminal narcotic profiteering investigations and assist with prosecutions, (2) train local undercover narcotic agents, and (3) coordinate federal, state, and local interjurisdictional narcotic investigations.

[1989 c 271 § 235.]

NOTES:

Reviser's note: 1989 c 271 § 235 directed that this section be added to chapter 9A.82 RCW. Since this placement appears inappropriate, this section has been codified in chapter 43.43 RCW.

Severability--1989 c 271: See note following RCW 9.94A.510.

RCW 43.43.670 Bureau of forensic laboratory services--Powers--Priorities.

(1) There is created in the Washington state patrol a bureau of forensic laboratory services system which is authorized to:

(a) Provide laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime.

(b) Provide training assistance for local law enforcement personnel.

(c) Provide all necessary toxicology services requested by all coroners, medical examiners, and prosecuting attorneys.

(2) The bureau of forensic laboratory services shall assign priority to a request for services with due regard to whether the case involves criminal activity against persons. The Washington state forensic investigations council shall assist the bureau of forensic laboratory services in devising policies to promote the most efficient use of laboratory services consistent with this section. The forensic investigations council shall be actively involved in the preparation of the bureau of forensic laboratory services budget and shall approve the bureau of forensic laboratory services budget prior to its formal submission by the state patrol to the office of financial management pursuant to RCW 43.88.030.

[1999 c 40 § 6; 1995 c 398 § 1; 1980 c 69 § 2.]

Notes:

Effective date--1999 c 40: See note following RCW 43.103.010.

RCW 43.43.680 Controlled substance, simulator solution analysis--Prima facie evidence.

(1) In all prosecutions involving the analysis of a controlled substance or a sample of a controlled substance by the crime laboratory system of the state patrol, a certified copy of the analytical report signed by the supervisor of the state patrol's crime laboratory or the forensic scientist conducting the analysis is prima facie evidence of the results of the analytical findings.

(2) The defendant or a prosecutor may subpoena the forensic scientist who conducted the analysis of the substance to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if the subpoena is issued at least ten days prior to the trial date.

(3) In all prosecutions involving the analysis of a certified simulator solution by the Washington state toxicology laboratory of the University of Washington, a certified copy of the analytical report signed by the state toxicologist or the toxicologist conducting the analysis is prima facie evidence of the results of the analytical findings, and of certification of the simulator solution used in the BAC verifier datamaster or any other alcohol/breath-testing equipment subsequently adopted by rule.

(4) The defendant of a prosecution may subpoena the toxicologist who conducted the analysis of the simulator solution to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if thirty days prior to issuing the subpoena the defendant gives the state toxicologist notice of the defendant's intention to require the toxicologist's appearance.

[1994 c 271 § 501; 1992 c 129 § 1.]

Notes:

Purpose--Severability--1994 c 271: See notes following RCW 9A.28.020.

RCW 43.43.690 Crime laboratory analysis--Guilty persons to pay fee.

(1) When a person has been adjudged guilty of violating any criminal statute of this state and a crime laboratory analysis was performed by a state crime laboratory, in addition to any other disposition, penalty, or fine imposed, the court shall levy a crime laboratory analysis fee of one hundred dollars for each offense for which the person was convicted. Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay the fee.

(2) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of any criminal statute of this state and a crime laboratory analysis was performed, in addition to any other disposition imposed, the court shall assess a crime laboratory analysis fee of one hundred dollars for each adjudication. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee [if] it finds that the minor does not have the ability to pay the fee.

(3) All crime laboratory analysis fees assessed under this section shall be collected by the clerk of the court and forwarded to the state general fund, to be used only for crime laboratories. The clerk may retain five dollars to defray the costs of collecting the fees.

[1992 c 129 § 2.]

RCW 43.43.700 Identification, child abuse, vulnerable adult abuse, and criminal history section--Generally.

There is hereby established within the Washington state patrol a section on identification, child abuse, vulnerable adult abuse, and criminal history hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

The section shall also contain like information concerning persons, over the age of eighteen years, who have been found to have physically abused or sexually abused or exploited a child pursuant to a dependency proceeding under chapter 13.34 RCW, or to have abused or financially exploited a vulnerable adult pursuant to a protection proceeding under chapter 74.34 RCW.

[1998 c 141 § 2; 1989 c 334 § 6; 1987 c 486 § 9; 1985 c 201 § 7; 1984 c 17 § 17; 1972 ex.s. c 152 § 1.]

RCW 43.43.705 Identification data--Processing procedure--Definitions.

Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies, or to the department of social and health services, hereinafter referred to as the "department", a transcript of the criminal offender record information, dependency record information, or protection proceeding record information available pertaining to any person of whom the section has a record.

For the purposes of RCW 43.43.700 through 43.43.785 the following words and phrases shall have the following meanings:

"Criminal offender record information" includes, and shall be restricted to identifying data and public record information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal offender record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

"Dependency record information" includes and shall be restricted to identifying data regarding a person, over the age of eighteen, who was a party to a dependency proceeding brought under chapter 13.34 RCW and who has been found, pursuant to such dependency proceeding, to have sexually abused or exploited or physically abused a child.

"Protection proceeding record information" includes and shall be restricted to identifying data regarding a person, over eighteen, who was a respondent to a protection proceeding brought under chapter 74.34 RCW and who has been found pursuant to such a proceeding to have abused or financially exploited a vulnerable adult.

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in *RCW 43.43.760(3). The applicant may appeal such determination by notifying the chief in writing within thirty days. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW and in accordance with procedures for adjudicative proceedings under chapter 34.05 RCW.

[1999 c 151 § 1101; 1989 c 334 § 7; 1987 c 486 § 10; 1985 c 201 § 8; 1977 ex.s. c 314 § 14; 1972 ex.s. c 152 § 2.]

NOTES:

***Reviser's note:** RCW 43.43.760 was amended by 2001 c 217 § 3, changing subsection (3) to subsection (4).

Part headings not law--Effective date--1999 c 151: See notes following RCW 18.28.010.

RCW 43.43.710 Availability of information.

Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in the files of the section relative to criminal records and personal histories of persons arrested for the commission of a crime shall be available to all criminal justice agencies upon the filing of an application as provided in RCW 43.43.705.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43.705 to make application for it.

[1995 c 369 § 13; 1987 c 486 § 11; 1986 c 266 § 87; 1985 c 201 § 9; 1979 ex.s. c 36 § 7. Prior: 1977 ex.s. c 314 § 15; 1977 ex.s. c 30 § 1; 1972 ex.s. c 152 § 3.]

Notes:

Effective date--1995 c 369: See note following RCW 43.43.930.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 43.43.715 Identification--Cooperation with other criminal justice agencies.

The section shall, consistent with the procedures set forth in chapter 152, Laws of 1972 ex. sess., cooperate with all other criminal justice agencies, and the department, within or without the state, in an exchange of information regarding convicted criminals and those suspected of or wanted for the commission of crimes, and persons who are the subject of dependency record information or protection proceeding record information, to the end that proper identification may rapidly be made and the ends of justice served.

[1989 c 334 § 8; 1985 c 201 § 10; 1972 ex.s. c 152 § 4.]

RCW 43.43.720 Local identification and records systems--Assistance.

At the request of any criminal justice agency within this state, the section may assist such agency in the establishment of local identification and records systems.

[1972 ex.s. c 152 § 5.]

RCW 43.43.725 Records as evidence.

Any copy of a criminal offender record, photograph, fingerprint, or other paper or document in the files of the section, including dependency record information, certified by the chief or his designee to be a true and complete copy of the original or of information on file with the section, shall be admissible in evidence in any court of this state pursuant to the provisions of RCW 5.44.040.

[1985 c 201 § 11; 1972 ex.s. c 152 § 6.]

RCW 43.43.730 Records--Inspection--Requests for purge or modification--Appeals.

(1) Any individual shall have the right to inspect criminal offender record information, or dependency record information, on file with the section which refers to him. If an individual believes such information to be inaccurate or incomplete, he may request the section to purge, modify or supplement it and to advise such persons or agencies who have received his record and whom the individual designates to modify it accordingly. Should the section decline to so act, or should the individual believe the section's decision to be otherwise unsatisfactory, the individual may appeal such decision to the superior court in the county in which he is resident, or the county from which the disputed record emanated or Thurston county. The court shall in such case conduct a de novo hearing, and may order such relief as it finds to be just and equitable.

(2) The section may prescribe reasonable hours and a place for inspection, and may impose such additional restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them: PROVIDED, That the section may charge a reasonable fee for fingerprinting.

[1985 c 201 § 12; 1977 ex.s. c 314 § 16; 1972 ex.s. c 152 § 7.]

RCW 43.43.735 Photographing and fingerprinting--Powers and duties of law enforcement agencies, department of licensing, and courts--Other data.

(1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, to cause the photographing and fingerprinting of all adults and juveniles lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor. (a) When such juveniles are brought directly to a juvenile detention facility, the juvenile court administrator is also authorized, but not required, to cause the photographing, fingerprinting, and record transmittal to the appropriate law enforcement agency; and (b) a further exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.

(2) It shall be the right, but not the duty, of the sheriff or director of public safety of every county, and the chief of police of every city or town, and every chief officer of other law enforcement agencies operating within this state to photograph and record the fingerprints of all adults lawfully arrested, all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information.

(3) Such sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may record, in addition to photographs and fingerprints, the palmprints, soleprints, toeprints, or any other identification data of all persons whose photograph and fingerprints are required or allowed to be taken under this section, all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information, when in the discretion of such law enforcement officers it is

necessary for proper identification of the arrested person or the investigation of the crime with which he is charged.

(4) It shall be the duty of the department of health or the court having jurisdiction over the dependency action and protection proceedings under chapter 74.34 RCW to cause the fingerprinting of all persons who are the subject of a disciplinary board final decision, dependency record information, protection proceeding record information, or to obtain other necessary identifying information, as specified by the section in rules adopted under chapter 34.05 RCW to carry out the provisions of this subsection.

(5) The court having jurisdiction over the dependency or protection proceeding action may obtain and record, in addition to fingerprints, the photographs, palmprints, soleprints, toeprints, or any other identification data of all persons who are the subject of dependency record information or protection proceeding record information, when in the discretion of the court it is necessary for proper identification of the person.

[1991 c 3 § 297. Prior: 1989 c 334 § 9; 1989 c 6 § 2; prior: 1987 c 486 § 12; 1987 c 450 § 2; 1985 c 201 § 13; 1972 ex.s. c 152 § 8.]

RCW 43.43.740 Photographing and fingerprinting--Transmittal of data--Compliance audits.

(1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state to furnish within seventy-two hours from the time of arrest to the section the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to RCW 43.43.735.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. Said records shall remain in the possession of the law enforcement agency as part of the identification record and are not returnable to the subjects thereof.

(3) It shall be the duty of the court having jurisdiction over the dependency action to furnish dependency record information, obtained pursuant to RCW 43.43.735, to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a finding, pursuant to a dependency action brought under chapter 13.34 RCW, that a person over the age of eighteen, who is a party to the dependency action, has sexually abused or exploited or physically abused a child.

(4) The court having jurisdiction over the dependency or protection proceeding action may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. These records shall remain in the possession of the court as part of the identification record and are not returnable to the subjects thereof.

(5) It shall be the duty of a court having jurisdiction over the protection proceeding to furnish protection proceeding record information, obtained under RCW 43.43.735 to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court

enters a final order pursuant to a protection proceeding brought under chapter 74.34 RCW, that a person over the age of eighteen, who is the respondent to the protection proceeding, has abused or financially exploited a vulnerable adult as that term is defined in RCW 43.43.830.

(6) The section shall administer periodic compliance audits for the department of licensing and each court having jurisdiction over dependency and protection proceeding actions as defined in chapters 13.34 and 74.34 RCW, respectively. Such audits shall ensure that all dependency record information regarding persons over the age of eighteen years has been furnished to the section as required in subsection (3) of this section.

[1989 c 334 § 10. Prior: 1987 c 486 § 13; 1987 c 450 § 3; 1985 c 201 § 14; 1972 ex.s. c 152 § 9.]

RCW 43.43.742 Submission of fingerprints taken from persons for noncriminal purposes--Fees.

The Washington state patrol shall adopt rules concerning submission of fingerprints taken by local agencies after July 26, 1987, from persons for license application or other noncriminal purposes. The Washington state patrol may charge fees for submission of fingerprints which will cover as nearly as practicable the direct and indirect costs to the Washington state patrol of processing such submission.

[1987 c 450 § 4.]

RCW 43.43.745 Convicted persons, fingerprinting required, records--Furloughs, information to section, notice to local agencies--Arrests, disposition information--Convicts, information to section, notice to local agencies--Registration of sex offenders.

(1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.012 the department of corrections shall notify, thirty days prior to the beginning of such furlough, the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest Washington state patrol district facility in the county wherein the furloughed prisoner is to be residing, and other similar criminal justice agencies that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the thirty-day time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the

offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the state indeterminate sentence review board, or is discharged from custody on expiration of sentence, the department of corrections shall promptly notify the sheriff or director of public safety, the nearest Washington state patrol district facility, and other similar criminal justice agencies that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his or her release or discharge.

Local law enforcement agencies shall require persons convicted of sex offenses to register pursuant to RCW 9A.44.130. In addition, nothing in this section shall be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from registration pursuant to RCW 9A.44.130 which source may include any officer or other agency or subdivision of the state.

(5) The existence of the notice requirement in subsection (2) of this section will not require any extension of the release date in the event the release plan changes after notification.

[1994 c 129 § 7; 1993 c 24 § 1; 1990 c 3 § 409; 1985 c 346 § 6; 1973 c 20 § 1; 1972 ex.s. c 152 § 10.]

Notes:

Findings--Intent--1994 c 129: See note following RCW 4.24.550.

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

Construction--Prior rules and regulations--1973 c 20: See note following RCW 72.66.010.

RCW 43.43.750 Use of force to obtain identification information--Liability.

In exercising their duties and authority under RCW 43.43.735 and 43.43.740, the sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may, consistent with constitutional and legal requirements, use such reasonable force as is necessary to compel an unwilling person to submit to being photographed, or fingerprinted, or to submit to any other identification procedure, except interrogation, which will result in obtaining physical evidence serving to identify such person. No one having the custody of any person subject to the identification procedures provided for in chapter 152, Laws of 1972 ex. sess., and no one acting in his aid or under his direction, and no one concerned in such publication as is provided for in RCW 43.43.740, shall incur any liability, civil or criminal, for anything lawfully done in the exercise of the provisions of chapter 152, Laws of 1972 ex. sess.

[1972 ex.s. c 152 § 11.]

RCW 43.43.752 DNA identification system--Plan--Report.

(1) To support criminal justice services in the local communities throughout this state, the state patrol in consultation with the University of Washington school of medicine shall develop a

plan for and establish a DNA identification system. In implementing the plan, the state patrol shall purchase the appropriate equipment and supplies. The state patrol shall procure the most efficient equipment available.

(2) The DNA identification system as established shall be compatible with that utilized by the federal bureau of investigation.

(3) The state patrol and the University of Washington school of medicine shall report on the DNA identification system to the legislature no later than November 1, 1989. The report shall include a timeline for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management.

[1989 c 350 § 2.]

Notes:

Finding--1989 c 350: "The legislature finds that recent developments in molecular biology and genetics have important applications for forensic science. It has been scientifically established that there is a unique pattern to the chemical structure of the deoxyribonucleic acid (DNA) contained in each cell of the human body. The process for identifying this pattern is called "DNA identification."

The legislature further finds that the accuracy of identification provided by this method is superior to that of any presently existing technique and recognizes the importance of this scientific breakthrough in providing a reliable and accurate tool for the investigation and prosecution of sex offenses as defined in RCW 9.94A.030(26) and violent offenses as defined in RCW 9.94A.030(29)." [1989 c 350 § 1.]

Funding limitations--1989 c 350: "Any moneys received by the state from the federal bureau of justice assistance shall be used to conserve state funds if not inconsistent with the terms of the grant. To the extent that federal funds are available for the purposes of this act, state funds appropriated in this section shall lapse and revert to the general fund." [1989 c 350 § 8.]

RCW 43.43.754 DNA identification system--Sex offenders, blood analysis.

Every adult or juvenile individual convicted of a felony or adjudicated guilty of an equivalent juvenile offense defined as a sex offense under *RCW 9.94A.030(33)(a) or a violent offense as defined in RCW 9.94A.030 shall have a blood sample drawn for purposes of DNA identification analysis. For persons convicted of such offenses or adjudicated guilty of an equivalent juvenile offense who are serving or who are to serve a term of confinement in a county jail or detention facility, the county shall be responsible for obtaining blood samples either as part of the intake process into the county jail or detention facility for those persons convicted on or after July 25, 1999, or within a reasonable time after July 25, 1999, for those persons incarcerated prior to July 25, 1999, who have not yet had a blood sample drawn, beginning with those persons who will be released the soonest. For persons convicted of such offenses or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a division of juvenile rehabilitation facility, the facility holding the person shall be responsible for obtaining blood samples either as part of the intake process into such facility for those persons convicted on or after July 25, 1999, or within a reasonable time after July 25, 1999, for those persons incarcerated prior to July 25, 1999, who have not yet had a blood sample drawn, beginning with

those persons who will be released the soonest. Any blood sample taken pursuant to RCW 43.43.752 through 43.43.758 shall be used solely for the purpose of providing DNA or other blood grouping tests for identification analysis and prosecution of a sex offense or a violent offense.

This section applies to all adults who are convicted after July 1, 1990; and to all adults who were convicted on or prior to July 1, 1990, and who are still incarcerated on or after July 25, 1999. This section applies to all juveniles who are adjudicated guilty after July 1, 1994; and to all juveniles who were adjudicated guilty on or prior to July 1, 1994, and who are still incarcerated on or after July 25, 1999.

[1999 c 329 § 2; 1994 c 271 § 402; 1990 c 230 § 3; 1989 c 350 § 4.]

NOTES:

***Reviser's note:** RCW 9.94A.030 was amended by 1999 c 196 § 2, changing subsection (33) to subsection (36). RCW 9.94A.030 was subsequently amended by 2000 c 28 § 2, changing subsection (36) to subsection (37), effective July 1, 2001. RCW 9.94A.030 was subsequently amended by 2001 2nd sp.s. c 12 § 301, changing subsection (37) to subsection (38).

Findings--1999 c 329: "The legislature finds it necessary to expand the current pool of convicted offenders who must have a blood sample drawn for purposes of DNA identification analysis. The legislature further finds that there is a high rate of recidivism among certain types of violent and sex offenders and that drawing blood is minimally intrusive. Creating an expanded DNA data bank bears a rational relationship to the public's interest in enabling law enforcement to better identify convicted violent and sex offenders who are involved in unsolved crimes, who escape to reoffend, and who reoffend after release." [1999 c 329 § 1.]

Severability--1999 c 329: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1999 c 329 § 3.]

Finding--1994 c 271: "The legislature finds that DNA identification analysis is an accurate and useful law enforcement tool for identifying and prosecuting sexual and violent offenders. The legislature further finds no compelling reason to exclude juvenile sexual and juvenile violent offenders from DNA identification analysis." [1994 c 271 § 401.]

Purpose--Severability--1994 c 271: See notes following RCW 9A.28.020.

Finding--Funding limitations--1989 c 350: See notes following RCW 43.43.752.

RCW 43.43.756 DNA identification system--Analysis, assistance, and testimony services.

The state patrol in consultation with the University of Washington school of medicine may:

- (1) Provide DNA analysis services to law enforcement agencies throughout the state after July 1, 1990;
- (2) Provide assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court; and
- (3) Provide expert testimony in court on DNA evidentiary issues.

[1989 c 350 § 5.]

Notes:

Finding--Funding limitations--1989 c 350: See notes following RCW 43.43.752.

RCW 43.43.758 DNA identification system--Local law enforcement systems--Limitations.

(1) Except as provided in subsection (2) of this section, no local law enforcement agency may establish or operate a DNA identification system before July 1, 1990, and unless:

(a) The equipment of the local system is compatible with that of the state system under RCW 43.43.752;

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol DNA identification system and transmit data to the Washington state patrol DNA identification system; and

(c) The procedure and rules for the collection, analysis, storage, expungement, and use of DNA identification data do not conflict with procedures and rules applicable to the state patrol DNA identification system.

(2) Nothing in this section shall prohibit a local law enforcement agency from performing DNA identification analysis in individual cases to assist law enforcement officials and prosecutors in the preparation and use of DNA evidence for presentation in court.

[1990 c 230 § 2; 1989 c 350 § 6.]

Notes:

Finding--Funding limitations--1989 c 350: See notes following RCW 43.43.752.

RCW 43.43.759 DNA identification system--Rule-making requirements.

The Washington state patrol shall adopt rules to implement RCW 43.43.752 through 43.43.758. The rules shall prohibit the use of DNA identification data for any research or other purpose that is not related to a criminal investigation or to improving the operation of the system authorized by RCW 43.43.752 through 43.43.758.

[1990 c 230 § 1.]

RCW 43.43.760 Personal identification--Requests--Purpose--Applicants--Fee.

(1) Whenever a resident of this state appears before any law enforcement agency and requests an impression of his or her fingerprints to be made, such agency may comply with his or her request and make the required copies of the impressions on forms marked "Personal Identification". The required copies shall be forwarded to the section and marked "for personal identification only".

The section shall accept and file such fingerprints submitted voluntarily by such resident, for the purpose of securing a more certain and easy identification in case of death, injury, loss of memory, or other similar circumstances. Upon the request of such person, the section shall return his or her identification data.

(2) Whenever a person claiming to be a victim of identity theft appears before any law enforcement agency and requests an impression of his or her fingerprints to be made, such

agency may comply with this request and make the required copies of the impressions on forms marked "Personal Identification." The required copies shall be forwarded to the section and marked "for personal identification only."

The section shall accept and file such fingerprints submitted by such resident, for the purpose of securing a more certain and easy identification in cases of identity theft. The section shall provide a statement showing that the victim's impression of fingerprints has been accepted and filed with the section.

The statement provided to the victim shall state clearly in twelve-point print:

"The person holding this statement has claimed to be a victim of identity theft. Pursuant to chapter 9.35 RCW, a business is required by law to provide this victim with copies of all relevant application and transaction information related to the transaction being alleged as a potential or actual identity theft. A business must provide this information once the victim makes a request in writing, shows this statement, any government issued photo identification card, and a copy of a police report."

Upon the request of such person, the section shall return his or her identification data.

(3) Whenever any person is an applicant for appointment to any position or is an applicant for employment or is an applicant for a license to be issued by any governmental agency, and the law or a regulation of such governmental agency requires that the applicant be of good moral character or not have been convicted of a crime, or is an applicant for appointment to or employment with a criminal justice agency, or the department, the applicant may request any law enforcement agency to make an impression of his or her fingerprints to be submitted to the section. The law enforcement agency may comply with such request and make copies of the impressions on forms marked "applicant", and submit such copies to the section.

The section shall accept such fingerprints and shall cause its files to be examined and shall promptly send to the appointing authority, employer, or licensing authority indicated on the form of application, a transcript of the record of previous crimes committed by the person described on the data submitted, or a transcript of the dependency record information regarding the person described on the data submitted, or if there is no record of his or her commission of any crimes, or if there is no dependency record information, a statement to that effect.

(4) The Washington state patrol shall charge fees for processing of noncriminal justice system requests for criminal history record information pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such requests.

Any law enforcement agency may charge a fee not to exceed five dollars for the purpose of taking fingerprint impressions or searching its files of identification for noncriminal purposes.

[2001 c 217 § 3; 1985 c 201 § 15; 1983 c 184 § 1; 1972 ex.s. c 152 § 13.]

NOTES:

Captions not law--2001 c 217: See note following RCW 9.35.005.

Dissemination of information--Limitations--Disclaimer of liability: RCW 43.43.815.

RCW 43.43.765 Reports of transfer, release or changes as to committed or imprisoned persons--Records.

The principal officers of the jails, correctional institutions, state mental institutions and all places of detention to which a person is committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW for treatment or under a sentence of imprisonment for any crime as provided for in RCW 43.43.735 shall within seventy-two hours, report to the section, any interinstitutional transfer, release or change of release status of any person held in custody pursuant to the rules promulgated by the chief.

The principal officers of all state mental institutions to which a person has been committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW shall keep a record of the photographs, description, fingerprints, and other identification data as may be obtainable from the appropriate criminal justice agency.

[1990 c 3 § 131; 1983 c 3 § 108; 1972 ex.s. c 152 § 14.]

Notes:

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

RCW 43.43.770 Unidentified deceased persons.

It shall be the duty of the sheriff or director of public safety of every county, or the chief of police of every city or town, or the chief officer of other law enforcement agencies operating within this state, coroners or medical examiners, to record whenever possible the fingerprints and such other identification data as may be useful to establish identity, of all unidentified dead bodies found within their respective jurisdictions, and to furnish to the section all data so obtained. The section shall search its files and otherwise make a reasonable effort to determine the identity of the deceased and notify the contributing agency of the finding.

In all cases where there is found to exist a criminal record for the deceased, the section shall notify the federal bureau of investigation and each criminal justice agency, within or outside the state in whose jurisdiction the decedent has been arrested, of the date and place of death of decedent.

[1972 ex.s. c 152 § 15.]

RCW 43.43.775 Interagency contracts.

The legislative authority of any county, city or town may authorize its sheriff, director of public safety or chief of police to enter into any contract with another public agency which is necessary to carry out the provisions of chapter 152, laws of 1972 ex. sess.

[1972 ex.s. c 152 § 16.]

RCW 43.43.780 Transfer of records, data, equipment to section.

All fingerprint cards, photographs, file cabinets, equipment, and other records collected

and filed by the bureau of criminal identification, and now in the department of social and health services shall be transferred to the Washington state patrol for use by the section on identification created by chapter 152, Laws of 1972 ex. sess.

[1972 ex.s. c 152 § 17.]

RCW 43.43.785 Criminal justice services--Consolidation--Establishment of program.

The legislature finds that there is a need for the Washington state patrol to establish a program which will consolidate existing programs of criminal justice services within its jurisdiction so that such services may be more effectively utilized by the criminal justice agencies of this state. The chief shall establish such a program which shall include but not be limited to the identification section, all auxiliary systems including the Washington crime information center and the teletypewriter communications network, the drug control assistance unit, and any other services the chief deems necessary which are not directly related to traffic control.

[1999 c 151 § 1102; 1972 ex.s. c 152 § 18.]

Notes:

Part headings not law--Effective date--1999 c 151: See notes following RCW 18.28.010.

RCW 43.43.800 Criminal justice services programs--Duties of executive committee.

The executive committee created in RCW 10.98.160 shall review the provisions of RCW 43.43.700 through 43.43.785 and the administration thereof and shall consult with and advise the chief of the state patrol on matters pertaining to the policies of criminal justice services program.

[1999 c 151 § 1103; 1972 ex.s. c 152 § 21.]

Notes:

Part headings not law--Effective date--1999 c 151: See notes following RCW 18.28.010.

RCW 43.43.810 Obtaining information by false pretenses--Unauthorized use of information--Falsifying records--Penalty.

Any person who wilfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who wilfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with chapter 152, laws of 1972 ex. sess., or any member, officer, employee or agent of the section, the council or any participating agency, who wilfully falsifies criminal offender record information, or any records relating thereto, shall for each such offense be guilty of a misdemeanor.

[1977 ex.s. c 314 § 17; 1972 ex.s. c 152 § 23.]

RCW 43.43.815 Conviction record furnished to employer--Purposes--Notification to subject of record--Fees--Limitations--Injunctive relief, damages, attorneys' fees--Disclaimer of liability--Rules.

(1) Notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the Washington state patrol shall furnish a conviction record, as defined in RCW 10.97.030, pertaining to any person of whom the Washington state patrol has a record upon the written or electronic request of any employer for the purpose of:

(a) Securing a bond required for any employment;

(b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or

(c) Assisting an investigation of suspected employee misconduct where such misconduct may also constitute a penal offense under the laws of the United States or any state.

(2) When an employer has received a conviction record under subsection (1) of this section, the employer shall notify the subject of the record of such receipt within thirty days after receipt of the record, or upon completion of an investigation under subsection (1)(c) of this section. The employer shall make the record available for examination by its subject and shall notify the subject of such availability.

(3) The Washington state patrol shall charge fees for disseminating records pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the Washington state patrol of disseminating such records.

(4) Information disseminated pursuant to this section or RCW 43.43.760 shall be available only to persons involved in the hiring, background investigation, or job assignment of the person whose record is disseminated and shall be used only as necessary for those purposes enumerated in subsection (1) of this section.

(5) Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this section, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court finds that the defendant is violating or has violated any of the provisions of this section, it shall enjoin the defendant from a continuance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in the action is entitled to recover from the defendant the amount of the actual damages, if any, sustained by him if actual damages to the plaintiff are alleged and proved. In any suit brought to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability of a person or agency to criminal prosecution for a violation of chapter 10.97 RCW.

(6) Neither the section, its employees, nor any other agency or employee of the state is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information pursuant to this section or RCW 43.43.760.

(7) The Washington state patrol may adopt rules and forms to implement this section and to provide for security and privacy of information disseminated pursuant hereto, giving first priority to the criminal justice requirements of chapter 43.43 RCW. Such rules may include requirements for users, audits of users, and other procedures to prevent use of criminal history

record information inconsistent with this section.

(8) Nothing in this section shall authorize an employer to make an inquiry not otherwise authorized by law, or be construed to affect the policy of the state declared in RCW 9.96A.010, encouraging the employment of ex-offenders.

[1995 c 169 § 1; 1982 c 202 § 1.]

RCW 43.43.820 Stale records.

Stale records shall be destroyed in a manner to be prescribed by the chief.

[1972 ex.s. c 152 § 25.]

RCW 43.43.830 Background checks--Access to children or vulnerable persons--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.840.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults; or

(c) Any prospective adoptive parent, as defined in RCW 26.33.020.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication" means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In the case of vulnerable adults, civil adjudication means a specific court finding of abuse or financial exploitation in a protection proceeding under chapter 74.34 RCW. It does not include administrative proceedings. The term "civil adjudication" is further limited to court findings that identify as the perpetrator of the abuse a named individual, over the age of eighteen years, who was a party to the dependency or dissolution proceeding or was a respondent in a protection proceeding in which the finding was made and who contested the allegation of abuse or exploitation.

(4) "Conviction record" means "conviction record" information as defined in RCW

10.97.030(3) relating to a crime against children or other persons committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(7) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(8) "Disciplinary board final decision" means any final decision issued by a disciplining authority under chapter 18.130 RCW or the secretary of the department of health for the following businesses or professions:

- (a) Chiropractic;
- (b) Dentistry;
- (c) Dental hygiene;
- (d) Massage;
- (e) Midwifery;
- (f) Naturopathy;
- (g) Osteopathic medicine and surgery;
- (h) Physical therapy;
- (i) Physicians;
- (j) Practical nursing;
- (k) Registered nursing; and
- (l) Psychology.

"Disciplinary board final decision," for real estate brokers and salespersons, means any final decision issued by the director of the department of licensing for real estate brokers and salespersons.

(9) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(10) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

(11) "Financial exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(12) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults.

[1999 c 45 § 5; 1998 c 10 § 1; 1996 c 178 § 12; 1995 c 250 § 1; 1994 c 108 § 1; 1992 c 145 § 16. Prior: 1990 c 146 § 8; 1990 c 3 § 1101; prior: 1989 c 334 § 1; 1989 c 90 § 1; 1987 c 486 § 1.]

Notes:

Effective date--1996 c 178: See note following RCW 18.35.110.

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

At-risk children volunteer program: RCW 43.150.080.

Developmentally disabled persons: RCW 41.06.475.

State hospitals: RCW 72.23.035.

RCW 43.43.832 Background checks--Disclosure of information--Sharing of criminal background information by health care facilities.

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol criminal identification system shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions and any subsequent

criminal charges associated with the conduct that is the subject of the disciplinary board final decision.

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the department of social and health services must consider the information listed in subsection (1) of this section in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request

from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(7) If a federal bureau of investigation check is required in addition to the state background check by the department of social and health services, an applicant who is not disqualified based on the results of the state background check shall be eligible for a one hundred twenty day provisional approval to hire, pending the outcome of the federal bureau of investigation check. The department may extend the provisional approval until receipt of the federal bureau of investigation check. If the federal bureau of investigation check disqualifies an applicant, the department shall notify the requestor that the provisional approval to hire is withdrawn and the applicant may be terminated.

[2000 c 87 § 1; 1997 c 392 § 524; 1995 c 250 § 2; 1993 c 281 § 51; 1990 c 3 § 1102. Prior: 1989 c 334 § 2; 1989 c 90 § 2; 1987 c 486 § 2.]

Notes:

Short title--Findings--Construction--Conflict with federal requirements--Part headings and captions not law--1997 c 392: See notes following RCW 74.39A.009.

Effective date--1993 c 281: See note following RCW 41.06.022.

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

RCW 43.43.833 Background checks--State immunity.

If information is released under this chapter by the state of Washington, the state and its employees: (1) Make no representation that the subject of the inquiry has no criminal record or adverse civil or administrative decisions; (2) make no determination that the subject of the inquiry is suitable for involvement with a business or organization; and (3) are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information.

[1997 c 392 § 529.]

Notes:

Short title--Findings--Construction--Conflict with federal requirements--Part headings and captions not law--1997 c 392: See notes following RCW 74.39A.009.

RCW 43.43.834 Background checks by business, organization, or insurance company--Limitations--Civil liability.

(1) A business or organization shall not make an inquiry to the Washington state patrol under RCW 43.43.832 or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer, that an inquiry may be made.

(2) A business or organization shall require each applicant to disclose to the business or organization whether the applicant has been:

- (a) Convicted of any crime against children or other persons;
- (b) Convicted of crimes relating to financial exploitation if the victim was a vulnerable adult;
- (c) Convicted of crimes related to drugs as defined in RCW 43.43.830;
- (d) Found in any dependency action under RCW 13.34.040 to have sexually assaulted or exploited any minor or to have physically abused any minor;
- (e) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;
- (f) Found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person or to have abused or financially exploited any vulnerable adult; or
- (g) Found by a court in a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.

The disclosure shall be made in writing and signed by the applicant and sworn under penalty of perjury. The disclosure sheet shall specify all crimes against children or other persons and all crimes relating to financial exploitation as defined in RCW 43.43.830 in which the victim was a vulnerable adult.

(3) The business or organization shall pay such reasonable fee for the records check as the state patrol may require under RCW 43.43.838.

(4) The business or organization shall notify the applicant of the state patrol's response within ten days after receipt by the business or organization. The employer shall provide a copy

of the response to the applicant and shall notify the applicant of such availability.

(5) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited, except as provided in RCW 28A.320.155. A business or organization violating this subsection is subject to a civil action for damages.

(6) An insurance company shall not require a business or organization to request background information on any employee before issuing a policy of insurance.

(7) The business and organization shall be immune from civil liability for failure to request background information on an applicant unless the failure to do so constitutes gross negligence.

[1999 c 21 § 2; 1998 c 10 § 3; 1990 c 3 § 1103. Prior: 1989 c 334 § 3; 1989 c 90 § 3; 1987 c 486 § 3.]

Notes:

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

RCW 43.43.835 Background checks--Drug-related conviction information.

For purposes of background checks, convictions for crimes relating to drugs may be used as a tool for investigation and may be used for any decision regarding the person's suitability for a position in which the person may have unsupervised access to children or vulnerable adults.

[1998 c 10 § 2.]

RCW 43.43.836 Disclosure to individual of own record--Fee.

An individual may contact the state patrol to ascertain whether that same individual has a civil adjudication, disciplinary board final decision, or conviction record. The state patrol shall disclose such information, subject to the fee established under RCW 43.43.838.

[1987 c 486 § 4.]

RCW 43.43.838 Record checks--Transcript of conviction record, disciplinary board decision, criminal charges, or civil adjudication--Finding of no evidence, identification document--Immunity--Rules.

(1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or civil adjudication record pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

(a) The subject of the inquiry;

(b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;

(c) The department of social and health services;

(d) Any law enforcement agency, prosecuting authority, or the office of the attorney general; or

(e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in RCW 74.15.030(2)(b).

After processing the request, if the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or adjudication record shows no evidence of a crime against children or other persons or, in the case of vulnerable adults, no evidence of crimes relating to financial exploitation in which the victim was a vulnerable adult, an identification declaring the showing of no evidence shall be issued to the business or organization by the state patrol and shall be issued within fourteen working days of the request. The business or organization shall provide a copy of the identification declaring the showing of no evidence to the applicant. Possession of such identification shall satisfy future record check requirements for the applicant for a two-year period unless the prospective employee is any current school district employee who has applied for a position in another school district.

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the direct and indirect costs to the state patrol of disseminating the records: PROVIDED, That no fee shall be charged to a nonprofit organization for the records check: PROVIDED FURTHER, That in the case of record checks using fingerprints requested by school districts and educational service districts, the state patrol shall charge only for the incremental costs associated with checking fingerprints in addition to name and date of birth. Record checks requested by school districts and educational service districts using only name and date of birth shall continue to be provided free of charge.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the

state declared in chapter 9.96A RCW.

[1995 c 29 § 1; 1992 c 159 § 7; 1990 c 3 § 1104. Prior: 1989 c 334 § 4; 1989 c 90 § 4; 1987 c 486 § 5.]

Notes:

Findings--1992 c 159: See note following RCW 28A.400.303.

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

RCW 43.43.839 Fingerprint identification account.

The fingerprint identification account is created in the custody of the state treasurer. All receipts from incremental charges of fingerprint checks requested for noncriminal justice purposes and electronic background requests shall be deposited in the account. Receipts for fingerprint checks by the federal bureau of investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the chief of the state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. No appropriation is required for expenditures prior to July 1, 1997. After June 30, 1997, the account shall be subject to appropriation.

[1995 c 169 § 2; 1992 c 159 § 8.]

Notes:

Findings--1992 c 159: See note following RCW 28A.400.303.

RCW 43.43.840 Notification of physical or sexual abuse or exploitation of child or vulnerable adult--Notification of employment termination because of crimes against persons.

(1) The supreme court shall by rule require the courts of the state to notify the state patrol of any dependency action under RCW 13.34.040, domestic relations action under Title 26 RCW, or protection action under chapter 74.34 RCW, in which the court makes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(2) The department of licensing shall notify the state patrol of any disciplinary board final decision that includes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(3) When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the state board of education, the business or organization shall notify the licensing agency of such termination of employment.

[1997 c 386 § 40. Prior: 1989 c 334 § 5; 1989 c 90 § 5; 1987 c 486 § 6.]

RCW 43.43.842 Vulnerable adults--Additional licensing requirements for agencies, facilities, and individuals providing services.

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not have been: (i) Convicted of a crime against persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; (iii) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or (iv) the subject in a protective proceeding under chapter 74.34 RCW.

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

The offenses set forth in (a) through (e) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction

record and the protection proceeding record information under this chapter of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose.

[1998 c 10 § 4; 1997 c 392 § 518; 1992 c 104 § 1; 1989 c 334 § 11.]

Notes:

Short title--Findings--Construction--Conflict with federal requirements--Part headings and captions not law--1997 c 392: See notes following RCW 74.39A.009.

RCW 43.43.845 Crimes against children--Notification of conviction or guilty plea of school employee.

(1) Upon a guilty plea or conviction of a person of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW 9A.64.030, the prosecuting attorney shall determine whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district. If the person is employed by a school district or holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person who has a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall immediately transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction to provide this information to the state board of education and the school district employing the individual who pled guilty or was convicted of the crimes identified in subsection (1) of this section.

[1990 c 33 § 577; 1989 c 320 § 6.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.
Severability--1989 c 320: See note following RCW 28A.410.090.

RCW 43.43.850 Organized crime intelligence unit--Created.

There is hereby created in the Washington state patrol an organized crime intelligence unit which shall be under the direction of the chief of the Washington state patrol.

[1973 1st ex.s. c 202 § 1.]

RCW 43.43.852 "Organized crime" defined.

For the purposes of RCW 43.43.850 through 43.43.864 "organized crime" means those activities which are conducted and carried on by members of an organized, disciplined association, engaged in supplying illegal goods and services and/or engaged in criminal activities in contravention of the laws of this state or of the United States.

[1973 1st ex.s. c 202 § 2.]

RCW 43.43.854 Powers and duties of organized crime intelligence unit.

The organized crime intelligence unit shall collect, evaluate, collate, and analyze data and specific investigative information concerning the existence, structure, activities and operations of organized crime and the participants involved therein; coordinate such intelligence data into a centralized system of intelligence information; furnish and exchange pertinent intelligence data with law enforcement agencies and prosecutors with such security and confidentiality as the chief of the Washington state patrol may determine; develop intelligence data concerning the infiltration of organized crime into legitimate businesses within the state of Washington and furnish pertinent intelligence information thereon to law enforcement agencies and prosecutors in affected jurisdictions; and may assist law enforcement agencies and prosecutors in developing evidence for purposes of criminal prosecution of organized crime activities upon request.

[1973 1st ex.s. c 202 § 3.]

RCW 43.43.856 Divulging investigative information prohibited--Confidentiality--Security of records and files.

(1) On and after April 26, 1973 it shall be unlawful for any person to divulge specific investigative information pertaining to activities related to organized crime which he has obtained by reason of public employment with the state of Washington or its political subdivisions unless such person is authorized or required to do so by operation of state or federal law. Any person violating this subsection shall be guilty of a felony.

(2) Except as provided in RCW 43.43.854, or pursuant to the rules of the supreme court of Washington, all of the information and data collected and processed by the organized crime intelligence unit shall be confidential and not subject to examination or publication pursuant to chapter 42.17 RCW (Initiative Measure No. 276).

(3) The chief of the Washington state patrol shall prescribe such standards and procedures relating to the security of the records and files of the organized crime intelligence unit, as he deems to be in the public interest with the advice of the governor and the board.

[1973 1st ex.s. c 202 § 4.]

RCW 43.43.858 Organized crime advisory

board--Created--Membership--Meetings--Travel expenses.

There is hereby created the organized crime advisory board of the state of Washington. The board shall consist of fourteen voting and two nonvoting members.

The lieutenant governor shall appoint four members of the senate to the board, no more than two of whom shall be from the same political party.

The governor shall appoint six members to the board. Two members shall be county prosecuting attorneys and shall be appointed from a list of four county prosecutors agreed upon and submitted to the governor by the elected county prosecutors. One member shall be a municipal police chief, and one member shall be a county sheriff, both of whom shall be appointed from a list of three police chiefs and three sheriffs agreed upon and submitted to the governor by the association of sheriffs and police chiefs (RCW 36.28A.010). One member shall be a retired judge of a court of record. One member shall be the secretary of corrections or the secretary's designee.

The United States attorneys for the western and eastern districts of Washington shall be requested to serve on the board as nonvoting members and shall not be eligible to serve as chairperson.

The speaker of the house shall appoint four members of the house of representatives to the board, no more than two of whom shall be from the same political party.

The members of the board shall be qualified on the basis of knowledge and experience in matters relating to crime prevention and security or with such other abilities as may be expected to contribute to the effective performance of the board's duties. The members of the board shall meet with the chief of the Washington state patrol at least four times a year to perform the duties enumerated in RCW 43.43.862 and to discuss any other matters related to organized crime. Additional meetings of the board may be convened at the call of the chairperson or by a majority of the members. The board shall elect its own chairperson from among its members. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120, and the other members in accordance with RCW 43.03.050 and 43.03.060.

[2000 c 38 § 1; 1987 c 65 § 1; 1980 c 146 § 14; 1975-'76 2nd ex.s. c 34 § 115; 1973 1st ex.s. c 202 § 5.]

Notes:

Severability--1980 c 146: See RCW 10.29.900.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.
State-wide special inquiry judge act: Chapter 10.29 RCW.

RCW 43.43.860 Organized crime advisory board--Terms of members.

The term of each legislative member shall be two years and shall be conditioned upon such member retaining membership in the legislature and in the same political party of which he was a member at the time of appointment.

The term of each nonlegislative member shall be two years and shall be conditioned upon such member retaining the official position from which he was appointed.

[1987 c 65 § 2; 1980 c 146 § 15; 1973 1st ex.s. c 202 § 6.]

Notes:

Severability--1980 c 146: See RCW 10.29.900.

RCW 43.43.862 Organized crime advisory board--Powers and duties.

The board shall:

- (1) Advise the governor on the objectives, conduct, management, and coordination of the various activities encompassing the overall state-wide organized crime intelligence effort;
- (2) Conduct a continuing review and assessment of organized crime and related activities in which the organized crime intelligence unit of the Washington state patrol is engaged;
- (3) Receive, consider and take appropriate action with respect to matters related to the board by the organized crime intelligence unit of the Washington state patrol in which the support of the board will further the effectiveness of the state-wide organized crime intelligence effort; and
- (4) Report to the governor concerning the board's findings and appraisals, and make appropriate recommendations for actions to achieve increased effectiveness of the state's organized crime intelligence effort in meeting state and national organized crime intelligence needs.

[1973 1st ex.s. c 202 § 7.]

RCW 43.43.864 Information to be furnished board--Security--Confidentiality.

In order to facilitate performance of the board's functions, the chief of the Washington state patrol shall make available to the board all information with respect to organized crime and related matters which the board may require for the purpose of carrying out its responsibilities to the governor in accordance with the provisions of RCW 43.43.850 through 43.43.864. Such information made available to the board shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and regulations and shall not be revealed or divulged publicly or privately by members of the board.

[1973 1st ex.s. c 202 § 8.]

RCW 43.43.866 Organized crime prosecution revolving fund.

There shall be a fund known as the organized crime prosecution revolving fund which shall consist of such moneys as may be appropriated by law. The state treasurer shall be custodian of the revolving fund. Disbursements from the revolving fund shall be subject to budget approval given by the organized crime advisory board pursuant to RCW 10.29.090, and may be made either on authorization of the governor or the governor's designee, or upon request of a majority of the members of the organized crime advisory board. In order to maintain an effective expenditure and revenue control, the organized crime prosecution revolving fund shall

be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from the fund.

[1980 c 146 § 16.]

Notes:

Severability--1980 c 146: See RCW 10.29.900.

RCW 43.43.870 Missing children clearinghouse and hot line, duties of state patrol.

See chapter 13.60 RCW.

RCW 43.43.880 Agreements with contiguous states--Jointly occupied ports of entry--Collection of fees and taxes.

The Washington state patrol may negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees, and taxes that may be required by statute or rule. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size, and weight statutes or rules of the respective states.

[1988 c 21 § 1.]

RCW 43.43.900 Severability--1969 c 12.

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

[1969 c 12 § 9.]

RCW 43.43.910 Severability--1972 ex.s. c 152.

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

[1972 ex.s. c 152 § 22.]

RCW 43.43.911 Severability--1973 1st ex.s. c 202.

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

[1973 1st ex.s. c 202 § 9.]

RCW 43.43.930 State fire protection services--Intent.

The legislature finds that fire protection services at the state level are provided by different, independent state agencies. This has resulted in a lack of a comprehensive state-level focus for state fire protection services, funding, and policy. The legislature further finds that the paramount duty of the state in fire protection services is to enhance the capacity of all local jurisdictions to assure that their personnel with fire suppression, prevention, inspection, origin and cause, and arson investigation responsibilities are adequately trained to discharge their responsibilities. It is the intent of the legislature to consolidate fire protection services into a single state agency and to create a state board with the responsibility of (1) establishing a comprehensive state policy regarding fire protection services and (2) advising the chief of the Washington state patrol and the director of fire protection on matters relating to their duties under state law. It is also the intent of the legislature that the fire protection services program created herein will assist local fire protection agencies in program development without encroaching upon their historic autonomy. It is the further intent of the legislature that the fire protection services program be implemented incrementally to assure a smooth transition, to build local, regional, and state capacity, and to avoid undue burdens on jurisdictions with limited resources.

[1995 c 369 § 14; 1993 c 280 § 68; 1986 c 266 § 54. Formerly RCW 43.63A.300.]

Notes:

Application--1995 c 369: "This act does not apply to forest fire service personnel and programs." [1995 c 369 § 70.]

Effective date--1995 c 369: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 369 § 72.]

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability--1986 c 266: See note following RCW 38.52.005.

State fire protection: Chapter 48.48 RCW.

RCW 43.43.932 State fire protection policy board--Created--Members.

There is created the state fire protection policy board consisting of eight members appointed by the governor:

- (1) One representative of fire chiefs;
- (2) One insurance industry representative;
- (3) One representative of cities and towns;
- (4) One representative of counties;
- (5) One full-time, paid, career fire fighter;
- (6) One volunteer fire fighter;
- (7) One representative of fire commissioners; and

(8) One representative of fire control programs of the department of natural resources.

In making the appointments required under subsections (1) through (7) [(8)] of this section, the governor shall (a) seek the advice of and consult with organizations involved in fire protection; and (b) ensure that racial minorities, women, and persons with disabilities are represented.

The terms of the appointed members of the board shall be three years and until a successor is appointed and qualified. However, initial board members shall be appointed as follows: Three members to terms of one year, three members to terms of two years, and four members to terms of three years. In the case of a vacancy of a member appointed under subsections (1) through (7) [(8)] of this section, the governor shall appoint a new representative to fill the unexpired term of the member whose office has become vacant. A vacancy shall occur whenever an appointed member ceases to be employed in the occupation the member was appointed to represent. The members of the board appointed pursuant to subsections (1) and (5) of this section and holding office on July 1, 1995, shall serve the remainder of their terms, and the reduction of the board required by section 15, chapter 369, Laws of 1995, shall occur upon the expiration of their terms.

The appointed members of the board shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

The board shall select its own chairperson and shall meet at the request of the governor or the chairperson and at least four times per year.

[1995 c 369 § 15; 1986 c 266 § 55. Formerly RCW 43.63A.310.]

Notes:

Application--Effective date--1995 c 369: See notes following RCW 43.43.930.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 43.43.934 State fire protection policy board--Duties--Fire training and education master plan--Fire protection master plan.

Except for matters relating to the statutory duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection, the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board shall:

(1)(a) Adopt a state fire training and education master plan that allows to the maximum feasible extent for negotiated agreements: (i) With the state board for community and technical colleges to provide academic, vocational, and field training programs for the fire service and (ii) with the higher education coordinating board and the state colleges and universities to provide instructional programs requiring advanced training, especially in command and management skills;

(b) Adopt minimum standards for each level of responsibility among personnel with fire suppression, prevention, inspection, and investigation responsibilities that assure continuing assessment of skills and are flexible enough to meet emerging technologies. With particular

respect to training for fire investigations, the master plan shall encourage cross training in appropriate law enforcement skills. To meet special local needs, fire agencies may adopt more stringent requirements than those adopted by the state;

(c) Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

(d) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of chapter 43.19 RCW;

(e) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law; and

(f) Develop and adopt a plan with a goal of providing training at the level of fire fighter one, as defined by the board, to all fire fighters in the state. The plan will include a reimbursement for fire protection districts and city fire departments of not less than two dollars for every hour of fire fighter one training. The Washington state patrol shall not provide reimbursement for more than one hundred fifty hours of fire fighter one training for each fire fighter trained.

(2) In addition to its responsibilities for fire service training, the board shall:

(a) Adopt a state fire protection master plan;

(b) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens including: (i) The comprehensiveness of state and local inspections required by law for fire and life safety; (ii) the level of skills and training of inspectors, as well as needs for additional training; and (iii) the efforts of local, regional, and state inspection agencies to improve coordination and reduce duplication among inspection efforts;

(c) Establish and promote state arson control programs and ensure development of local arson control programs;

(d) Provide representation for local fire protection services to the governor in state-level fire protection planning matters such as, but not limited to, hazardous materials control;

(e) Recommend to the adjutant general rules on minimum information requirements of automatic location identification for the purposes of enhanced 911 emergency service;

(f) Seek and solicit grants, gifts, bequests, devises, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;

(g) Promote mutual aid and disaster planning for fire services in this state;

(h) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention; and

(i) Implement any legislation enacted by the legislature to meet the requirements of any acts of congress that apply to this section.

(3) In carrying out its statutory duties, the board shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the board shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs.

[1999 c 117 § 1; 1999 c 24 § 3; 1998 c 245 § 65. Prior: 1995 c 369 § 16; 1995 c 243 § 11; 1993 c 280 § 69; 1986 c 266 § 56. Formerly RCW 43.63A.320.]

Notes:

Reviser's note: This section was amended by 1999 c 24 § 3 and by 1999 c 117 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--1999 c 24: See note following RCW 38.52.505.

Application--Effective date--1995 c 369: See notes following RCW 43.43.930.

Effective date--1995 c 243 § 11: "Section 11 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 243 § 13.]

Findings--Severability--1995 c 243: See notes following RCW 80.36.555.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 43.43.936 State fire protection policy board--Advisory duties.

In regards to the statutory duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection, the board shall serve in an advisory capacity in order to enhance the continuity of state fire protection services. In this capacity, the board shall:

(1) Advise the chief of the Washington state patrol and the director of fire protection on matters pertaining to their duties under law; and

(2) Advise the chief of the Washington state patrol and the director of fire protection on all budgeting and fiscal matters pertaining to the duties of the director of fire protection and the board.

[1995 c 369 § 17; 1993 c 280 § 70; 1986 c 266 § 57. Formerly RCW 43.63A.330.]

Notes:

Application--Effective date--1995 c 369: See notes following RCW 43.43.930.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 43.43.938 Director of fire protection--Appointment--Duties.

(1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The chief of the Washington state patrol shall appoint an officer who shall be known as the director of fire protection. The board, after consulting with the chief of the Washington state patrol, shall prescribe qualifications for the position of director of fire protection. The board shall submit to the chief of the Washington state patrol a list containing the names of three persons whom the board believes meet its qualifications. If requested by the chief of the Washington state patrol, the board shall submit one additional list of three persons whom the board believes meet its qualifications. The appointment shall be from one of the lists of persons submitted by the board.

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of fire protection, in accordance with the policies, objectives, and priorities of the fire protection policy board, shall prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the Washington state patrol's budget request.

(5) The director of fire protection, shall implement and administer, within constraints established by budgeted resources, the policies, objectives, and priorities of the board and all duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection. Such administration shall include negotiation of agreements with the state board for community and technical colleges, the higher education coordinating board, and the state colleges and universities as provided in *RCW 43.63A.320. Programs covered by such agreements shall include, but not be limited to, planning curricula, developing and delivering instructional programs and materials, and using existing instructional personnel and facilities. Where appropriate, such contracts shall also include planning and conducting instructional programs at the state fire service training center.

(6) The chief of the Washington state patrol, through the director of fire protection, shall seek the advice of the board in carrying out his or her duties under law.

[1995 c 369 § 18; 1993 c 280 § 71; 1986 c 266 § 58. Formerly RCW 43.63A.340.]

Notes:

***Reviser's note:** RCW 43.63A.320 was recodified as RCW 43.43.934 pursuant to 1995 c 369 § 69, effective July 1, 1995.

Application--Effective date--1995 c 369: See notes following RCW 43.43.930.

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 43.43.940 Fire service training program--Grants and bequests.

The Washington state patrol may accept any and all donations, grants, bequests, and devises, conditional or otherwise, or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the fire service training program established in RCW 43.43.934.

[1995 c 369 § 19; 1986 c 266 § 59. Formerly RCW 43.63A.350.]

Notes:

Application--Effective date--1995 c 369: See notes following RCW 43.43.930.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 43.43.942 Fire service training--Fees and fee schedules.

The Washington state patrol may: (1) Impose and collect fees for fire service training; and (2) establish and set fee schedules for fire service training.

[1995 c 369 § 20; 1986 c 266 § 60. Formerly RCW 43.63A.360.]

Notes:

Application--Effective date--1995 c 369: See notes following RCW 43.43.930.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 43.43.944 Fire service training account.

(1) The fire service training account is hereby established in the state treasury. The fund shall consist of:

(a) All fees received by the Washington state patrol for fire service training;

(b) All grants and bequests accepted by the Washington state patrol under RCW 43.43.940; and

(c) Twenty percent of all moneys received by the state on fire insurance premiums.

(2) Moneys in the account may be appropriated only for fire service training.

[1999 c 117 § 2; 1995 c 369 § 21; 1986 c 266 § 61. Formerly RCW 43.63A.370.]

Notes:

Application--Effective date--1995 c 369: See notes following RCW 43.43.930.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 43.43.946 Fire services trust fund.

The fire services trust fund is created in the state treasury. All receipts designated by the legislature shall be deposited in the fund. Appropriations from the fund may be made exclusively for the purposes specified in *RCW 43.63A.377.

[1991 c 135 § 2. Formerly RCW 43.63A.375.]

Notes:

***Reviser's note:** RCW 43.63A.377 was recodified as RCW 43.43.948 pursuant to 1995 c 369 § 69, effective July 1, 1995.

Intent--1991 c 135: "It is necessary for the health, safety, and welfare of the people of the state of Washington that fire code enforcement, public education on fire prevention, fire training for fire and emergency response personnel, and administration of these activities be funded in a dependable manner. It is therefore the intent of the legislature to establish a fund for these purposes." [1991 c 135 § 1.]

Effective date--1991 c 135: "This act is necessary for the preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 135 § 8.]

Severability--1991 c 135: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 135 § 9.]

RCW 43.43.948 Fire services trust fund--Expenditures.

Money from the fire services trust fund may be expended for the following purposes:

(1) Training of fire service personnel, including both classroom and hands-on training at the state fire training center or other locations approved by the chief of the Washington state patrol through the director of fire protection services;

(2) Maintenance and operation at the state's fire training center near North Bend. If in the future the state builds or leases other facilities as other fire training centers, a portion of these moneys may be used for the maintenance and operation at these centers;

(3) Lease or purchase of equipment for use in the provisions of training to fire service personnel;

(4) Grants or subsidies to local jurisdictions to allow them to perform their functions under this section;

(5) Costs of administering these programs under this section;

(6) Licensing and enforcement of state laws governing the sales of fireworks; and

(7) Development with the legal fireworks industry and funding of a state-wide public education program for fireworks safety.

[1995 c 369 § 22; 1991 c 135 § 3. Formerly RCW 43.63A.377.]

Notes:

Application--Effective date--1995 c 369: See notes following RCW 43.43.930.

Intent--Effective date--Severability--1991 c 135: See notes following RCW 43.43.946.

RCW 43.43.950 Fire service training center bond retirement account of 1977.

The state fire service training center bond retirement account of 1977 is hereby reestablished as an account within the treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to chapter 349, Laws of 1977 ex. sess., or chapter 470, Laws of 1985 or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the commission for vocational education or the statutory successor to its powers and duties involving the state fire training center.

The state finance committee, on or before June 30th of each year, shall certify to the state

treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund such amounts and at such times as are required by the bond proceedings.

[1991 sp.s. c 13 § 79. Formerly RCW 43.63A.380.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 43.43.952 Arson investigation information system--Findings--Intent.

(1) The legislature finds that provisions for information systems relating to statistics and reporting for fire prevention, suppression, and damage control do not adequately address the needs of ongoing investigations of fire incidents where the cause is suspected or determined to be the result of negligence or otherwise suggestive of some criminal activity, particularly that of arson. It is the intent of the legislature to establish an information and reporting system designed specifically to assist state and local officers in conducting such investigations and, where substantiated, to undertake prosecution of individuals suspected of such activities.

(2)(a) In addition to the information provided by local officials about the cause, origin, and extent of loss in fires under chapter 48.48 RCW, there is hereby created the state arson investigation information system in the Washington state patrol.

(b) The chief of the Washington state patrol shall develop the arson investigation information system in consultation with representatives of the various state and local officials charged with investigating fires resulting from suspicious or criminal activities under chapter 48.48 RCW and of the insurance industry.

(c) The arson investigation information system shall be designed to include at least the following attributes: (i) The information gathered and reported shall meet the diverse needs of state and local investigating agencies; (ii) the forms and reports are drafted in understandable terms of common usage; and (iii) the results shall be adaptable to the varying levels of available resources, maintained in a manner to foster data sharing and mutual aid activities, and made available to other law enforcement agencies responsible for criminal investigations.

(d) All insurers required to report claim information under the provisions of chapter 48.50 RCW shall cooperate fully with any requests from the chief of the Washington state patrol in developing and maintaining the arson investigation information system. The confidentiality provisions of that chapter shall be fully enforced.

[1995 c 369 § 64.]

Notes:

Reviser's note: 1995 c 369 directed that this section be added to chapter 43.10 RCW. This section has been codified in chapter 43.43 RCW, which relates more directly to the functions of the chief of the Washington state patrol with regard to fire protection.

Application--Effective date--1995 c 369: See notes following RCW 43.43.930.

**Chapter 43.46 RCW
ARTS COMMISSION**

Sections

43.46.005	Purpose.
43.46.015	Washington state arts commission established--Composition.
43.46.030	Terms--Vacancies.
43.46.040	Compensation--Travel expenses--Organization--Chairperson--Rules--Quorum.
43.46.045	Executive director--Employees.
43.46.050	Powers and duties generally.
43.46.055	Development of arts and humanities.
43.46.060	Gifts and grants.
43.46.070	Biennial report.
43.46.090	Commission as reflecting state's responsibility--Acquisition of works of art for public buildings and lands--Visual arts program established.
43.46.095	State art collection.
43.46.900	Effective date--1985 c 317.

RCW 43.46.005 Purpose.

The conservation and development of the state's artistic resources is essential to the social, educational, and economic growth of the state of Washington. Artists, works of art, and artistic institutions contribute to the quality of life and the general welfare of the citizens of the state, and are an appropriate matter of concern to the government of the state of Washington.

[1985 c 317 § 1.]

RCW 43.46.015 Washington state arts commission established--Composition.

There is established a Washington state arts commission. The commission consists of nineteen members appointed by the governor and four members of the legislature, one from each caucus in the senate and appointed by the president of the senate and one from each caucus in the house of representatives and appointed by the speaker of the house of representatives. The governor shall appoint citizens representing the various disciplines within the visual, performing and literary arts, and other citizens active in the arts community. The governor shall consider nominations for membership from individuals actively involved in cultural, state or community organizations. The governor shall also consider geographical distribution of the membership in the appointment of new members.

[1999 c 241 § 1; 1985 c 317 § 2.]

RCW 43.46.030 Terms--Vacancies.

Members shall serve three year terms. A legislative member shall serve as long as he or

she is a member of the legislative body from which he or she was appointed. Each member will continue to serve until a successor is appointed. Vacancies shall be filled by appointment for the remainder of the unexpired term.

[1985 c 317 § 3; 1967 ex.s. c 125 § 4; 1965 c 8 § 43.46.030. Prior: 1961 c 301 § 3.]

RCW 43.46.040 Compensation--Travel expenses--Organization--Chairperson--Rules--Quorum.

Members of the commission shall serve without compensation. However, nonlegislative members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 and legislative members shall be reimbursed as provided in RCW 44.04.120. The commission shall organize, elect a chairperson annually, and adopt rules pursuant to chapter 34.05 RCW. A majority of its members constitute a quorum. Any action as defined in RCW 42.30.020(3) shall be taken only at a meeting at which a quorum is present.

[1985 c 317 § 4; 1965 c 8 § 43.46.040. Prior: 1961 c 301 § 4.]

RCW 43.46.045 Executive director--Employees.

The governor shall select a full time executive director from a list of three names submitted by the commission by September 1, 1988, and anytime thereafter that a vacancy occurs. The executive director shall receive no other salary and shall not be otherwise gainfully employed. Subject to the provisions of chapter 41.06 RCW, the executive director may also employ such clerical and other assistants as may be reasonably required to carry out commission functions. The executive director shall serve at the pleasure of the governor.

[1988 c 81 § 23; 1985 c 317 § 5; 1967 ex.s. c 125 § 2.]

RCW 43.46.050 Powers and duties generally.

The commission shall meet, study, plan, and advise the governor, the various departments of the state and the state legislature and shall make such recommendations as it deems proper for the cultural development of the state of Washington.

[1985 c 317 § 6; 1965 c 8 § 43.46.050. Prior: 1961 c 301 § 5.]

RCW 43.46.055 Development of arts and humanities.

The commission may develop, sponsor, promote and administer any activity, project, or program within or without this state which is related to the growth and development of the arts and humanities in the state of Washington and may assist any person or public or private agency to this end.

[1985 c 317 § 7; 1967 ex.s. c 125 § 1.]

RCW 43.46.060 Gifts and grants.

The commission may accept gifts and grants upon such terms as the commission shall deem proper.

[1965 c 8 § 43.46.060. Prior: 1961 c 301 § 6.]

RCW 43.46.070 Biennial report.

The commission shall make a biennial report of its proceedings and recommendations to the governor, which shall contain a full description of program and project activity, including fund sources and expenditures for the biennium covered by the report.

[1985 c 317 § 8; 1965 c 8 § 43.46.070. Prior: 1961 c 301 § 7.]

RCW 43.46.090 Commission as reflecting state's responsibility--Acquisition of works of art for public buildings and lands--Visual arts program established.

The legislature recognizes this state's responsibility to foster culture and the arts and its interest in the viable development of her artists and craftsmen by the establishment of the Washington state arts commission. The legislature declares it to be a policy of this state that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be placed in public buildings or lands. There is hereby established a visual arts program to be administered by the Washington state arts commission.

[1983 c 204 § 1; 1974 ex.s. c 176 § 1.]

Notes:

Severability--1983 c 204: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 204 § 11.]

Allocation of moneys for acquisition of works of art--Expenditure by arts commission--Conditions: RCW 43.17.200.

Colleges and universities, purchases of works of art--Procedure: RCW 28B.10.025.

Purchase of works of art--Procedure: RCW 43.19.455.

School districts, purchases of works of art--Procedure: RCW 28A.335.210.

RCW 43.46.095 State art collection.

All works of art purchased and commissioned under the visual arts program shall become a part of a state art collection developed, administered, and operated by the Washington state arts commission. All works of art previously purchased or commissioned under RCW 43.46.090, 43.17.200, 43.19.455, 28B.10.025, or 28A.335.210 shall be considered a part of the state art collection to be administered by the Washington state arts commission.

[1990 c 33 § 578; 1983 c 204 § 2.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.
Severability--1983 c 204: See note following RCW 43.46.090.

RCW 43.46.900 Effective date--1985 c 317.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985.

[1985 c 317 § 10.]

**Chapter 43.52 RCW
OPERATING AGENCIES**

Sections

43.52.250	Definitions.
43.52.260	Scope of authority.
43.52.272	Power commission abolished.
43.52.290	Members of the board of directors of an operating agency--Compensation--May hold other public position--Incompatibility of offices doctrine voided.
43.52.300	Powers and duties of an operating agency.
43.52.3411	Revenue bonds or warrants.
43.52.343	Revenue bonds or warrants--Sale by negotiation or advertisement and bid.
43.52.350	Operating agencies to provide fishways, facilities and hatcheries--Contracts.
43.52.360	Operating agency--Formation--Additional projects--Appeals--Membership, withdrawal--Dissolution.
43.52.370	Operating agency board of directors--Members, appointment, vote, term, etc.--Rules--Proceedings--Limitation on powers and duties.
43.52.374	Operating agency executive board--Members--Terms--Removal--Rules--Proceedings--Managing director--Civil immunities--Defense and indemnification.
43.52.375	Treasurer--Auditor--Powers and duties--Official bonds--Funds.
43.52.378	Executive board--Appointment of administrative auditor--Retention of firm for performance audits--Duties of auditor and firm--Reports.
43.52.380	Member's preference to buy energy--Apportionment--Surplus.
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43.52.385	Best interest of ratepayers to determine interest of agency.
43.52.391	Powers and duties of operating agency.
43.52.395	Maximum interest rate operating agency may pay member.
43.52.410	Authority of city or district to contract for electric energy or falling waters.
43.52.430	Appeals from director of department of ecology.
43.52.440	Effect of chapter on "Columbia River Sanctuary Act."
43.52.450	Chapter requirements are cumulative--Preservation of rights--Not subject to utilities and transportation commission.
43.52.460	Operating agency to pay in lieu of taxes.
43.52.470	Operating agency--Validity of organization and existence.
43.52.515	Application of Titles 9 and 9A RCW.
43.52.520	Security force--Authorized.
43.52.525	Security force--Criminal history record information.

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43.52.530	Security force--Powers and duties--Rules on speed, operation, location of vehicles authorized.
43.52.535	Security force--Membership in retirement system authorized.
43.52.550	Plans for repayment of operating agency obligations maturing prior to planned operation of plant.
43.52.560	Contracts for materials or work required--Sealed bids.
43.52.565	Contracts for materials or work through competitive negotiation authorized--Selection of contractor.
43.52.570	Purchase of materials by telephone or written quotation authorized--Procedure.
43.52.575	Purchase of materials without competition authorized.
43.52.580	Emergency purchase of materials or work by contract.
43.52.585	Procedures for implementing RCW 43.52.560 through 43.52.580.
43.52.590	Construction of RCW 43.52.560 through 43.52.585.
43.52.612	Contract bid form.
43.52.910	Construction--1965 c 8.

RCW 43.52.250 Definitions.

As used in this chapter and unless the context indicates otherwise, words and phrases shall mean:

"District" means a public utility district as created under the laws of the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"City" means any city or town in the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"Canada" means Canada or any province thereof.

"Operating agency" or "joint operating agency" means a municipal corporation created pursuant to RCW 43.52.360, as now or hereafter amended.

"Board of directors" means the board established under RCW 43.52.370.

"Executive board" means the board established under RCW 43.52.374.

"Board" means the board of directors of the joint operating agency unless the operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, in which case "board" means the executive board.

"Public utility" means any person, firm or corporation, political subdivision or governmental subdivision including cities, towns and public utility districts engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy.

"Revenue bonds or warrants" means bonds, notes, bond anticipation notes, warrants, certificates of indebtedness, commercial paper, refunding or renewal obligations, payable from a special fund or revenues of the utility properties operated by the joint operating agency.

"Electrical resources" means both electric energy and conservation.

"Electrical energy" means electric energy produced by any means including water power, steam power, nuclear power, and conservation.

"Conservation" means any reduction in electric power consumption as a result of increases in efficiency of energy use, production, or distribution.

[1987 c 376 § 8; 1982 1st ex.s. c 43 § 1; 1981 1st ex.s. c 1 § 1; 1977 ex.s. c 184 § 1; 1965 c 8 § 43.52.250. Prior: 1953 c 281 § 1.]

Notes:

Severability--Savings--1982 1st ex.s. c 43: See notes following RCW 43.52.374.

Severability--1981 1st ex.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 1st ex.s. c 1 § 5.]

RCW 43.52.260 Scope of authority.

The authority granted in this chapter shall apply equally to the generating of electricity by water power, by steam power, by nuclear power, conservation, or by any other means whatsoever.

[1987 c 376 § 9; 1977 ex.s. c 184 § 2; 1965 c 8 § 43.52.260. Prior: 1955 c 258 § 18; 1953 c 281 § 20.]

RCW 43.52.272 Power commission abolished.

The Washington state power commission is hereby abolished.

[1965 c 8 § 43.52.272. Prior: 1957 c 295 § 8.]

RCW 43.52.290 Members of the board of directors of an operating agency--Compensation--May hold other public position--Incompatibility of offices doctrine voided.

Members of the board of directors of an operating agency shall be paid the sum of fifty dollars per day as compensation for each day or major part thereof devoted to the business of the operating agency, together with their traveling and other necessary expenses. Such member may, regardless of any charter or other provision to the contrary, be an officer or employee holding another public position and, if he be such other public officer or employee, he shall be paid by the operating agency such amount as will, together with the compensation for such other public position equal the sum of fifty dollars per day. The common law doctrine of incompatibility of offices is hereby voided as it applies to persons sitting on the board of directors or the executive board of an operating agency and holding an elective or appointive position on a public utility district commission or municipal legislative authority or being an employee of a public utility district or municipality.

[1983 1st ex.s. c 3 § 1; 1982 1st ex.s. c 43 § 5; 1977 ex.s. c 184 § 3; 1965 c 8 § 43.52.290. Prior: 1953 c 281 § 4.]

Notes:

Severability--Savings--1982 1st ex.s. c 43: See notes following RCW 43.52.374.

RCW 43.52.300 Powers and duties of an operating agency.

An operating agency formed under RCW 43.52.360 shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate plants, works and facilities for the generation and/or transmission of electric energy, either within or without the state of Washington, and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of any such works, plants and facilities; provided that an operating agency shall not be authorized to acquire by condemnation any plants, works and facilities owned and operated by any city or district, or by a privately owned public utility. An operating agency shall be authorized to contract for and to acquire by lease or purchase from the United States or any of its agencies, any plants, works or facilities for the generation and transmission of electricity and any real or personal property necessary or convenient for use in connection therewith.

(3) To negotiate and enter into contracts with the United States or any of its agencies, with any state or its agencies, with Canada or its agencies or with any district or city of this state, for the lease, purchase, construction, extension, betterment, acquisition, operation and maintenance of all or any part of any electric generating and transmission plants and reservoirs, works and facilities or rights necessary thereto, either within or without the state of Washington, and for the marketing of the energy produced therefrom. Such negotiations or contracts shall be carried on and concluded with due regard to the position and laws of the United States in respect to international agreements.

(4) To negotiate and enter into contracts for the purchase, sale, exchange, transmission or use of electric energy or falling water with any person, firm or corporation, including political subdivisions and agencies of any state of Canada, or of the United States, at fair and nondiscriminating rates.

(5) To apply to the appropriate agencies of the state of Washington, the United States or any thereof, and to Canada and/or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate works, plants and facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(6) To establish rates for electric energy sold or transmitted by the operating agency. When any revenue bonds or warrants are outstanding the operating agency shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy, falling water and other services sold, furnished or supplied by the operating agency which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the operating agency is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the operating agency and all necessary repairs, replacements and renewals thereof.

(7) To act as agent for the purchase and sale at wholesale of electricity for any city or district whenever requested so to do by such city or district.

(8) To contract for and to construct, operate and maintain fishways, fish protective devices and facilities and hatcheries as necessary to preserve or compensate for projects operated by the operating agency.

(9) To construct, operate and maintain channels, locks, canals and other navigational, reclamation, flood control and fisheries facilities as may be necessary or incidental to the construction of any electric generating project, and to enter into agreements and contracts with any person, firm or corporation, including political subdivisions of any state, of Canada or the United States for such construction, operation and maintenance, and for the distribution and payment of the costs thereof.

(10) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the operating agency may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the operating agency shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the operating agency.

(11) To study, analyze and make reports concerning the development, utilization and integration of electric generating facilities and requirements within the state and without the state in that region which affects the electric resources of the state.

(12) To acquire any land bearing coal, uranium, geothermal, or other energy resources, within or without the state, or any rights therein, for the purpose of assuring a long-term, adequate supply of coal, uranium, geothermal, or other energy resources to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale, or disposal of such energy resources that it deems proper.

[1977 ex.s. c 184 § 4; 1975 1st ex.s. c 37 § 1; 1965 c 8 § 43.52.300. Prior: 1955 c 258 § 1; 1953 c 281 § 5.]

RCW 43.52.3411 Revenue bonds or warrants.

For the purposes provided for in this chapter, an operating agency shall have power to issue revenue bonds or warrants payable from the revenues of the utility properties operated by it. Whenever the board of a joint operating agency shall deem it advisable to issue bonds or warrants to engage in conservation activities or to construct or acquire any public utility or any works, plants or facilities or any additions or betterments thereto or extensions thereof it shall provide therefor by resolution, which shall specify and adopt the system or plan proposed and declare the estimated cost thereof as near as may be. Such cost may include funds for working capital, for payment of expenses incurred in the conservation activities or the acquisition or construction of the utility and for the repayment of advances made to the operating agency by any public utility district or city. Except as otherwise provided in RCW 43.52.343, all the provisions of law as now or hereafter in effect relating to revenue bonds or warrants of public utility districts shall apply to revenue bonds or warrants issued by the joint operating agency including, without limitation, provisions relating to: The creation of special funds and the pledging of revenues thereto; the time and place of payment of such bonds or warrants and the

interest rate or rates thereon; the covenants that may be contained therein and the effect thereof; the execution, issuance, sale, funding, or refunding, redemption and registration of such bonds or warrants; and the status thereof as negotiable instruments, as legal securities for deposits of public moneys and as legal investments for trustees and other fiduciaries and for savings and loan associations, banks and insurance companies doing business in this state. However, for revenue bonds or warrants issued by an operating agency, the provisions under RCW 54.24.030 relating to additional or alternate methods for payment may be made a part of the contract with the owners of any revenue bonds or warrants of an operating agency. The board may authorize the managing director or the treasurer of the operating agency to sell revenue bonds or warrants maturing one year or less from the date of issuance, and to fix the interest rate or rates on such revenue bonds or warrants with such restrictions as the board shall prescribe. Such bonds and warrants may be in any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030. Such bonds and warrants may also be issued and sold in accordance with chapter 39.46 RCW.

[1987 c 376 § 10; 1983 c 167 § 116; 1981 1st ex.s. c 1 § 2; 1965 c 8 § 43.52.3411. Prior: 1957 c 295 § 6.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--1981 1st ex.s. c 1: See note following RCW 43.52.250.

RCW 43.52.343 Revenue bonds or warrants--Sale by negotiation or advertisement and bid.

All bonds issued by an operating agency shall be sold and delivered in such manner, at such rate or rates of interest and for such price or prices and at such time or times as the board shall deem in the best interests of the operating agency, whether by negotiation or to the highest and best bidder after such advertising for bids as the board of the operating agency may deem proper: PROVIDED, That the board may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as it may deem most advantageous to its own interests.

[1981 1st ex.s. c 1 § 3; 1965 c 8 § 43.52.343. Prior: 1957 c 295 § 7; 1955 c 258 § 10.]

Notes:

Severability--1981 1st ex.s. c 1: See note following RCW 43.52.250.

RCW 43.52.350 Operating agencies to provide fishways, facilities and hatcheries--Contracts.

An operating agency shall, at the time of the construction of any dam or obstruction, construct and shall thereafter maintain and operate such fishways, fish protective facilities and hatcheries as the director of fish and wildlife finds necessary to permit anadromous fish to pass any dam or other obstruction operated by the operating agency or to replace fisheries damaged or destroyed by such dam or obstruction and an operating agency is further authorized to enter into

contracts with the department of fish and wildlife to provide for the construction and/or operation of such fishways, facilities and hatcheries.

[1994 c 264 § 24; 1988 c 36 § 18; 1977 ex.s. c 184 § 5; 1965 c 8 § 43.52.350. Prior: 1953 c 281 § 11.]

RCW 43.52.360 Operating agency--Formation--Additional projects--Appeals--Membership, withdrawal--Dissolution.

Any two or more cities or public utility districts or combinations thereof may form an operating agency (herein sometimes called a joint operating agency) for the purpose of acquiring, constructing, operating and owning plants, systems and other facilities and extensions thereof, for the generation and/or transmission of electric energy and power. Each such agency shall be a municipal corporation of the state of Washington with the right to sue and be sued in its own name.

Application for the formation of an operating agency shall be made to the director of the department of ecology (herein sometimes referred to as the director) after the adoption of a resolution by the legislative body of each city or public utility district to be initial members thereof authorizing said city or district to participate. Such application shall set forth (1) the name and address of each participant, together with a certified copy of the resolution authorizing its participation; (2) a general description of the project and the principal project works, including dams, reservoirs, power houses and transmission lines; (3) the general location of the project and, if a hydroelectric project, the name of the stream on which such proposed project is to be located; (4) if the project is for the generation of electricity, the proposed use or market for the power to be developed; (5) a general statement of the electric loads and resources of each of the participants; (6) a statement of the proposed method of financing the preliminary engineering and other studies and the participation therein by each of the participants.

Within ten days after such application is filed with the director of the department of ecology notice thereof shall be published by the director once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is to be located, setting forth the names of the participants and the general nature, extent and location of the project. Any public utility wishing to do so may object to such application by filing an objection, setting forth the reasons therefor, with the director of the department of ecology not later than ten days after the date of last publication of such notice.

Within ninety days after the date of last publication the director shall either make findings thereon or have instituted a hearing thereon. In the event the director has neither made findings nor instituted a hearing within ninety days of the date of last publication, or if such hearing is instituted within such time but no findings are made within one hundred and twenty days of the date of such last publication, the application shall be deemed to have been approved and the operating agency established. If it shall appear (a) that the statements set forth in said application are substantially correct; (b) that the contemplated project is such as is adaptable to the needs, both actual and prospective, of the participants and such other public utilities as indicate a good faith intention by contract or by letter of intent to participate in the use of such project; (c) that no objection to the formation of such operating agency has been filed by any

other public utility which prior to and at the time of the filing of the application for such operating agency had on file a permit or license from an agency of the state or an agency of the United States, whichever has primary jurisdiction, for the construction of such project; (d) that adequate provision will be made for financing the preliminary engineering, legal and other costs necessary thereto; the director shall make findings to that effect and enter an order creating such operating agency, establishing the name thereof and the specific project for the construction and operation for which such operating agency is formed. Such order shall not be construed to constitute a bar to any other public utility proceeding according to law to procure any required governmental permits, licenses or authority, but such order shall establish the competency of the operating agency to proceed according to law to procure such permits, licenses or authority.

No operating agency shall undertake projects or conservation activities in addition to those for which it was formed without the approval of the legislative bodies of a majority of the members thereof. Prior to undertaking any new project for acquisition of an energy resource, a joint operating agency shall prepare a plan which details a least-cost approach for investment in energy resources. The plan shall include an analysis of the costs of developing conservation compared with costs of developing other energy resources and a strategy for implementation of the plan. The plan shall be presented to the energy and utilities committees of the senate and house of representatives for their review and comment. In the event that an operating agency desires to undertake such a hydroelectric project at a site or sites upon which any publicly or privately owned public utility has a license or permit or has a prior application for a license or permit pending with any commission or agency, state or federal, having jurisdiction thereof, application to construct such additional project shall be made to the director of the department of ecology in the same manner, subject to the same requirements and with the same notice as required for an initial agency and project and shall not be constructed until an order authorizing the same shall have been made by the director in the manner provided for such original application.

Any party who has joined in filing the application for, or objections against, the creation of such operating agency and/or the construction of an additional project, and who feels aggrieved by any order or finding of the director shall have the right to appeal to the superior court in the manner set forth in RCW 43.52.430.

After the formation of an operating agency, any other city or district may become a member thereof upon application to such agency after the adoption of a resolution of its legislative body authorizing said city or district to participate, and with the consent of the operating agency by the affirmative vote of the majority of its members. Any member may withdraw from an operating agency, and thereupon such member shall forfeit any and all rights or interest which it may have in such operating agency or in any of the assets thereof: PROVIDED, That all contractual obligations incurred while a member shall remain in full force and effect. An operating agency may be dissolved by the unanimous agreement of the members, and the members, after making provisions for the payment of all debts and obligations, shall thereupon hold the assets thereof as tenants in common.

[1998 c 245 § 68; 1987 c 376 § 11; 1977 ex.s. c 184 § 6; 1965 c 8 § 43.52.360. Prior: 1957 c 295 § 1; 1955 c 258 §

3; 1953 c 281 § 12.]

Notes:

Generation of electric energy by steam: RCW 43.21.250 through 43.21.410.

RCW 43.52.370 Operating agency board of directors--Members, appointment, vote, term, etc.--Rules--Proceedings--Limitation on powers and duties.

(1) Except as provided in subsection (2) of this section, the management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of its representative. Each representative shall serve at the pleasure of the member. The board of an operating agency shall elect from its members a president, vice president and secretary, who shall serve at the pleasure of the board. The president and secretary shall perform the same duties with respect to the operating agency as are provided by law for the president and secretary, respectively, of public utility districts, and such other duties as may be provided by motion, rule or resolution of the board. The board of an operating agency shall adopt rules for the conduct of its meetings and the carrying out of its business, and adopt an official seal. All proceedings of an operating agency shall be by motion or resolution and shall be recorded in the minute book which shall be a public record. A majority of the board members shall constitute a quorum for the transaction of business. A majority of the votes which the members present are entitled to cast shall be necessary and sufficient to pass any motion or resolution: PROVIDED, That such board members are entitled to cast a majority of the votes of all members of the board. The members of the board of an operating agency may be compensated by such agency as is provided in RCW 43.52.290: PROVIDED, That the compensation to any member shall not exceed five thousand dollars in any year except for board members who are elected to serve on an executive board established under RCW 43.52.374.

(2) If an operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the powers and duties of the board of directors shall include and are limited to the following:

(a) Final authority on any decision of the operating agency to purchase, acquire, construct, terminate, or decommission any power plants, works, and facilities except that once the board of directors has made a final decision regarding a nuclear power plant, the executive board established under RCW 43.52.374 shall have the authority to make all subsequent decisions regarding the plant and any of its components;

(b) Election of members to, removal from, and establishment of salaries for the elected members of the executive board under RCW 43.52.374(1)(a); and

(c) Selection and appointment of three outside directors as provided in RCW 43.52.374(1)(b).

All other powers and duties of the operating agency, including without limitation authority for all actions subsequent to final decisions by the board of directors, including but not limited to the authority to sell any power plant, works, and facilities are vested in the executive board established under RCW 43.52.374.

[1983 1st ex.s. c 3 § 2; 1982 1st ex.s. c 43 § 2; 1981 1st ex.s. c 3 § 1; 1977 ex.s. c 184 § 7; 1965 c 8 § 43.52.370. Prior: 1957 c 295 § 2; 1953 c 281 § 13.]

Notes:

Severability--Savings--1982 1st ex.s. c 43: See notes following RCW 43.52.374.

**RCW 43.52.374 Operating agency executive
board--Members--Terms--Removal--Rules--Proceedings--Managing director--Civil
immunities--Defense and indemnification.**

(1) With the exception of the powers and duties of the board of directors described in RCW 43.52.370(2), the management and control of an operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW is vested in an executive board established under this subsection and consisting of eleven members.

(a) Five members of the executive board shall be elected to four-year terms by the board of directors from among the members of the board of directors. The board of directors may provide by rule for the composition of the five members of the executive board elected from among the members of the board of directors so as to reflect the member public utility districts' and cities' participation in the joint operating agency's projects. Members elected to the executive board from the board of directors are ineligible for continued membership on the executive board if they cease to be members of the board of directors. The board of directors may also provide by rule for the removal of a member of the executive board, except for the outside directors. Members of the board of directors may be elected to serve successive terms on the executive board. Members elected to the executive board from the board of directors shall receive a salary from the operating agency at a rate set by the board of directors.

(b) Six members of the executive board shall be outside directors. Three shall be selected and appointed by the board of directors, and three shall be selected and appointed by the governor and confirmed by the senate. All outside directors shall:

(i) Serve four-year terms on the executive board. However, of the initial members of the executive board, the board of directors and the governor shall each appoint one outside director to serve a two-year term, one outside director to serve a three-year term, and one outside director to serve a four-year term. Thereafter, all outside directors shall be appointed for four-year terms. All outside directors are eligible for reappointment;

(ii) Receive travel expenses on the same basis as the five members elected from the board of directors. The outside directors shall also receive a salary from the operating agency as fixed

by the governor;

(iii) Not be an officer or employee of, or in any way affiliated with, the Bonneville power administration or any electric utility conducting business in the states of Washington, Oregon, Idaho, or Montana;

(iv) Not be involved in the financial affairs of the operating agency as an underwriter or financial adviser of the operating agency or any of its members or any of the participants in any of the operating agency's plants; and

(v) Be representative of policy makers in business, finance, or science, or have expertise in the construction or management of such facilities as the operating agency is constructing or operating, or have expertise in the termination, disposition, or liquidation of corporate assets.

(c) The governor may remove outside directors from the executive board for incompetency, misconduct, or malfeasance in office in the same manner as state appointive officers under chapter 43.06 RCW. For purposes of this subsection, misconduct shall include, but not be limited to, nonfeasance and misfeasance.

(2) Nothing in this chapter shall be construed to mean that an operating agency is in any manner an agency of the state. Nothing in this chapter alters or destroys the status of an operating agency as a separate municipal corporation or makes the state liable in any way or to any extent for any preexisting or future debt of the operating agency or any present or future claim against the agency.

(3) The eleven members of the executive board shall be selected with the objective of establishing an executive board which has the resources to effectively carry out its responsibilities. All members of the executive board shall conduct their business in a manner which in their judgment is in the interest of all ratepayers affected by the joint operating agency and its projects.

(4) The executive board shall elect from its members a chairman, vice chairman, and secretary, who shall serve at the pleasure of the executive board. The executive board shall adopt rules for the conduct of its meetings and the carrying out of its business. All proceedings shall be by motion or resolution and shall be recorded in the minute book, which shall be a public record. A majority of the executive board shall constitute a quorum for the transaction of business.

(5) With respect to any operating agency existing on April 20, 1982, to which the provisions of this section are applicable:

(a) The board of directors shall elect five members to the executive board no later than sixty days after April 20, 1982; and

(b) The board of directors and the governor shall select and appoint the initial outside directors and the executive board shall hold its organizational meeting no later than sixty days after April 20, 1982, and the powers and duties prescribed in this chapter shall devolve upon the executive board at that time.

(6) The executive board shall select and employ a managing director of the operating agency and may delegate to the managing director such authority for the management and control of the operating agency as the executive board deems appropriate. The managing director's employment is terminable at the will of the executive board.

(7) Members of the executive board shall be immune from civil liability for mistakes and

errors of judgment in the good faith performance of acts within the scope of their official duties involving the exercise of judgment and discretion. This grant of immunity shall not be construed as modifying the liability of the operating agency.

The operating agency shall undertake the defense of and indemnify each executive board member made a party to any civil proceeding including any threatened, pending, or completed action, suit, or proceeding, whether civil, administrative, or investigative, by reason of the fact he or she is or was a member of the executive board, against judgments, penalties, fines, settlements, and reasonable expenses, actually incurred by him or her in connection with such proceeding if he or she had conducted himself or herself in good faith and reasonably believed his or her conduct to be in the best interest of the operating agency.

In addition members of the executive board who are utility employees shall not be fired, forced to resign, or demoted from their utility jobs for decisions they make while carrying out their duties as members of the executive board involving the exercise of judgment and discretion.

[1983 1st ex.s. c 3 § 3; 1982 1st ex.s. c 43 § 3; 1981 1st ex.s. c 3 § 2.]

Notes:

Severability--1982 1st ex.s. c 43: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 43 § 11.]

Savings--1982 1st ex.s. c 43: "(1) All personnel and employees of a board of directors or executive board or committee displaced by section 3 of this act shall become personnel and employees of the executive board created in section 3 of this act without any loss of rights, subject to any appropriate action thereafter.

(2) All pending business before a board of directors or executive board or committee which is replaced by the executive board created in section 3 of this act shall be continued and acted upon by the new executive board.

(3) This act shall not be construed to alter:

(a) Any existing rights acquired under laws relating to operating agencies;

(b) The status of any actions, activities, or civil or criminal proceedings of any existing operating agencies;

(c) The status of any collective bargaining agreements, indebtedness, contracts, or other obligations;

(d) Any valid resolutions, covenants, or agreements between an operating agency and members, participants in any electric generating facility, privately owned public utilities, or agencies of the federal government; or

(e) Any rules, resolutions, or orders adopted by a board of directors or executive board or committee until canceled or superseded." [1982 1st ex.s. c 43 § 4.]

RCW 43.52.375 Treasurer--Auditor--Powers and duties--Official bonds--Funds.

The board of each joint operating agency shall by resolution appoint a treasurer. The treasurer shall be the chief financial officer of the operating agency, who shall report at least annually to the board a detailed statement of the financial condition of the operating agency and of its financial operations for the preceding fiscal year. The treasurer shall advise the board on all matters affecting the financial condition of the operating agency. Before entering upon his duties the treasurer shall give bond to the operating agency, with a surety company authorized to write such bonds in this state as surety, in an amount which the board finds by resolution will protect the operating agency against loss, conditioned that all funds which he receives as such treasurer will be faithfully kept and accounted for and for the faithful discharge of his duties. The amount

of such bond may be decreased or increased from time to time as the board may by resolution direct.

The board shall also appoint an auditor and may require him to give a bond with a surety company authorized to do business in the state of Washington in such amount as it shall by resolution prescribe, conditioned for the faithful discharge of his duties. The auditor shall report directly to the board and be responsible to it for discharging his duties.

The premiums on the bonds of the auditor and the treasurer shall be paid by the operating agency. The board may provide for coverage of said officers and other persons on the same bond.

All funds of the joint operating agency shall be paid to the treasurer and shall be disbursed by him only on warrants issued by the auditor upon orders or vouchers approved by the board: PROVIDED, That the board by resolution may authorize the managing director or any other bonded officer or employee as legally permissible to approve or disapprove vouchers presented to defray salaries of employees and other expenses of the operating agency arising in the usual and ordinary course of its business, including expenses incurred by the board of directors, its executive committee, or the executive board in the performance of their duties. All moneys of the operating agency shall be deposited forthwith by the treasurer in such depositories, and with such securities as are designated by rules of the board. The treasurer shall establish a general fund and such special funds as shall be created by the board, into which he shall place all money of the joint operating agency as the board by resolution or motion may direct.

[1982 1st ex.s. c 43 § 7; 1981 1st ex.s. c 3 § 3; 1965 c 8 § 43.52.375. Prior: 1957 c 295 § 4.]

Notes:

Severability--Savings--1982 1st ex.s. c 43: See notes following RCW 43.52.374.

RCW 43.52.378 Executive board--Appointment of administrative auditor--Retention of firm for performance audits--Duties of auditor and firm--Reports.

The executive board of any operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement issued pursuant to chapter 80.50 RCW shall appoint an administrative auditor. The administrative auditor shall be deemed an officer under chapter 42.23 RCW. The appointment of the administrative auditor shall be in addition to the appointment of the auditor for the issuance of warrants and other purposes as provided in RCW 43.52.375. The executive board shall retain a qualified firm or firms to conduct performance audits which is in fact independent and does not have any interest, direct or indirect, in any contract with the operating agency other than its employment hereunder. No member or employee of any such firm shall be connected with the operating agency as an officer, employee, or contractor. The administrative auditor and the firm or firms shall be independently and directly responsible to the executive board of the operating agency. The executive board shall require a firm to conduct continuing audits of the methods, procedures and organization used by the operating agency to control costs, schedules, productivity, contract

amendments, project design and any other topics deemed desirable by the executive board. The executive board may also require a firm to analyze particular technical aspects of the operating agency's projects and contract amendments. The firm or firms shall provide advice to the executive board in its management and control of the operating agency. At least once each year, the firm or firms shall prepare and furnish a report of its actions and recommendations to the executive board for the purpose of enabling it to attain the highest degree of efficiency in the management and control of any thermal power project under construction or in operation. The administrative auditor shall assist the firm or firms in the performance of its duties. The administrative auditor and the firm or firms shall consult regularly with the executive board and furnish any information or data to the executive board which the administrative auditor, firm, or executive board deems helpful in accomplishing the purpose above stated. The administrative auditor shall perform such other duties as the executive board shall prescribe to accomplish the purposes of this section.

Upon the concurrent request of the chairmen of the senate or house energy and utilities committees, the operating agency shall report to the committees on a quarterly basis.

[1987 c 505 § 84; 1986 c 158 § 13; 1982 1st ex.s. c 43 § 8; 1981 1st ex.s. c 3 § 4; 1979 ex.s. c 220 § 1.]

Notes:

Severability--Savings--1982 1st ex.s. c 43: See notes following RCW 43.52.374.

RCW 43.52.380 Member's preference to buy energy--Apportionment--Surplus.

Members shall have a preference right to the purchase of all electric energy generated by an operating agency. As between members, the amount of electric energy to which each shall be entitled shall be computed annually and shall be based on the same percentage as the purchases of such member bore to the total generation of the operating agency for the preceding year. Surplus electric energy, that is energy not contracted for by the members, may be sold to any public utility authorized by law to distribute and sell electric energy.

[1965 c 8 § 43.52.380. Prior: 1953 c 281 § 14.]

RCW 43.52.383 Compliance with open public meetings act.

(1) The legislature intends that the business and deliberations of joint operating agencies conducted by their boards of directors, executive boards, committees and subcommittees be conducted openly and with opportunity for public input.

(2) The board of directors, executive board, and all committees or subcommittees thereof shall comply with the provisions of chapter 42.30 RCW, in order to assure adequate public input and awareness of decisions.

[1983 1st ex.s. c 3 § 4.]

RCW 43.52.385 Best interest of ratepayers to determine interest of agency.

For the purposes of this chapter, including but not limited to RCW 43.52.343, the best interests of all ratepayers affected by the joint operating agency and its projects shall determine the interest of the operating agency and its board.

[1982 1st ex.s. c 43 § 9.]

Notes:

Severability--Savings--1982 1st ex.s. c 43: See notes following RCW 43.52.374.

RCW 43.52.391 Powers and duties of operating agency.

Except as otherwise provided in this section, a joint operating agency shall have all powers now or hereafter granted public utility districts under the laws of this state. It shall not acquire nor operate any electric distribution properties nor condemn any properties owned by a public utility which are operated for the generation and transmission of electric power and energy or are being developed for such purposes with due diligence under a valid license or permit, nor purchase or acquire any operating hydroelectric generating plant owned by any city or district on June 11, 1953, or which may be acquired by any city or district by condemnation on or after January 1, 1957, nor levy taxes, issue general obligation bonds, or create subdistricts. It may enter into any contracts, leases or other undertakings deemed necessary or proper and acquire by purchase or condemnation any real or personal property used or useful for its corporate purposes. Actions in eminent domain may be instituted in the superior court of any county in which any of the property sought to be condemned is located and the court in any such action shall have jurisdiction to condemn property wherever located within the state; otherwise such actions shall be governed by the same procedure as now or hereafter provided by law for public utility districts. An operating agency may sell steam or water not required by it for the generation of power and may construct or acquire any facilities it deems necessary for that purpose.

An operating agency may make contracts for any term relating to the purchase, sale, interchange or wheeling of power with the government of the United States or any agency thereof and with any municipal corporation or public utility, within or without the state, and may purchase or deliver power anywhere pursuant to any such contract. An operating agency may acquire any coal-bearing lands for the purpose of assuring a long-term, adequate supply of coal to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale or disposal of coal that it deems proper.

Any member of an operating agency may advance or contribute funds to an agency as may be agreed upon by the agency and the member, and the agency shall repay such advances or contributions from proceeds of revenue bonds, from operating revenues or from any other funds of the agency, together with interest not to exceed the maximum specified in RCW 43.52.395(1). The legislative body of any member may authorize and make such advances or contributions to an operating agency to assist in a plan for termination of a project or projects, whether or not such member is a participant in such project or projects. Any member who makes such advances or contributions for terminating a project or projects in which it is not a participant shall not

assume any liability for any debts or obligations related to the terminated project or projects on account of such advance or contribution.

[1982 c 1 § 1; 1977 ex.s. c 184 § 8; 1965 c 8 § 43.52.391. Prior: 1957 c 295 § 5.]

Notes:

Severability--1982 c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 1 § 3.]

Liability to other taxing districts for increased financial burdens: Chapter 54.36 RCW.

RCW 43.52.395 Maximum interest rate operating agency may pay member.

(1) The maximum rate at which an operating agency shall add interest in repaying a member under RCW 43.52.391 may not exceed the higher of fifteen percent per annum or four percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the preceding calendar month.

(2) The maximum rate specified in subsection (1) of this section is applicable to all advances and contributions made by each member to the agency prior to January 21, 1982, and to all renewals of such advances and contributions.

[1989 c 14 § 4; 1982 c 1 § 2.]

Notes:

Severability--1982 c 1: See note following RCW 43.52.391.

RCW 43.52.410 Authority of city or district to contract for electric energy or falling waters.

Any city or district is authorized to enter into contracts or compacts with any operating agency or a publicly or privately owned public utility for the purchase and sale of electric energy or falling waters: PROVIDED, That no city or district may enter into a contract or compact with an operating agency to purchase electric energy, or to purchase or participate in a portion of an electrical generating project, that commits the city or district to pay an amount in excess of an express dollar amount or in excess of an express rate per unit of electrical energy received.

[1983 c 308 § 1; 1977 ex.s. c 184 § 9; 1965 c 8 § 43.52.410. Prior: 1953 c 281 § 17.]

RCW 43.52.430 Appeals from director of department of ecology.

Any party in interest deeming itself aggrieved by any order of the director of the department of ecology may appeal to the superior court of Thurston county by serving upon the director and filing with clerk of said court within thirty days after the entry of the order a notice of appeal. The director shall, within ten days after service of the notice of appeal, file with the

clerk of the court a return containing a true copy of the order appealed from, together with a transcript of the record of the proceeding before the director, after which the appeal shall be at issue. The appeal shall be heard and decided by the court upon the record before the director and the court may either affirm, set aside, or remand the order appealed from for further proceedings. Appellate review of the superior court's decision may be sought as in other civil cases.

[1988 c 202 § 44; 1977 ex.s. c 184 § 10; 1971 c 81 § 113; 1965 c 8 § 43.52.430. Prior: 1953 c 281 § 19.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 43.52.440 Effect of chapter on "Columbia River Sanctuary Act."

Nothing contained in this chapter shall be construed to amend, modify or repeal in any manner *RCW 75.20.110, commonly known as the "Columbia River Sanctuary Act", and all matter herein contained shall be expressly subject to such act.

[1983 1st ex.s. c 46 § 178; 1965 c 8 § 43.52.440. Prior: 1953 c 281 § 23.]

Notes:

***Reviser's note:** RCW 75.20.110 was recodified as RCW 77.55.160 pursuant to 2000 c 107 § 129.

RCW 43.52.450 Chapter requirements are cumulative--Preservation of rights--Not subject to utilities and transportation commission.

The provisions of this chapter shall be cumulative and shall not impair or supersede the powers or rights of any person, firm or corporation or political subdivision of the state of Washington under any other law. The rights of all persons, firms, corporations and political subdivisions or operating units of any kind under existing contracts, renewals thereof or supplements thereto, with the United States, or any agency thereof, for power, are hereby preserved and such rights shall not be impaired or modified by any of the provisions of this chapter or any of the powers granted by this chapter.

The rates, services and practices of any operating agency in respect to the power generated, transmitted or sold by it shall not be governed by the regulations of the utilities and transportation commission.

[1977 ex.s. c 184 § 11; 1965 c 8 § 43.52.450. Prior: 1953 c 281 § 10.]

RCW 43.52.460 Operating agency to pay in lieu of taxes.

Any joint operating agency formed under this chapter shall pay in lieu of taxes payments in the same amounts as paid by public utility districts. Such payments shall be distributed in accordance with the provisions applicable to public utility districts: PROVIDED, HOWEVER, That such tax shall not apply to steam generated electricity produced by a nuclear steam powered electric generating facility constructed or acquired by a joint operating agency and in operation prior to May 17, 1971.

[1971 ex.s. c 75 § 1; 1965 c 8 § 43.52.460. Prior: 1957 c 295 § 10.]

RCW 43.52.470 Operating agency--Validity of organization and existence.

Except as provided in RCW 43.52.360, the validity of the organization of any joint operating agency can be questioned only by action instituted within six months from the date that the joint operating agency is created. If the validity of the existence of any joint operating agency is not challenged within that period, by the filing and service of a petition or complaint in the action, the state shall be barred forever from questioning the validity of the joint operating agency by reason of any defect claimed to exist in the organization thereof, and it shall be deemed validly organized for all purposes. Any joint operating agency heretofore (March 26, 1957) attempted to be organized pursuant to chapter 43.52 RCW and which has maintained its existence since the date of such attempted organization, is hereby declared legal and valid and its organization and creation are validated and confirmed.

[1965 c 8 § 43.52.470. Prior: 1957 c 295 § 11.]

RCW 43.52.515 Application of Titles 9 and 9A RCW.

All of the provisions of Titles 9 and 9A RCW apply to actions of a joint operating agency.

[1981 c 173 § 6.]

Notes:

Severability--1981 c 173: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 173 § 9.]

RCW 43.52.520 Security force--Authorized.

An operating agency constructing or operating a nuclear power plant under a site certificate issued under chapter 80.50 RCW may establish a security force for the protection and security of each nuclear power plant site exclusion area. Members of the security force may be supplied with uniforms and badges indicating their position as security force members if the uniforms and badges do not closely resemble the uniforms or badges of any law enforcement agency or other agency possessing law enforcement powers in the surrounding area of the nuclear power plant exclusion area. Members of the security force shall enroll in and successfully complete a training program approved by the criminal justice training commission which does not conflict with any requirements of the United States nuclear regulatory commission for the training of security personnel at nuclear power plants. All costs incurred by the criminal justice training commission in the preparation, delivery, or certification of the training programs shall be paid by the operating agency.

[1981 c 301 § 1.]

RCW 43.52.525 Security force--Criminal history record information.

An operating agency is authorized to obtain criminal history record information pursuant to RCW 10.97.050 for any member of an operating agency security force and for any applicant seeking employment as a member of an operating agency security force.

[1981 c 301 § 2.]

RCW 43.52.530 Security force--Powers and duties--Rules on speed, operation, location of vehicles authorized.

(1) Members of an operating agency security force authorized under RCW 43.52.520 may use reasonable force to detain, search, or remove persons who enter or remain without permission within the nuclear power plant site exclusion area or whenever, upon probable cause, it appears to a member of the security force that a person has committed or is attempting to commit a crime. Should any person be detained, the security force shall immediately notify the law enforcement agency, having jurisdiction over the nuclear power plant site, of the detainment. The security force is authorized to detain the person for a reasonable time until custody can be transferred to a law enforcement officer. Members of a security force may use that force necessary in the protection of persons and properties located within the confines of the nuclear power plant site exclusion area.

(2) An operating agency may adopt and enforce rules controlling the speed, operation, and location of vehicles on property owned or occupied by the operating agency. Such rules shall be conspicuously posted and persons violating the rules may be expelled or detained.

(3) The rights granted in subsection (1) of this section are in addition to any others that may exist by law including, but not limited to, the rights granted in RCW 9A.16.020(4).

[1981 c 301 § 3.]

RCW 43.52.535 Security force--Membership in retirement system authorized.

Members of the operating agency security force shall be members of the retirement system under chapter 41.40 RCW.

[1981 c 301 § 4.]

RCW 43.52.550 Plans for repayment of operating agency obligations maturing prior to planned operation of plant.

Any municipal corporation, cooperative or mutual which has entered into a contract with an operating agency to participate in the construction or acquisition of an energy plant as defined in chapter 80.50 RCW shall annually adopt a plan for the repayment of its contractual share of any operating agency obligation which matures prior to the planned operation of the plant. The manner of adoption of the plan shall be subject to the laws regarding approval of rates of the

municipal corporation, cooperative or mutual.

The plan shall include the effect of the means of repayment on its financial condition, its customers' rates, its other contractual rights and obligations, and any other matter deemed useful by the participant.

Each such participating municipal corporation, cooperative or mutual shall include a statement of the extent of its contractual obligation to any operating agency in an annual financial report.

[1981 1st ex.s. c 1 § 4.]

Notes:

Severability--1981 1st ex.s. c 1: See note following RCW 43.52.250.

RCW 43.52.560 Contracts for materials or work required--Sealed bids.

Except as provided otherwise in this chapter, a joint operating agency shall purchase any item or items of materials, equipment, or supplies, the estimated cost of which is in excess of five thousand dollars exclusive of sales tax, or order work for construction of generating projects and associated facilities, the estimated cost of which is in excess of ten thousand dollars exclusive of sales tax, by contract in accordance with RCW 54.04.070 and 54.04.080, which require sealed bids for contracts.

[1998 c 245 § 69; 1987 c 376 § 1.]

RCW 43.52.565 Contracts for materials or work through competitive negotiation authorized--Selection of contractor.

(1) An operating agency may enter into contracts through competitive negotiation under subsection (2) of this section for materials, equipment, supplies, or work to be performed during commercial operation of a nuclear generating project and associated facilities (a) to replace a defaulted contract or a contract terminated in whole or in part, or (b) where consideration of factors in addition to price, such as technical knowledge, experience, management, staff, or schedule, is necessary to achieve economical operation of the project, provided that the managing director or a designee determines in writing and the executive board finds that execution of a contract under this section will accomplish project completion or operation more economically than sealed bids.

(2) The selection of a contractor shall be made in accordance with the following procedures:

(a) Proposals shall be solicited through a request for proposals, which shall state the requirements to be met. Responses shall describe the professional competence of the offeror, the technical merits of the offer, and the price.

(b) The request for proposals shall be given adequate public notice in the same manner as for sealed bids.

(c) As provided in the request for proposals, the operating agency shall specify at a

preproposal conference the contract requirements in the request for proposal, which may include but are not limited to: Schedule, managerial, and staffing requirements, productivity and production levels, technical expertise, approved project quality assurance procedures, and time and place for submission of proposals. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all potential offerors.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be open for public inspection after contract award.

(e) As provided in the request for proposals, invitations shall be sent to all responsible offerors who submit proposals to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) The operating agency shall execute a contract with the responsible offeror whose proposal is determined in writing to be the most advantageous to the operating agency and the state taking into consideration the requirements set forth in the request for proposals. The contract file shall contain the basis on which the successful offeror is selected. The operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(g) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost.

(h) The operating agency shall retain authority and responsibility for inspection, testing, and compliance with applicable regulations or standards of any state or federal governmental agency.

[1998 c 245 § 70; 1994 c 27 § 1; 1987 c 376 § 2.]

RCW 43.52.570 Purchase of materials by telephone or written quotation authorized--Procedure.

For the awarding of a contract to purchase any item or items of materials, equipment, or supplies in an amount exceeding five thousand dollars but less than seventy-five thousand dollars, exclusive of sales tax, the managing director or a designee may, in lieu of sealed bids, secure telephone and/or written quotations from at least five vendors, where practical, and award contracts for purchase of materials, equipment, or supplies to the lowest responsible bidder. The agency shall establish a procurement roster, which shall consist of suppliers and manufacturers who may supply materials or equipment to the operating agency, and shall provide for solicitations which will equitably distribute opportunity for bids among suppliers and manufacturers on the roster. Immediately after the award is made, the bid quotations obtained shall be recorded and shall be posted or otherwise made available for public inspection and copying pursuant to chapter 42.17 RCW at the office of the operating agency or any other

officially designated location. Waiver of the deposit or bid bond required for sealed bids may be authorized by the operating agency in securing the bid quotations.

[1987 c 376 § 3.]

RCW 43.52.575 Purchase of materials without competition authorized.

When the managing director or a designee determines in writing that it is impracticable to secure competition for required materials, equipment, or supplies, he or she may purchase the materials, equipment, or supplies without competition. The term "impracticable to secure competition" means:

(1) When material, equipment, or supplies can be obtained from only one person or firm (single source of supply); or

(2) When specially designed parts or components are being procured as replacement parts in support of equipment specially designed by the manufacturer.

[1987 c 376 § 4.]

RCW 43.52.580 Emergency purchase of materials or work by contract.

When the managing director or a designee determines in writing that an emergency endangers the public safety or threatens property damage or that serious financial injury would result if materials, supplies, equipment, or work are not obtained by a certain time, and they cannot be contracted for by that time by means of sealed bids, the managing director or a designee may purchase materials, equipment, or supplies or may order work by contract in any amount necessary, after having taken precautions to secure a responsive proposal at the lowest price practicable under the circumstances.

For the purposes of this section the term "serious financial injury" means that the costs attributable to the delay caused by contracting by sealed bids exceed the cost of materials, supplies, equipment, or work to be obtained.

[1987 c 376 § 5.]

RCW 43.52.585 Procedures for implementing RCW 43.52.560 through 43.52.580.

The executive board shall establish procedures for implementing RCW 43.52.560 through 43.52.580 by operating agency resolution after notice, public hearing, and opportunity for public comment. The procedures shall be established within six months after July 26, 1987.

[1987 c 376 § 6.]

RCW 43.52.590 Construction of RCW 43.52.560 through 43.52.585.

Nothing in RCW 43.52.560 through 43.52.585 requires reapplication by a joint operating agency in existence on July 26, 1987.

[1987 c 376 § 7.]

RCW 43.52.612 Contract bid form.

A joint operating agency shall require that bids upon any construction or improvement of any nuclear generating project and associated facilities shall be made upon the contract bid form supplied by the operating agency, and in no other manner. The operating agency may, before furnishing any person, firm, or corporation desiring to bid upon any work with a contract bid form, require from the person, firm, or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of the person, firm, or corporation in performing work. The questionnaire shall be sworn to before a notary public or other person authorized to take acknowledgement of deeds and shall be submitted once a year or at such other times as the operating agency may require. Whenever the operating agency is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement or whenever the operating agency determines that the person, firm, or corporation does not meet all of the requirements set forth in this section, it may refuse to furnish the person, firm, or corporation with a contract bid form and any bid of the person, firm, or corporation must be disregarded. The operating agency shall require that a person, firm, or corporation have all of the following requirements in order to obtain a contract form:

- (1) Adequate financial resources, the ability to secure these resources, or the capability to secure a one hundred percent payment and performance bond;
- (2) The necessary experience, organization, and technical qualifications to perform the proposed contract;
- (3) The ability to comply with the required performance schedule taking into consideration all of its existing business commitments;
- (4) A satisfactory record of performance, integrity, judgment, and skills; and
- (5) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The refusal shall be conclusive unless appealed to the superior court of the county where the operating agency is situated or Thurston county within fifteen days, which appeal shall be heard summarily within ten days after the appeal is made and on five days' notice thereof to the operating agency.

The prevailing party in such litigation shall be awarded its attorney fees and costs.

The operating agency shall not be required to make available for public inspection or copying under chapter 42.17 RCW financial information provided under this section.

[1982 1st ex.s. c 44 § 5.]

Notes:

Severability--1982 1st ex.s. c 44: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 44 § 10.]

RCW 43.52.910 Construction--1965 c 8.

This chapter shall be liberally construed to effectuate its purposes.

[1965 c 8 § 43.52.910. Prior: 1957 c 295 § 12.]

**Chapter 43.52A RCW
ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL--STATE'S
MEMBERS**

Sections

43.52A.010	State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council.
43.52A.020	Definitions.
43.52A.030	Appointment of members.
43.52A.040	Terms of members--Vacancies--Residence of members.
43.52A.050	Sufficient time on council activities required--Technical assistance--Reimbursement--Liaison--Report--Compensation--Travel expenses.

RCW 43.52A.010 State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council.

The state of Washington agrees to participate in the Pacific Northwest Electric Power and Conservation Planning Council pursuant to the Pacific Northwest Electric Power Planning and Conservation Act.

[1981 c 14 § 1.]

RCW 43.52A.020 Definitions.

As used in this chapter:

(1) The term "the act" means the Pacific Northwest Electric Power Planning and Conservation Act.

(2) The term "council" means the Pacific Northwest Electric Power and Conservation Planning Council.

[1981 c 14 § 2.]

RCW 43.52A.030 Appointment of members.

The governor, with the consent of the senate, shall appoint two residents of Washington state to the council pursuant to the act. These persons shall undertake the functions and duties of members of the council as specified in the act and in appropriate state law. Upon appointment by

the governor to the council, the nominee shall make available to the senate such disclosure information as is requested for the confirmation process, including that required in RCW 42.17.241.

[1984 c 34 § 8; 1981 c 14 § 3.]

RCW 43.52A.040 Terms of members--Vacancies--Residence of members.

(1) Unless removed at the governor's pleasure, council members shall serve a term ending January 15 of the third year following appointment except that, with respect to members initially appointed, the governor shall designate one member to serve a term ending January 15 of the second year following appointment. Initial appointments to the council shall be made within thirty days of March 9, 1981.

(2) Each member shall serve until a successor is appointed, but if a successor is not appointed within sixty days of the beginning of a new term, the member shall be considered reappointed, subject to the consent of the senate.

(3) A vacancy on the council shall be filled for the unexpired term by the governor, with the consent of the senate.

(4) For the first available appointment and at all times thereafter, one member of Washington's delegation to the council shall reside east of the crest of the Cascade Mountains and one member shall reside west of the crest of the Cascade Mountains.

[1984 c 223 § 1; 1981 c 14 § 4.]

RCW 43.52A.050 Sufficient time on council activities required--Technical assistance--Reimbursement--Liaison--Report--Compensation--Travel expenses.

(1) Council members shall spend sufficient time on council activities to fully represent the state of Washington in carrying out the purposes of the act.

(2) State agencies shall provide technical assistance to council members upon request. The council members shall request that the council request the administrator of the Bonneville Power Administration to reimburse the state for the expenses associated with such assistance as provided in the act.

(3) The members of the council shall maintain liaison with the governor or his designees and the committees on energy and utilities, or their successor entities, of the senate and house of representatives.

(4) The members of the council shall submit to the governor and legislature an annual report describing the activities and plans of the council.

(5) Each member of the council shall receive compensation to be determined by the governor and applicable federal law and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, as now or hereafter amended.

[1981 c 14 § 5.]

Chapter 43.56 RCW
UNIFORM LEGISLATION COMMISSION

Sections

43.56.010	Appointment of commissioners.
43.56.020	Duties of commission.
43.56.040	Travel expenses of members.
43.56.050	Membership--Code reviser.

RCW 43.56.010 Appointment of commissioners.

The governor shall appoint three suitable persons as a board of commissioners for the promotion of uniformity of legislation in the United States. Any vacancy on the board shall be filled by appointment by the governor.

[1965 c 8 § 43.56.010. Prior: 1905 c 59 § 1; RRS § 8204.]

RCW 43.56.020 Duties of commission.

The board shall examine the subjects of marriage and divorce, insolvency, the descent and distribution of property, the execution and probate of wills, and other subjects upon which uniformity of legislation in the various states is desirable, but which are outside of the jurisdiction of the congress of the United States.

It shall confer upon these matters with the commissioners appointed by other states for the same purpose and consider and draft uniform laws to be submitted for approval and adoption by the several states; and generally devise and recommend such other and further course of action as shall accomplish such uniformity.

[1965 c 8 § 43.56.020. Prior: 1905 c 59 § 2; RRS § 8205.]

RCW 43.56.040 Travel expenses of members.

No member of the board shall receive any compensation for his services, but each member shall be paid travel expenses incurred in the discharge of official duty in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, after the account thereof has been audited by the board.

The board shall keep a full account of its expenditures and shall report it in each report. There shall be allowed such expenses for only one annual meeting of the board within this state, and for the members in attendance, not oftener than once in each year, at any conference of commissioners outside of this state.

[1975-'76 2nd ex.s. c 34 § 118; 1965 c 8 § 43.56.040. Prior: 1955 c 91 § 1; 1905 c 59 § 4; RRS § 8207.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.56.050 Membership--Code reviser.

The code reviser shall serve as an additional member of the board of commissioners.

[2001 c 205 § 1.]

NOTES:

Effective date--2001 c 205: "This act takes effect August 1, 2001." [2001 c 205 § 2.]

**Chapter 43.58 RCW
WASHINGTON-OREGON BOUNDARY COMMISSION**

Sections

- | | |
|-----------|--|
| 43.58.050 | Oregon-Washington Columbia River boundary compact--Ratification. |
| 43.58.060 | Oregon-Washington Columbia River boundary compact--Terms and provisions. |
| 43.58.070 | Oregon-Washington Columbia River boundary compact--Transfer of records, etc., to division of archives. |
| 43.58.090 | Oregon-Washington Columbia River boundary compact--Repeal of RCW 43.58.010 through 43.58.040, when. |

RCW 43.58.050 Oregon-Washington Columbia River boundary compact--Ratification.

The interstate compact determining the Oregon-Washington boundary on the Columbia River which was executed on the 21st day of December, 1956 by the Oregon commission on interstate cooperation for the state of Oregon and the Washington-Oregon boundary commission for the state of Washington is hereby ratified and approved.

[1965 c 8 § 43.58.050. Prior: 1957 c 90 § 1.]

Notes:

Reviser's note: The effective date of RCW 43.58.050 was March 13, 1957. State Constitution, Amendment 33, recognizing the modification of the state's boundaries through appropriate compact procedure, was approved by the voters on November 4th, 1958, and the governor's proclamation relating thereto was issued on December 4th, 1958.

The Oregon legislature has ratified the compact, see Oregon Revised Statutes §§ 186.510 and 186.520, effective April 4, 1957. See also, Article XVI of the Oregon Constitution relating to state boundaries which was adopted by the people November 4, 1958, effective December 3, 1958.

Congressional ratification is contained in Public Law 85-575, dated July 31, 1958.

RCW 43.58.060 Oregon-Washington Columbia River boundary compact--Terms and provisions.

The terms and provisions of the compact referred to in RCW 43.58.050 are as follows:

**INTERSTATE COMPACT DETERMINING
OREGON-WASHINGTON BOUNDARY ON THE**

COLUMBIA RIVER

ARTICLE I. PURPOSE

The boundary between the states of Oregon and Washington along the course of the Columbia River has not been easy to ascertain because of changes in the main channel of the river with a result that a state of confusion and dispute exists and the enforcement and administration of the laws of the two states has been rendered difficult.

The purpose of this compact is to fix with precision by reference to stations of longitude and latitude the boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the most easterly point at which the 46th parallel of North latitude crosses said river, at which point the river ceases to form the boundary between the two states.

ARTICLE II. DESCRIPTION

The boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the point at which the last described point number (# 191) of the boundary as herein determined meets the 46th parallel of North latitude at 118° 59'10".12 of West longitude shall be as follows:

Beginning one marine league at sea off the mouth of the Columbia river at north latitude 46° 15'00".00; running thence due east to point number 1 of this description, which point is at north latitude 46° 15'00".00, west longitude 124° 05'00".00; thence from point number 1 continuing upstream in the channel of the Columbia river by a series of straight lines connecting the following numbered and described points in consecutive order.

Point Number	North Latitude	West Longitude	Description of Location
1	46°15'00".00	124°05'00".00	
2	46°15'51".00	124°02'02".75	
3	46°16'17".00	124°01'45".80	
4	46°16'59".50	124°02'14".40	
5	46°17'28".00	124°02'07".00	
6	46°17'33".25	124°01'12".25	
7	46°16'41".50	124°00'00".00	
8	46°16'03".00	123°58'11".80	
9	46°14'19".80	123°55'42".00	
10	46°14'06".00	123°52'14".50	
11	46°16'09".50	123°44'20".50	
12	46°15'01".00	123°41'12".70	

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Point Number	North Latitude	West Longitude	Description of Location
13	46°15'33".30	123°38'52".80	
14	46°15'23".90	123°35'05".00	
15	46°15'38".00	123°32'23".00	
16	46°16'14".60	123°30'00".00	
17	46°15'46".70	123°27'51".40	
18	46°14'23".50	123°25'51".60	
19	46°13'10".50	123°25'20".50	
20	46°11'29".00	123°25'43".60	
21	46°10'47".80	123°25'38".00	
22	46°09'01".00	123°23'21".50	
23	46°08'33".00	123°18'45".60	
24	46°09'04".50	123°15'47".20	
25	46°10'00".00	123°13'51".20	
26	46°11'20".80	123°09'55".50	
27	46°11'11".30	123°07'10".90	
28	46°09'40".00	123°04'23".50	
29	46°09'24".00	123°03'22".40	
30	46°08'38".40	123°02'00".00	
31	46°08'06".00	123°00'16".00	
32	46°06'20".02	122°57'44".28	
33	46°06'17".36	122°57'38".295	a point on the center line of the Longview Bridge at center of main span
34	46°06'14".71	122°57'32".31	
35	46°05'02".70	122°54'11".00	
36	46°03'37".50	122°52'59".50	
37	46°01'53".50	122°52'35".50	
38	46°00'52".25	122°51'17".20	
39	45°58'52".00	122°50'11".80	
40	45°57'40".00	122°48'46".80	
41	45°55'57".00	122°48'18".00	
42	45°54'47".00	122°48'36".75	
43	45°53'05".00	122°47'48".30	
44	45°52'06".00	122°47'01".50	
45	45°50'40".00	122°47'04".50	
46	45°49'31".20	122°47'41".00	
47	45°48'37".00	122°47'40".00	
48	45°46'51".00	122°46'06".30	

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Point Number	North Latitude	West Longitude	Description of Location
49	45°45'34".20	122°45'37".00	
50	45°44'04".70	122°45'32".00	
51	45°42'05".00	122°46'16".00	
52	45°40'50".80	122°46'24".00	
53	45°39'26".75	122°45'46".00	
54	45°38'40".00	122°44'13".00	
55	45°38'17".00	122°42'47".50	
56	45°37'35".37	122°41'35".14	
57	45°37'29".47	122°41'23".855	a point on the center line of Northern Pacific Railroad Bridge across Columbia River, which point is at center of 3rd pier south of the draw span
58	45°37'26".52	122°41'18".215	
59	45°37'07".85	122°40'33".42	
60	45°37'05".938	122°40'26".939	a point on the center line of the west highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south from the center of pier No. 6 of said bridge
61	45°37'05".62	122°40'25".86	a point on the center line of the east highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south from the center of pier No. 6 of said bridge
62	45°37'03".71	122°40'19".38	
63	45°36'34".00	122°38'27".00	
64	45°36'29".80	122°36'21".30	
65	45°36'20".00	122°35'20".00	
66	45°35'47".90	122°32'48".00	
67	45°35'23".50	122°31'24".20	
68	45°35'01".00	122°29'30".00	
69	45°34'42".80	122°28'20".50	
70	45°34'03".00	122°27'09".30	
71	45°33'49".00	122°26'15".80	
72	45°34'03".30	122°24'36".50	
73	45°34'29".50	122°23'25".80	
74	45°34'33".40	122°22'44".00	
75	45°34'10".00	122°21'04".00	

Revised Code of Washington 2001

Point Number	North Latitude	West Longitude	Description of Location
76	45°32'55".20	122°19'49".00	
77	45°32'38".00	122°17'43".70	
78	45°32'38".80	122°15'56".70	
79	45°33'03".25	122°14'24".50	
80	45°33'55".00	122°11'58".50	
81	45°34'37".00	122°10'54".00	
82	45°35'03".00	122°08'25".50	
83	45°34'53".40	122°06'40".00	
84	45°35'00".00	122°06'02".00	
85	45°36'35".00	122°02'35".00	
86	45°36'53".80	122°01'11".50	
87	45°36'58".00	122°00'08".50	
88	45°37'23".00	121°58'54".50	
89	45°37'59".00	121°57'42".80	
90	45°38'37".50	121°57'16".50	
91	45°38'42".00	121°57'01".80	
92	45°38'40".35	121°56'37".34	
93	45°38'40".13	121°56'22".57	a point at the intersection of the axis of Bonneville Dam and the center line of center pier of the spillway of said dam
94	45°38'39".82	121°56'01".46	
95	45°39'17".00	121°54'25".00	
96	45°39'43".85	121°53'58".48	a point on center line of bridge at Cascade Locks, known as "The Bridge of the Gods" and in the center of the main span of said bridge
97	45°39'44".81	121°53'58".16	
98	45°39'45".77	121°53'57".84	
99	45°40'15".00	121°54'02".00	
100	45°41'36".80	121°51'57".00	
101	45°42'24".75	121°48'36".00	
102	45°41'39".00	121°44'02".00	
103	45°41'42".00	121°42'22".00	
104	45°42'19".00	121°40'02".00	
105	45°42'17".50	121°37'48".50	
106	45°43'36".00	121°31'54".30	
107	45°43'15".275	121°29'52".445	
108	45°43'07".02	121°29'36".615	a point on the center line of the Hood

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Point Number	North Latitude	West Longitude	Description of Location
			River Bridge at the center of the draw span of said bridge
109	45°43'04".075	121°29'30".96	
110	45°42'05".20	121°27'41".80	
111	45°41'39".25	121°25'22".00	
112	45°41'35".00	121°24'02".00	
113	45°42'11".50	121°22'17".00	
114	45°42'18".00	121°20'11".50	
115	45°42'00".00	121°18'40".00	
116	45°41'13".30	121°17'10".00	
117	45°40'40".50	121°14'52".00	
118	45°40'17".00	121°12'52".50	
119	45°39'00".00	121°11'57".00	
120	45°37'47".00	121°11'38".40	
121	45°37'00".25	121°11'43".00	
122	45°36'23".80	121°10'57".00	
123	45°36'22".50	121°10'00".00	
124	45°36'29".175	121°08'39".84	
125	45°36'40".89	121°08'22".135	a point on the center line of the Dallas Bridge across the Columbia River at the center of the main span of said bridge
126	45°36'43".94	121°08'17".53	
127	45°36'35".69	121°07'50".34	
128	45°36'58".44	121°07'16".41	
129	45°37'06".095	121°06'57".58	
130	45°37'14".85	121°07'02".75	a point on the axis of the Dalles Dam at Station 48+79 of the center line survey of said dam
131	45°37'23".97	121°07'08".14	
132	45°38'53".13	121°05'01".25	
133	45°39'09".54	121°03'47".80	
134	45°39'04".04	121°01'57".51	
135	45°39'12".08	121°00'22".28	
136	45°38'54".66	120°58'56".33	
137	45°38'55".91	120°58'49".52	a point on the center line of the Oregon Trunk Railroad Bridge and in the center of the 4th pier from the north end of said bridge
138	45°38'58".405	120°58'35".90	

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Point Number	North Latitude	West Longitude	Description of Location
139	45°39'24".84	120°57'06".97	
140	45°39'23".58	120°56'34".22	
141	45°38'24".54	120°54'44".75	
142	45°38'35".09	120°53'40".72	
143	45°40'18".79	120°51'15".26	
144	45°41'11".69	120°47'14".64	
145	45°42'19".71	120°43'38".83	
146	45°42'42".58	120°42'10".70	
147	45°42'57".18	120°41'18".11	
148	45°43'48".14	120°40'05".19	
149	45°44'45".12	120°38'01".97	
150	45°44'47".00	120°37'17".91	
151	45°44'47".99	120°35'23".91	
152	45°44'18".49	120°33'29".23	
153	45°42'37".59	120°31'17".65	
154	45°42'00".37	120°30'16".48	
155	45°41'40".42	120°28'53".22	
156	45°41'58".55	120°24'08".96	
157	45°42'41".66	120°19'30".62	
158	45°43'16".74	120°16'56".18	
159	45°43'33".84	120°12'34".62	
160	45°45'43".67	120°10'10".01	
161	45°46'24".09	120°08'25".17	
162	45°47'07".10	120°04'08".70	
163	45°48'26".17	120°00'49".27	
164	45°49'28".29	119°57'52".64	
165	45°49'41".97	119°54'21".95	
166	45°50'25".18	119°50'53".51	
167	45°50'52".00	119°48'05".62	
168	45°50'45".15	119°46'18".16	
169	45°51'25".40	119°40'07".80	
170	45°54'20".70	119°37'20".96	
171	45°55'10".82	119°35'58".28	
172	45°55'32".25	119°34'13".67	
173	45°54'31".37	119°31'24".18	
174	45°54'23".43	119°29'13".01	
175	45°55'03".10	119°26'57".35	

Point Number	North Latitude	West Longitude	Description of Location
176	45°55'18".10	119°21'48".12	
177	45°55'51".37	119°19'52".71	
178	45°55'54".48	119°19'39".28	a point on the center line of the Umatilla Bridge at the center of the north main span of said bridge
179	45°55'59".59	119°19'17".20	
180	45°56'10".26	119°17'47".60	a point on the axis of McNary Dam at the north face of the south nonoverflow section
181	45°56'15".24	119°17'05".76	
182	45°56'24".05	119°15'21".40	
183	45°55'58".60	119°13'28".22	
184	45°55'40".97	119°11'39".82	
185	45°55'40".26	119°10'05".04	
186	45°55'58".55	119°07'30".72	
187	45°56'34".25	119°05'32".00	
188	45°57'31".28	119°03'37".36	
189	45°58'09".33	119°01'33".95	
190	45°58'45".73	119°00'27".12	
191	46°00'00".00	118°59'10".12	

ARTICLE III. RATIFICATION AND EFFECTIVE DATE

This compact shall become operative when it has been ratified by the legislatures of the states of Oregon and Washington and approved by the Congress of the United States and the Constitutions of the states of Oregon and Washington have been amended to authorize the establishment of the boundary as herein provided.

[1965 c 8 § 43.58.060. Prior: 1957 c 90 § 2.]

RCW 43.58.070 Oregon-Washington Columbia River boundary compact--Transfer of records, etc., to division of archives.

Upon ratification by the state of Oregon and approval by the Congress of the United States of the compact set forth in RCW 43.58.060, the secretary of the Washington-Oregon boundary commission is hereby directed to transmit all records, work sheets, maps, minutes and other papers of said commission to the division of archives and records management of the office of the secretary of state.

[1981 c 115 § 3; 1965 c 8 § 43.58.070. Prior: 1957 c 90 § 3.]

Notes:

Effective date--1981 c 115: See note following RCW 40.14.020.

RCW 43.58.090 Oregon-Washington Columbia River boundary compact--Repeal of RCW 43.58.010 through 43.58.040, when.

Chapter 27, Laws of 1937, as amended by chapter 6, Laws of 1955 extraordinary session and chapter 43.58 RCW [RCW 43.58.010 through 43.58.040] each shall be repealed when the compact set forth in RCW 43.58.060 has been ratified by the state of Oregon and approved by the Congress of the United States.

[1965 c 8 § 43.58.090. Prior: 1957 c 90 § 5.]

Notes:

Reviser's note: See note following RCW 43.58.050.

**Chapter 43.59 RCW
TRAFFIC SAFETY COMMISSION**

Sections

43.59.010	Purpose--Finding.
43.59.020	Governor responsible for administration of traffic safety program--Acceptance and disbursal of federal funds.
43.59.030	Members of commission--Appointment--Vacancies--Governor's designee to act during governor's absence.
43.59.040	Powers and duties of commission.
43.59.050	Meetings--Travel expenses of members.
43.59.060	Director of commission--Appointment--Salary.
43.59.070	Director's duties--Staff--Rules and regulations.
43.59.080	Governor's duties as chairman.
43.59.140	Driving while under the influence of intoxicating liquor or any drug--Information and education.
43.59.150	Bicycle and pedestrian safety--Committee and account <i>(as amended by 1999 c 351)</i> .
43.59.150	Bicycle and pedestrian safety--Committee and account <i>(as amended by 1999 c 372)</i> .

RCW 43.59.010 Purpose--Finding.

(1) The purpose of this chapter is to establish a new agency of state government to be known as the Washington traffic safety commission. The functions and purpose of this commission shall be to find solutions to the problems that have been created as a result of the tremendous increase of motor vehicles on our highways and the attendant traffic death and accident tolls; to plan and supervise programs for the prevention of accidents on streets and highways including but not limited to educational campaigns designed to reduce traffic accidents in cooperation with all official and unofficial organizations interested in traffic safety; to coordinate the activities at the state and local level in the development of state-wide and local traffic safety programs; to promote a uniform enforcement of traffic safety laws and establish

standards for investigation and reporting of traffic accidents; to promote and improve driver education; and to authorize the governor to perform all functions required to be performed by him under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731).

(2) The legislature finds and declares that bicycling and walking are becoming increasingly popular in Washington as clean and efficient modes of transportation, as recreational activities, and as organized sports. Future plans for the state's transportation system will require increased access and safety for bicycles and pedestrians on our common roadways, and federal transportation legislation and funding programs have created strong incentives to implement these changes quickly. As a result, many more people are likely to take up bicycling in Washington both as a leisure activity and as a convenient, inexpensive form of transportation. Bicyclists are more vulnerable to injury and accident than motorists, and should be as knowledgeable as possible about traffic laws, be highly visible and predictable when riding in traffic, and be encouraged to wear bicycle safety helmets. Hundreds of bicyclists and pedestrians are seriously injured every year in accidents, and millions of dollars are spent on health care costs associated with these accidents. There is clear evidence that organized training in the rules and techniques of safe and effective cycling can significantly reduce the incidence of serious injury and accidents, increase cooperation among road users, and significantly increase the incidence of bicycle helmet use, particularly among minors. A reduction in accidents benefits the entire community. Therefore it is appropriate for businesses and community organizations to provide donations to bicycle and pedestrian safety training programs.

[1998 c 165 § 2; 1967 ex.s. c 147 § 1.]

Notes:

Short title--1998 c 165: "This act may be known and cited as the Cooper Jones Act." [1998 c 165 § 1.]

Driver education courses: Chapter 28A.220 RCW.

Drivers' training schools: Chapter 46.82 RCW.

RCW 43.59.020 Governor responsible for administration of traffic safety program--Acceptance and disbursement of federal funds.

The governor shall be responsible for the administration of the traffic safety program of the state and shall be the official of the state having ultimate responsibility for dealing with the federal government with respect to all programs and activities of the state and local governments pursuant to the Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731). The governor is authorized and empowered to accept and disburse federal grants or other funds or donations from any source for the purpose of improving traffic safety programs in the state of Washington, and is hereby empowered to contract and to do all other things necessary in behalf of this state to secure the full benefits available to this state under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) and in so doing, to cooperate with federal and state agencies, agencies private and public, interested organizations, and with individuals, to effectuate the purposes of that enactment, and any and all subsequent amendments thereto.

[1967 ex.s. c 147 § 2.]

RCW 43.59.030 Members of commission--Appointment--Vacancies--Governor's designee to act during governor's absence.

The governor shall be assisted in his duties and responsibilities by the Washington state traffic safety commission. The Washington traffic safety commission shall be composed of the governor as chairman, the superintendent of public instruction, the director of licensing, the secretary of transportation, the chief of the state patrol, the secretary of health, the secretary of social and health services, a representative of the association of Washington cities to be appointed by the governor, a member of the association of counties to be appointed by the governor, and a representative of the judiciary to be appointed by the governor. Appointments to any vacancies among appointee members shall be as in the case of original appointment.

The governor may designate an employee of the governor's office to act on behalf of the governor during the absence of the governor at one or more of the meetings of the commission. The vote of the designee shall have the same effect as if cast by the governor if the designation is in writing and is presented to the person presiding at the meetings included within the designation.

The governor may designate a member to preside during the governor's absence.

[1991 c 3 § 298; 1982 c 30 § 1; 1979 c 158 § 105; 1971 ex.s. c 85 § 7; 1969 ex.s. c 105 § 1; 1967 ex.s. c 147 § 3.]

RCW 43.59.040 Powers and duties of commission.

In addition to other responsibilities set forth in this chapter the commission shall:

(1) Advise and confer with the governing authority of any political subdivision of the state deemed eligible under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) for participation in the aims and programs and purposes of that act;

(2) Advise and confer with all agencies of state government whose programs and activities are within the scope of the Highway Safety Act including those agencies that are not subject to direct supervision, administration, and control by the governor under existing laws;

(3) Succeed to and be vested with all powers, duties, and jurisdictions previously vested in the Washington state safety council;

(4) Carry out such other responsibilities as may be consistent with this chapter.

[1983 1st ex.s. c 14 § 1; 1967 ex.s. c 147 § 4.]

RCW 43.59.050 Meetings--Travel expenses of members.

The commission shall meet at least quarterly and shall have such special meetings as may be required. Members of the commission shall receive no additional compensation for their services except that which shall be allowed as travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

[1975-'76 2nd ex.s. c 34 § 120; 1967 ex.s. c 147 § 6.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 43.59.060 Director of commission--Appointment--Salary.

The governor as chairman of the commission shall appoint a person to be director of the Washington traffic safety commission which director shall be paid such salary as shall be deemed reasonable and shall serve at the pleasure of the governor.

[1967 ex.s. c 147 § 7.]

RCW 43.59.070 Director's duties--Staff--Rules and regulations.

The director shall be secretary of the commission and shall be responsible for carrying into effect the commission's orders and rules and regulations promulgated by the commission. The director shall also be authorized to employ such staff as is necessary pursuant to the provisions of chapter 41.06 RCW. The commission shall adopt such rules and regulations as shall be necessary to carry into effect the purposes of this chapter.

[1967 ex.s. c 147 § 8.]

RCW 43.59.080 Governor's duties as chairman.

The governor as chairman of said commission shall have the authority to appoint advisory committees as he may deem advisable to aid, advise and assist the commission in carrying out the purposes of this chapter. All actions and decisions, however, shall be made by the commission.

[1967 ex.s. c 147 § 9.]

RCW 43.59.140 Driving while under the influence of intoxicating liquor or any drug--Information and education.

The Washington traffic safety commission shall produce and disseminate through all possible media, informational and educational materials explaining the extent of the problems caused by drinking drivers, the need for public involvement in their solution, and the penalties of existing and new laws against driving while under the influence of intoxicating liquor or any drug.

[1991 c 290 § 4; 1983 c 165 § 42.]

Notes:

Legislative finding, intent--Effective dates--Severability--1983 c 165: See notes following RCW 46.20.308.

RCW 43.59.150 Bicycle and pedestrian safety--Committee and account (*as amended by 1999 c 351*).

(1) The Washington state traffic safety commission shall establish a program for improving bicycle and pedestrian safety, and shall cooperate with the stakeholders and independent representatives to form an advisory committee to develop programs and create public private partnerships which promote bicycle and pedestrian safety. The traffic safety commission shall periodically report and make recommendations to the legislative transportation committee ~~(and the fiscal committees of the house of representatives and the senate by December 1, 1998, regarding the conclusions of the advisory)~~ on the progress of the bicycle and pedestrian safety committee.

(2) The bicycle and pedestrian safety account is created in the state treasury to support bicycle and pedestrian education or safety programs. ~~(To the extent that private contributions are received by the traffic safety commission for the purposes of bicycle and pedestrian safety programs established under this section, the appropriations from the highway safety account for this purpose shall lapse.)~~

[1999 c 351 § 1; 1998 c 165 § 3.]

RCW 43.59.150 Bicycle and pedestrian safety--Committee and account *(as amended by 1999 c 372)*.

(1) The Washington state traffic safety commission shall establish a program for improving bicycle and pedestrian safety, and shall cooperate with the stakeholders and independent representatives to form an advisory committee to develop programs and create public private partnerships which promote bicycle and pedestrian safety. ~~(The traffic safety commission shall report and make recommendations to the legislative transportation committee and the fiscal committees of the house of representatives and the senate by December 1, 1998, regarding the conclusions of the advisory committee.)~~

(2) The bicycle and pedestrian safety account is created in the state treasury. To the extent that private contributions are received by the traffic safety commission for the purposes of bicycle and pedestrian safety programs established under this section, the appropriations from the highway safety account for this purpose shall lapse.

[1999 c 372 § 9; 1998 c 165 § 3.]

Notes:

Reviser's note: RCW 43.59.150 was amended twice during the 1999 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Short title--1998 c 165: See note following RCW 43.59.010.

**Chapter 43.60A RCW
DEPARTMENT OF VETERANS AFFAIRS**

Sections
43.60A.010 Definitions.

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43.60A.020	Department created--Transfer of powers, duties, and functions to department.
43.60A.030	Director--Qualifications--Salary--Vacancy.
43.60A.040	General powers and duties of director.
43.60A.050	Assistants--Executive staff--Deputy.
43.60A.060	Delegation of powers and duties.
43.60A.070	Additional powers and duties of director.
43.60A.075	Powers as to state veterans' homes.
43.60A.080	Veterans affairs advisory committee--Created--Membership--Terms--Powers and duties.
43.60A.100	Counseling services--War-affected veterans.
43.60A.110	Counseling--Coordination of programs.
43.60A.120	Counseling--Priority.
43.60A.130	Counseling--Posttraumatic stress disorder and combat stress program.
43.60A.900	Transfer of personnel of department of social and health services engaged in veterans' services--Rights preserved.
43.60A.901	Transfer of property, records, funds, assets of agencies whose functions are transferred to department.
43.60A.902	Rules and regulations, pending business, contracts, of agencies whose functions are transferred to department to be continued--Savings.
43.60A.903	Certification when apportionments of budgeted funds required because of transfers.
43.60A.904	Federal programs--Rules and regulations--Internal reorganization to meet federal requirements--Construction to comply with federal law--Conflicting parts inoperative.
43.60A.905	Savings--1975-'76 2nd ex.s. c 115.
43.60A.906	Collective bargaining units or agreements not altered.
43.60A.907	Liberal construction--1975-'76 2nd ex.s. c 115.
43.60A.908	Severability--1975-'76 2nd ex.s. c 115.

NOTES:

Veterans and veterans' affairs: Title 73 RCW.

RCW 43.60A.010 Definitions.

As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Department" means the department of veterans affairs;
- (2) "Director" means the director of the department of veterans affairs;
- (3) "Committee" means the veterans affairs advisory committee.

[1975-'76 2nd ex.s. c 115 § 1.]

RCW 43.60A.020 Department created--Transfer of powers, duties, and functions to department.

There is hereby created a department of state government to be known as the department of veterans affairs. All powers, duties, and functions now or through action of this legislature vested by law in the department of social and health services relating to veterans and veteran affairs are transferred to the department, except those powers, duties, and functions which are expressly directed elsewhere by law. Powers, duties, and functions to be transferred shall include, but not be limited to, all those powers, duties, and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in

particular those concerned with participation in federal grants-in-aid programs. Also transferred to the department shall be the powers, duties, and functions of the bonus division of the treasurer's office: PROVIDED, That such transfer shall not occur until the bonus division completes its current duties of accepting and processing bonus claims arising from the Vietnam conflict. This section shall not be construed to continue the powers, duties and functions of said bonus division beyond a time when such powers, duties or functions would otherwise cease.

[1975-'76 2nd ex.s. c 115 § 2.]

RCW 43.60A.030 Director--Qualifications--Salary--Vacancy.

The executive head and appointing authority of the department shall be the director of veterans affairs. The director shall be an honorably discharged or retired veteran of the armed forces of the United States and shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when the governor shall present the nomination for the office to that body.

[1975-'76 2nd ex.s. c 115 § 3.]

RCW 43.60A.040 General powers and duties of director.

The director of the department of veterans affairs shall have the power and it shall be the director's duty:

- (1) To conduct, control, and supervise the department;
- (2) To appoint and employ and to determine the powers and duties together with the salaries and other expenses of such clerical and other personnel, subject to the provisions of chapter 41.06 RCW, as are necessary to carry out the duties of the department; and
- (3) To perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this chapter.

[1975-'76 2nd ex.s. c 115 § 4.]

RCW 43.60A.050 Assistants--Executive staff--Deputy.

The director may appoint such assistants and executive staff as shall be needed to administer the department, all of whom shall be veterans. The director shall designate a deputy from the executive staff who shall have charge and general supervision of the department in the absence or disability of the director, and in case of a vacancy in the office of director, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting director.

[1975-'76 2nd ex.s. c 115 § 5.]

Notes:

Certain personnel of department exempted from state civil service law: RCW 41.06.077.

RCW 43.60A.060 Delegation of powers and duties.

The director may delegate any power or duty vested in or transferred to the director by law or executive order to a deputy director or to any other assistant or subordinate, but the director shall be responsible for the official acts of the officers and employees of the department.

[1975-'76 2nd ex.s. c 115 § 6.]

RCW 43.60A.070 Additional powers and duties of director.

In addition to other powers and duties, the director is authorized:

(1) To cooperate with officers and agencies of the United States in all matters affecting veterans affairs;

(2) To accept grants, donations, and gifts on behalf of this state for veterans affairs from any person, corporation, government, or governmental agency, made for the benefit of a former member of the armed forces of this or any other country;

(3) To be custodian of all the records and files of the selective service system in Washington that may be turned over to this state by the United States or any department, bureau, or agency thereof; and to adopt and promulgate such rules and regulations as may be necessary for the preservation of such records and the proper use thereof in keeping with their confidential nature;

(4) To act without bond as conservator of the estate of a beneficiary of the veterans administration when the director determines no other suitable person will so act;

(5) To extend on behalf of the state of Washington such assistance as the director shall determine to be reasonably required to any veteran and to the dependents of any such veteran;

(6) To adopt rules pursuant to chapter 34.05 RCW, the Administrative Procedure Act, with respect to all matters of administration to carry into effect the purposes of this section. Such proposed rules shall be submitted by the department at the time of filing notice with the code reviser as required by RCW 34.05.320 to the respective legislative committees of the senate and of the house of representatives dealing with the subject of veteran affairs legislation through the offices of the secretary of the senate and chief clerk of the house of representatives.

[1989 c 175 § 108; 1975-'76 2nd ex.s. c 115 § 8.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 43.60A.075 Powers as to state veterans' homes.

The director of the department of veterans affairs shall have full power to manage and govern the state soldiers' home and colony, the Washington veterans' home, and the eastern Washington veterans' home.

[2001 2nd sp.s. c 4 § 7; 1977 c 31 § 5.]

RCW 43.60A.080 Veterans affairs advisory committee--Created--Membership--Terms--Powers and duties.

(1) There is hereby created a veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall be composed of seventeen members to be appointed by the governor, and shall consist of the following:

(a) One representative of the Washington soldiers' home and colony at Orting and one representative of the Washington veterans' home at Retsil. Each home's resident council may nominate up to three individuals whose names are to be forwarded by the director to the governor. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(b) One representative each from the three congressionally chartered or nationally recognized veterans service organizations as listed in the current "Directory of Veterans Service Organizations" published by the United States department of veterans affairs with the largest number of active members in the state of Washington as determined by the director. The organizations' state commanders may each submit a list of three names to be forwarded to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(c) Ten members shall be chosen to represent those congressionally chartered or nationally recognized veterans service organizations listed in the directory under (b) of this subsection and having at least one active chapter within the state of Washington. Up to three nominations may be forwarded from each organization to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(d) Two members shall be veterans at large. Any individual or organization may nominate a veteran for an at-large position. Organizational affiliation shall not be a prerequisite for nomination or appointment. All nominations for the at-large positions shall be forwarded by the director to the governor.

(e) No organization shall have more than one official representative on the committee at any one time.

(f) In making appointments to the committee, care shall be taken to ensure that members represent all geographical portions of the state and minority viewpoints, and that the issues and views of concern to women veterans are represented.

(2) All members shall have terms of four years. In the case of a vacancy, appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms, with vacancy appointments to an unexpired term not considered as a term. Members appointed before June 11, 1992, shall continue to serve until the expiration of their current terms; and then, subject to the conditions contained in this section, are eligible for reappointment.

(3) The committee shall adopt an order of business for conducting its meetings.

(4) The committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

(5) Members of the committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW.

[1995 c 25 § 1; 1992 c 35 § 1; 1987 c 59 § 1; 1985 c 63 § 1; 1983 c 34 § 1; 1977 ex.s. c 285 § 1; 1975-'76 2nd ex.s. c 115 § 14.]

RCW 43.60A.100 Counseling services--War-affected veterans.

The department of veterans affairs, to the extent funds are made available, shall: (1) Contract with professional counseling specialists to provide a range of direct treatment services to war-affected state veterans and to those national guard and reservists who served in the Middle East, and their family members; (2) provide additional treatment services to Washington state Vietnam veterans for post traumatic stress disorder, particularly for those veterans whose post traumatic stress disorder has intensified or initially emerged due to the war in the Middle East; (3) provide an educational program designed to train primary care professionals, such as mental health professionals, about the effects of war-related stress and trauma; (4) provide informational and counseling services for the purpose of establishing and fostering peer-support networks throughout the state for families of deployed members of the reserves and the Washington national guard; (5) provide for veterans' families, a referral network of community mental health providers who are skilled in treating deployment stress, combat stress, and post traumatic stress.

[1991 c 55 § 1.]

RCW 43.60A.110 Counseling--Coordination of programs.

The department shall coordinate the programs contained in RCW 43.60A.100 with the services offered by the department of social and health services, local mental health organizations, and the federal department of veterans affairs to minimize duplication.

[1991 c 55 § 2.]

RCW 43.60A.120 Counseling--Priority.

The department of veterans affairs shall give priority in its counseling and instructional programs to treating state veterans located in rural areas of the state, especially those who are members of traditionally underserved minority groups, and women veterans.

[1991 c 55 § 3.]